

MEMORANDUM

TO: Governing Board Members

FROM: Chip Merriam, Deputy Executive Director, Water Resources

DATE: July 14, 2008

SUBJECT: **Authorize transmittal of the District's Agency Report on the FPL West County Energy Center Unit 3 Project to the Florida Department of Environmental Protection**

RECOMMENDATION

Staff recommends that the Governing Board authorize transmittal of the District's Agency Report to the Florida Department of Environmental Protection on the Application for Power Plant Site Certification for the West County Energy Center Unit 3 Project (Palm Beach County). The Report recommends approval of FPL's request to use reclaimed water provided by the Palm Beach County Utilities Department as the primary proposed source for cooling, service and process water for Unit 3, subject to certain conditions and restrictions. The proposed secondary/emergency backup sources for cooling, service and process water for Unit 3 will be potable water supplied by the Palm Beach County Utilities Department, the Upper Floridan Aquifer, the L-10/L-12 Canal, and the on-site stormwater ponds. FPL is not requesting an increase in ground or surface water allocations for Unit 3. The secondary/emergency backup water supply for Unit 3 is, in part, a component of the allocation for Units 1 and 2.

REVIEW PROCESS

The purpose of the Florida Electric Power Plant And Transmission Line Siting Act (Siting Act), Sections 403.501-403.539, Florida Statutes, is to certify the location, construction, operation, and maintenance of electrical power plant sites and electrical transmission lines, including associated facilities, through a centralized and coordinated planning and licensing process administered by the Florida Department of Environmental Protection (FDEP). Authority to issue the Certification Order is assigned to the Governor and Cabinet sitting as the State Siting Board, or the Secretary of the FDEP, after issuance of a Recommended Order by an Administrative Law Judge (the FDEP or the applicant may request that the Administrative Law Judge cancel the certification hearing and relinquish jurisdiction to the FDEP if all parties to the proceeding stipulate that there are no disputed issues of material fact to be raised at the certification hearing). This process is commonly referred to as one-stop permitting process.

The Siting Act process specifically pre-empts all other existing state, regional, and local permitting and approval processes normally required of new development, including the SFWMD's Right Of Way Occupancy Permit, Environmental Resource Permit (ERP), and Water Use Permit review processes (Note: Under the current Operating Agreement between the FDEP and the SFWMD, the FDEP is responsible for conducting the ERP-related review of the entire project). However, the Siting Act mandates that the Department of Community Affairs, affected water management district(s), affected local government(s), Florida Fish and Wildlife Conservation Commission, affected regional planning council(s), Department of Transportation, and Public Service Commission participate in the process, prepare an assessment report on matters within their jurisdiction, and grants each agency party status in the proceedings. Other affected agencies may also participate in the process at the request of the FDEP or by filing for party status.

The certification process is the only opportunity that the SFWMD will have to review and "permit" the proposed activities. Through the required agency report, the SFWMD can assess the project's compliance with SFWMD non-procedural (i.e., technical) criteria and recommend approval or denial. The SFWMD recommended certification conditions then become the means by which the SFWMD is assured that all applicable SFWMD criteria has been applied and met in the design, construction, operation and maintenance of the proposed power plant or electrical transmission line and any associated facilities.

BACKGROUND

The ±220 acre power plant site is located in unincorporated Palm Beach County, approximately 3 miles west of Pratt-Whitney Road on the north side of S.R. 80 (Southern Boulevard). The proposed CERP C-51 and Southern L-8 Reservoir Project site is located adjacent to and east of the power plant site.

The Site Certification for the West County Energy Center was approved in December, 2006. At that time, the Siting Board approved construction of Units 1 and 2 and granted conceptual approval for the future construction of Unit 3. Units 1 and 2 are currently under construction. Operation of Units 1 and 2 is scheduled for 2009 and 2010, respectively. Unit 3 is scheduled for operation in 2011.

The proposed secondary/emergency backup sources for cooling, service and process water for Unit 3 will be potable water supplied by the Palm Beach County Utilities Department, the Upper Floridan Aquifer, the L-10/L-12 Canal, and the on-site stormwater ponds. FPL is not requesting an increase in ground or surface water allocations for Unit 3. The secondary/emergency backup water supply for Unit 3 is, in part, a component of the allocation for Units 1 and 2.

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