

**STATE OF FLORIDA
DEPARTMENT
OF
ENVIRONMENTAL PROTECTION**



Conditions of Certification

**Florida Power & Light Company
Okeechobee Clean Energy Center**

PA15-58B

January 03, 2019

Table of Contents

SECTION A:	GENERAL CONDITIONS.....	1
I.	SCOPE	1
II.	APPLICABLE DEPARTMENT RULES.....	2
III.	REVISIONS TO DEPARTMENT STATUTES AND RULES	4
IV.	DEFINITIONS	4
V.	FEDERALLY DELEGATED OR APPROVED PERMIT PROGRAMS	5
VI.	DESIGN AND PERFORMANCE CRITERIA	6
VII.	NOTIFICATION	6
VIII.	EMERGENCY CONDITION NOTIFICATION AND RESTORATION	6
IX.	CONSTRUCTION PRACTICES.....	7
	A. Local Building Codes	7
	B. Open Burning.....	7
	C. Vegetation	7
	D. Existing Underground Utilities	7
	E. Electric and Magnetic Fields (EMF).....	7
	F. Existing Wells.....	8
	G. Abandonment of Existing Septic Tanks	8
X.	RIGHT OF ENTRY.....	8
XI.	DISPUTE RESOLUTION	8
	A. General.....	8
	B. Modifications	9
	C. Post-Certification Submittals	9
XII.	SEVERABILITY	9
XIII.	ENFORCEMENT	9
XIV.	REVOCATION OR SUSPENSION.....	9
XV.	REGULATORY COMPLIANCE	10
XVI.	CIVIL AND CRIMINAL LIABILITY	10
XVII.	USE OF STATE LANDS.....	10
XVIII.	PROCEDURAL RIGHTS.....	11
XIX.	AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES	11
XX.	PROFESSIONAL CERTIFICATION.....	13

XXI.	PROCEDURES FOR POST-CERTIFICATION SUBMITTALS.....	13
A.	Purpose of Submittals	13
B.	Filings	14
C.	Completeness	14
D.	Interagency Meetings.....	14
E.	Determination of Compliance.....	14
F.	Commencement of Construction	15
G.	Revisions to Design Previously Reviewed for Compliance	15
XXII.	POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY	
	15
XXIII.	POST-CERTIFICATION AMENDMENTS.....	15
XXIV.	MODIFICATION OF CERTIFICATION.....	16
XXV.	COASTAL ZONE CONSISTENCY	16
XXVI.	WATER QUALITY CERTIFICATION	17
XXVII.	TRANSFER OF CERTIFICATION.....	17
XXVIII.	LABORATORIES AND QUALITY ASSURANCE.....	17
XXIX.	ENVIRONMENTAL RESOURCES.....	17
A.	General.....	17
B.	Surface Water Management Systems	19
C.	Wetland and Other Surface Water Impacts	20
XXX.	THIRD PARTY IMPACTS	21
XXXI.	FACILITY OPERATION.....	21
XXXII.	RECORDS MAINTAINED AT THE FACILITY.....	21
XXXIII.	WATER DISCHARGES	22
XXXIV.	SOLID AND HAZARDOUS WASTE	22
A.	Solid Waste	22
B.	Hazardous Waste, Used Oil, Petroleum Contact Water, and Spent Mercury.....	22
C.	Hazardous Substance Release Notification	23
D.	Contaminated Site Cleanup.....	23
XXXV.	STORAGE TANK SYSTEMS.....	23
A.	Incident Notification Requirements.....	23
B.	Discharge Reporting Requirements	24

	C.	Discharge Cleanup	24
	D.	Out of Service and Closure Requirements	24
SECTION B.		SPECIFIC CONDITIONS.....	25
I.		VARIANCES.....	25
II.		DEPARTMENT OF ENVIRONMENTAL PROTECTION	25
III.		DEPARTMENT OF TRANSPORTATION.....	26
	A.	Access Management to the State Highway System	26
	B.	Overweight or Over-Dimensional Loads	26
	C.	Use of State of Florida Right-of-Way or Transportation Facilities	26
	D.	Standards.....	26
	E.	Drainage.....	27
	F.	Use of Air Space	27
	G.	Best Management Practices	27
IV.		ST. JOHNS RIVER WATER MANAGEMENT DISTRICT.....	28
V.		FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION	35
	A.	Listed Species Conditions	35
	B.	General Listed Species Survey	36
	C.	Specific Listed Species Surveys	37
	D.	Listed Species Locations.....	38
	E.	Gopher Tortoise	38
	F.	Sandhill Crane.....	39
	G.	Wading Birds	39
	H.	Eastern Indigo Snake	40
	I.	Federally Listed Species	41
VI.		DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES	41
VII.		DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES	41
VIII.		OKEECHOBEE COUNTY	42
	A.	Floodplain Management/Flood Resistant Development	42
	B.	Parking and Loading	42
	C.	Drainage and Stormwater.....	42
	D.	Landscaping and Tree Preservation	42
	E.	Construction Design Standards	43

F.	Signs.....	43
G.	Open Burning.....	43
H.	Waste.....	43
I.	User Fees.....	43
IX.	INDIAN RIVER COUNTY.....	44
A.	Traffic	44
B.	Traffic Impact Fees	44
C.	Emergency Services	44
X.	DEPARTMENT OF HEALTH	45
A.	On-Site Sewage Treatment and Disposal.....	45
B.	Limited Use Public Water System.....	47
	HISTORY	49

ATTACHMENTS

Attachment A	Certified Site/Facilities Delineation Map(s)
Attachment B	Surface Water Management System Plan(s)
Attachment C	Wetland Mitigation Plan
Attachment D	SJRWMD Well Interference Monitoring, Avoidance, and Mitigation Plan

SECTION A: GENERAL CONDITIONS

SECTION A: GENERAL CONDITIONS

I. SCOPE

A. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), §§ 403.501-403.518, Florida Statutes (F.S.), and Chapter 62-17, Florida Administrative Code (F.A.C.), this Certification is issued to Florida Power & Light Company (FPL) as owner/operator and Licensee of the Okeechobee Clean Energy Center (OCEC). Subject to the requirements contained in these Conditions of Certification (Conditions), FPL will operate a nominal 1600-megawatt (MW) facility consisting of one combined cycle unit and ancillary equipment, and associated facilities as described in the Site Certification Application (SCA). An ultimate site certification has been approved for 1800 MW nominal (one 1600 MW nominal CC unit and a 200 MW nominal solar facility). The electric generating unit is located on a 2,341-acre site in Okeechobee County, Florida. The Universal Transvers Mercator coordinates are: Zone 17; 520.60 kilometers East; 3,056.69 kilometers North; and the latitude/longitude coordinates are: 27°38'03" North/80°47'28" West.

B. The Certified Facility includes but is not limited to the following major associated facilities:

- Cooling tower;
- On-site roadways;
- Parking and laydown areas;
- Administration building and warehouse;
- Stormwater management system;
- Gas metering station;
- On-site gas pipeline;
- On-site switchyard;
- Off-site transmission interconnection; and
- Off-site access roadway improvements, including eastbound right turn lane on State Road (SR) 60.

C. These Conditions, unless specifically amended or modified, are binding upon the Licensee and shall apply to the construction, operation, and maintenance of the Certified Facility. If a conflict should occur between the design criteria of this Certified Facility and the Conditions, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions, the more specific condition governs.

D. Within 60 days after completion of construction of the electrical power plant as defined by §403.503(14), F.S., but excluding off-site linear and non-linear associated facilities, the Licensee shall provide to the Department in .pdf format: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the site as defined by §403.503(28), F.S., and an aerial photograph delineating the boundaries of the site. The survey map and aerial photograph shall be identified as the Site Delineation and attached hereto as part of Attachment A (Maps).

The Licensee shall notify the Department of any change to the site boundary depicted in the Site Delineation in Attachment A (Maps). The notification shall be accompanied by an updated land survey map (or legal description) and aerial photograph delineating the new boundaries of the site for review by the Department. Absent the above description/delineation of the site, the Department will consider the perimeter fence line of the property on which the

SECTION A: GENERAL CONDITIONS

electrical power plant's generating facility and on-site support facilities are located to be the boundaries of the site.

E. If both certified and uncertified Facilities lie within the boundaries of the site, the Licensee shall also comply with the requirements of this paragraph. Within 60 days after completion of construction of the plant and on-site associated facilities, but excluding off-site linear and non-linear associated facilities, the Licensee shall provide to the Department in .pdf format acceptable documentation identifying the certified facilities within the site such as an aerial photograph identifying these. Certified facilities identified within the site shall include both the certified electrical power plant's generating facilities as defined in §403.503(28), F.S., and its on-site certified associated facilities (including on-site linear facilities) as defined by §403.503(7), F.S. The document shall be known as the Certified Facilities Identification of the Site and attached hereto as part of Attachment A (Maps).

F. Within 120 days after completion of construction of any off-site associated non-linear facilities, the Licensee shall provide to the Department in .pdf format; a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the certified areas for each off-site non-linear Certified Facility; and an aerial photograph delineating the boundaries of the certified area for each off-site non-linear Certified Facility. The survey map(s) and aerial photograph(s) shall be known as Delineation of the Certified Off-Site Non-Linear Facilities and attached hereto as part of Attachment A (Maps).

G. Within 180 days after completion of construction of any new off-site associated linear facilities, as defined by §403.503(7), F.S., the Licensee shall provide; an aerial photograph(s)/map(s) at a scale of at least 1:400, or acceptable equivalent documentation such as an official legal description or survey map(s) signed by a professional land surveyor, delineating the boundaries of the certified site for the linear facilities, following acquisition of all necessary property interests and the corridor narrowing as described in §403.503(11), F.S., which shall be known as the Delineation of Certified Off-Site Linear Facilities and attached as part of Attachment A (Maps).

Following any post-certification approvals that require a change to the boundaries of the certified facility(ies) depicted in the Delineation of Certified Off-Site Linear Facilities in Attachment A (Maps), the Licensee shall submit an updated aerial photograph/map, survey map, or legal description.

[Sections 403.511 and 403.5113, F.S.; Rules 62-4.160(1), (2), and 62-17.205(2), F.A.C.]

II. APPLICABLE DEPARTMENT RULES

The construction, operation, and maintenance of the Certified Facility shall be in accordance with all applicable non-procedural provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the applicable non-procedural portions of the following Department regulations, except to the extent a variance, exception, exemption, or other relief is granted in the Final Order of Certification or in a subsequent modification to the Conditions, under any federal permit, or as otherwise provided under Chapter 403, F.S.:

Florida Administrative Code:

18-2 (Management of Uplands Vested in the Board of Trustees)

18-14 (Administrative Fines for Damaging State Lands)

SECTION A: GENERAL CONDITIONS

- 18-20 (Aquatic Preserves)
- 18-21 (Sovereign Submerged Lands Management)
- 62-4 (Permits)
- 62-17 (Electrical Power Plant Siting)
- 62-25 (Regulation of Stormwater Discharge)
- 62-40 (Water Resource Implementation Rule)
- 62-150 (Hazardous Substance Release Notification)
- 62-160 (Quality Assurance)
- 62-204 (Air Pollution Control-General Provisions)
- 62-210 (Stationary Sources-General Requirements)
- 62-212 (Stationary Sources-Preconstruction Review)
- 62-213 (Operation Permits for Major Sources of Air Pollution)
- 62-256 (Open Burning)
- 62-296 (Stationary Sources-Emission Standards)
- 62-297 (Stationary Sources-Emission Monitoring)
- 62-302 (Surface Water Quality Standards)
- 62-303 (Identification of Impaired Surface Waters)
- 62-304 (Total Maximum Daily Loads)
- 62-330 (Environmental Resource Permitting)
- 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)
- 62-342 (Mitigation Banks)
- 62-345 (Uniform Mitigation Assessment Method)
- 62-520 (Groundwater Classes, Standards, and Exemptions)
- 62-528 (Underground Injection Control)
- 62-531 (Water Well Contractor Licensing Requirements)
- 62-532 (Water Well Permitting and Construction Requirements)
- 62-550 (Drinking Water Standards, Monitoring, and Reporting)
- 62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems)
- 62-560 (Requirements for Public Water Systems That Are Out of Compliance)
- 62-600 (Domestic Wastewater Facilities)
- 62-601 (Domestic Wastewater Treatment Plant Monitoring)
- 62-604 (Collection Systems and Transmission Facilities)
- 62-610 (Reuse of Reclaimed Water and Land Application)
- 62-620 (Wastewater Facility and Activities Permitting)
- 62-621 (Generic Permits)
- 62-650 (Water Quality Based Effluent Limitations)
- 62-660 (Industrial Wastewater Facilities)
- 62-699 (Classification and Staffing of Water or Domestic Wastewater Treatment Plants and Water Distribution Systems)
- 62-701 (Solid Waste Management Facilities)
- 62-710 (Used Oil Management)
- 62-730 (Hazardous Waste)
- 62-737 (Management of Spent Mercury-Containing Lamps and Devices Destined for Recycling)
- 62-740 (Petroleum Contact Water)

SECTION A: GENERAL CONDITIONS

- 62-761 (Underground Storage Tank Systems)
- 62-762 (Aboveground Storage Tank Systems)
- 62-769 (Florida Petroleum Liability and Restoration Insurance Program)
- 62-777 (Contaminant Cleanup Target Levels)
- 62-780 (Contaminated Site Clean-Up Criteria)
- 62-814 (Electric and Magnetic Fields)

III. REVISIONS TO DEPARTMENT STATUTES AND RULES

A. The Licensee shall comply with rules adopted by the Department subsequent to the issuance of the Certification under the PPSA which prescribe new or stricter criteria, to the extent that the rules are applicable to electrical power plants. Except when express variances, exceptions, exemptions, or other relief have been granted, subsequently adopted Department rules which prescribe new or stricter criteria shall operate as automatic modifications to the Certification.

B. Upon written notification to the Department, the Licensee may choose to operate the certified electrical power plant in compliance with any rule subsequently adopted by the Department which prescribes criteria more lenient than the criteria required by the terms and conditions in the Certification which are not site-specific.

[Sections 403.511(5)(a) and (b), F.S.; Rule 62-4.160(10), F.A.C.]

IV. DEFINITIONS

The meaning of terms used herein shall be governed by the applicable definitions contained in Chapters 253, 373, 379, and 403, F.S., and any regulation adopted pursuant thereto. In the event of any dispute over the meaning of a term used in these Conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation, or in the alternative, by the use of the commonly accepted meaning. As used herein, the following shall apply:

A. “Application” or “SCA” as defined in §403.503(6), F.S. For purposes of this license, “Application” shall also include materials submitted for post-certification amendments and petitions for modification to the Conditions of Certification, as well as supplemental applications.

B. “Associated Facilities” as defined by §403.503(7), F.S.

C. “Certified Facility” or “Certified Facilities” means the certified electrical power generation facilities and all certified on- or off-site associated structures and facilities identified/described in the Application, in the Final Order of Certification, or in a post-certification amendment or modification.

D. “DEO” means the Florida Department of Economic Opportunity.

E. “DEM” shall mean the Florida Division of Emergency Management.

F. “DEP” or “Department” means the Florida Department of Environmental Protection.

SECTION A: GENERAL CONDITIONS

- G. “DHR” means the Florida Department of State, Division of Historical Resources.
- H. “DOT” means the Florida Department of Transportation.
- I. “Emergency conditions” or “Emergency reporting” means urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity.
- J. “Feasible” or “practicable” means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- K. “FWC” means the Florida Fish and Wildlife Conservation Commission.
- L. “Licensee” means an applicant that has obtained a certification order for the subject project.
- M. “NPDES permit” means a federal National Pollutant Discharge Elimination System permit issued by DEP in accordance with the federal Clean Water Act.
- N. “Post-certification submittal” shall mean a submittal made by the Licensee pursuant to a Condition of Certification.
- O. “ROW” means the right-of-way to be selected by the Licensee within the certified corridor in accordance with the Conditions of Certification and as defined in §403.503(27), F.S.
- P. “SED” shall mean the DEP Southeast District Office.
- Q. “Site” as defined in §403.503(28), F.S.
- R. “SJRWMD” means the St. Johns River Water Management District.
- S. “State Water Quality Standards” shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapters 62-302 and 62-520, F.A.C.
- T. “Surface Water Management System” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms “surface water management system” or “system” include areas of dredging or filling, as those terms are defined in §§373.403(13) and (14), F.S.
- U. “Wetlands” shall mean those areas meeting the definition set forth in §373.019(27), F.S., as delineated pursuant to Chapter 62-340, F.A.C.

V. FEDERALLY DELEGATED OR APPROVED PERMIT PROGRAMS

Subject to the Conditions set forth herein, this Certification shall constitute the sole license of the state and any agency as to the approval of the location of the site and any associated facility and the construction and operation of the proposed electrical power plant, except for the issuance of Department Licenses required under any federally delegated or approved permit program. This Certification is not a waiver of any other Department approval that may be required under federally delegated or approved programs. In the event of a conflict between the certification process and federally required procedures, the applicable federal requirements shall control.

[Sections 403.5055, 403.508(8), and 403.511(1), F.S.]

SECTION A: GENERAL CONDITIONS

VI. DESIGN AND PERFORMANCE CRITERIA

Certification, including these Conditions, is predicated upon preliminary designs, concepts, and performance criteria described in the SCA or in testimony and exhibits in support of Certification. Final engineering design will be consistent and in substantial compliance with the preliminary information described in the SCA or as explained at the certification hearing (if any). Conformance to those criteria, unless specifically modified in accordance with §403.516, F.S., and Rule 62-17.211, F.A.C., is binding upon the Licensee in the design, construction, operation, and maintenance of the Certified Facility.

[Sections 403.511(2)(a) and 403.516, F.S.; Rules 62-4.160(2) and 62-17.211, F.A.C.]

VII. NOTIFICATION

A. If, for any reason, the Licensee does not comply with or will be unable to comply with any Condition or limitation specified in this License, the Licensee shall immediately provide the DEP SED Office with the following information:

1. A description of and cause of noncompliance; and
2. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The Licensee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this Certification.

All notifications which are made in writing shall additionally be immediately provided to the Siting Coordination Office (SCO) via email to SCO@dep.state.fl.us.

[Rule 62-4.160(8), F.A.C.]

B. The Licensee shall promptly notify the SCO in writing (email acceptable) of any previously submitted information concerning the Certified Facility that is later discovered to be inaccurate.

[Rule 62-4.160(15), F.A.C.]

C. Within 60 days after certification of an associated linear facility the Licensee shall file a notice of the certified route with the Department's Office of General Counsel and the clerk of the circuit court for each county through which the corridor will pass.

The notice shall consist of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified route and shall state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor.

[Section 403.5112, F.S.]

VIII. EMERGENCY CONDITION NOTIFICATION AND RESTORATION

If the Licensee is temporarily unable to comply with any of the Conditions of the License due to breakdown of equipment or destruction by hazard of fire, wind, or following an emergency as defined by §§252.34(4), (7), (8), or (10), F.S., the Licensee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such

SECTION A: GENERAL CONDITIONS

notification does not release the Licensee from any liability for failure to comply with Department rules. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

[Rule 62-4.130, F.A.C.]

IX. CONSTRUCTION PRACTICES

A. Local Building Codes

Subject to the Conditions set forth herein, this Certification constitutes the sole license of the state and any agency as to the approval of the location of the site and any associated facility and the construction and operation of any Certified Facility. The Licensee is not required to obtain building permits for Certified Facilities. However, this Certification shall not affect in any way the right of any local government to charge appropriate fees or require that construction of installations used by the electric utility that are not an integral part of a generating plant, substation, or control center (such as, office buildings, warehouses, garages, machine shops, and recreational buildings) be in compliance with applicable building construction codes.

[Section 403.511(4), F.S.]

B. Open Burning

Prior to open burning in connection with land clearing, the Licensee shall seek authorization from the Florida Forest Service in accordance with the requirements of Chapters 62-256 and 5I-2, F.A.C.

[Chapters 5I-2 and 62-256, F.A.C.]

C. Vegetation

For areas located in any Florida Department of Transportation (DOT) ROW, Chapter 4.6 of the 2010 Florida DOT *Utility Accommodation Manual* available on the DOT website (<http://www.dot.state.fl.us/programmanagement/utilities/UAM.shtm>) shall serve as guidelines for best management practices.

D. Existing Underground Utilities

The Licensee must follow all applicable portions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, F.S. The Licensee shall provide the affected local government and the SCO with copies of valid tickets obtained from Sunshine State One Call of Florida upon request. Tickets shall be available for request until the underground work is completed for the affected area.

[Chapter 556, F.S.]

E. Electric and Magnetic Fields (EMF)

Any associated transmission lines and electrical substations shall comply with the applicable requirements of Chapter 62-814, F.A.C.

[Chapter 62-814, F.A.C.]

SECTION A: GENERAL CONDITIONS

F. Existing Wells

Any existing wells to be impacted in the path of construction of Certified Facilities that will no longer be used shall be abandoned by a licensed well contractor. All abandoned wells shall be filled and sealed in accordance with Rule 62-532.500(5), F.A.C., or with the rules of the authorizing agency, or consistent with these Conditions.

[Rules 62-532.400 and 62-532.500(5), F.A.C.]

G. Abandonment of Existing Septic Tanks

Any existing septic tanks to be impacted by construction and that will no longer be used shall be abandoned in accordance with Rule 64E-6.011, F.A.C., unless these Conditions provide otherwise.

[Chapter 64E-6, F.A.C.]

X. RIGHT OF ENTRY

A. Upon presentation of credentials or other documents as may be required by law, the Licensee shall allow authorized representatives of the Department or other agencies with jurisdiction over a portion of the Certified Facility and any authorized off-site mitigation/compensation or otherwise associated areas:

1. At reasonable times, to enter upon the Certified Facility in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this Certification; or
2. During business hours, to enter the Licensee's premises in which records are required to be kept under this Certification; and to have access to and copy any records required to be kept under this Certification.

B. When requested by the Department, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within 10 working days, or such longer period as may be mutually agreed upon by the Department and the Licensee, furnish any information required by law, which is needed to determine compliance with the Certification.

[Rules 62-4.160(7)(a) and 62-4.160(15), F.A.C.]

XI. DISPUTE RESOLUTION

A. General

If a situation arises in which mutual agreement between either the Department and the Licensee, or, the Department and an agency with substantive regulatory jurisdiction over a matter cannot be reached, the Department can act as a facilitator in an attempt to resolve the issue. If the dispute is not resolved in this initial informal meeting, Licensee may request a second informal meeting in which both Licensee and the agency with substantive regulatory jurisdiction over the matter at issue can participate in an attempt to resolve the issue. If, after such meetings, a mutual agreement cannot be reached between the parties, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The Licensee or the Department may request DOAH to establish an expedited schedule for the processing of such a dispute. Any filing with DOAH shall state with particularity the specific project and geographic location to which the dispute

SECTION A: GENERAL CONDITIONS

relates. Work unrelated to the specific project and in areas other than the location to which the dispute relates will not be affected by the dispute.

B. Modifications

If written objections are filed regarding a modification, and the objections address only a portion of a requested modification, then the Department shall issue a Final Order approving the portion of the modification to which no objections were filed, unless that portion of the requested modification is substantially related to or necessary to implement the portion to which written objections are filed.

C. Post-Certification Submittals

If it is determined, after assessment of a post-certification submittal, that compliance with the Conditions will not be achieved for a particular portion of a submittal, the Department may make a separate assessment of other portions of the submittal, unless those portions of the submittal are substantially related to or necessary to implement that portion for which it has been determined that compliance with the Conditions will not be achieved.

[Section 120.57, F.S.; Rule 62-17.211, F.A.C.]

XII. SEVERABILITY

The provisions of this Certification are severable, and if any provision of this Certification or the application of any provision of this Certification to any circumstance is held invalid, the remainder of the Certification or the application of such provision to other circumstances shall not be affected thereby.

XIII. ENFORCEMENT

A. The terms, conditions, requirements, limitations, and restrictions set forth in these Conditions are binding and enforceable pursuant to §§403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, License termination, License revocation, or License revision. The Licensee is placed on notice that the Department may review this Certification periodically and may initiate enforcement action for any violation of these Conditions.

B. All records, notes, monitoring data, and other information relating to the construction or operation of the Certified Facility which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the Certified Facility and arising under the Florida Statutes or Department rules, subject to the restrictions in §§403.111 and 403.73, F.S. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

[Sections 403.121, 403.131, 403.141, 403.151, 403.161, and 403.514, F.S.; Rules 62-4.160(1) and (9), F.A.C.]

XIV. REVOCATION OR SUSPENSION

The Certification shall be final unless revised, revoked, or suspended pursuant to law. This Certification may be suspended or revoked pursuant to §403.512, F.S. This Certification is

SECTION A: GENERAL CONDITIONS

valid only for the specific processes and operations identified in the SCA and approved in the Final Order of Certification and indicated in the testimony and exhibits in support of certification or approved in a subsequent amendment or modification of the certification. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the Certified Facility that are the cause of such action, and other portions of the Certified Facility shall remain unaffected by such action.

[Section 403.512, F.S.; Rule 62-4.160(2), F.A.C.]

XV. REGULATORY COMPLIANCE

As provided in §§403.087(7) and 403.722(5), F.S., except as specifically provided in the Final Order of Certification, a subsequent modification or amendment, or these Conditions, the issuance of this License does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This License is not a waiver of or approval of any other Department license/permit that may be required for other aspects of the Certified Facility which are not addressed in this License. This License does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of the Certified Facility, or from penalties therefore.

[Rule 62-4.160(3) and (5), F.A.C.]

XVI. CIVIL AND CRIMINAL LIABILITY

Except to the extent a variance, exception, exemption, or other relief is granted in the Final Order of Certification, in a subsequent modification to these Conditions, or as otherwise provided under Chapter 403, F.S., this Certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any Condition of Certification, applicable rules or regulations of the Department, or any other state statutes or regulations which may apply.

[Sections 403.141, 403.161, and 403.511, F.S.]

XVII. USE OF STATE LANDS

A. Except as specifically provided in the Final Order of Certification or these Conditions, the issuance of this License conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

B. If any portion of the Certified Facility is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the Licensee must comply with the applicable portions of Chapters 18-2, 18-20, and 18-21, F.A.C., and Chapters 253 and 258, F.S., except as specifically provided in the Final Order of Certification or these Conditions. If any portion of the Certified Facility is located on sovereign submerged lands, the Licensee must submit section F of Form 62-330.060(1), *Application for Individual and Conceptual Approval Environmental Resource Permit* (State 404 Program Permit) and *Authorization to Use State-*

SECTION A: GENERAL CONDITIONS

Owned Submerged Lands to the Department prior to construction. If any portion of the Certified Facility is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

C. If a portion of the Certified Facility is located on sovereign submerged lands or state-owned uplands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, then the proposed activity on such lands requires a proprietary authorization. Under such circumstances, the proposed activity is not exempt from the need to obtain a proprietary authorization. Unless otherwise provided in the Final Order of Certification or these Conditions, the Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Rule 18-2.018 or 18-21.0051, F.A.C.

D. The Licensee is hereby advised that Florida law states: “A person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

E. The terms, conditions, and provisions of any required lease or easement issued by the State shall be met. Any construction activity associated with the Certified Facility shall not commence on sovereign submerged lands or state-owned uplands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease or easement documents have been executed.

[Chapters 253 and 258, F.S.; Rules 18-2, 18-14, 18-21, 62-340, 62-330.060(1), and 62-4.160(4), F.A.C.]

XVIII. PROCEDURAL RIGHTS

Except as specified in Chapter 403, F.S., or Chapter 62-17, F.A.C., no term or Condition of Certification shall be interpreted to preclude the post-certification exercise by any party of whatever procedural rights it may have under Chapter 120, F.S., including those related to rule-making proceedings.

[Section 403.511(5)(c), F.S.]

XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES

Where a Condition requires post-certification submittals and/or notices to be sent to a specific agency, the following agency addresses shall be used unless the Conditions specify otherwise or unless the Licensee and the Department are notified in writing of an agency’s change in address for such submittals and notices:

SECTION A: GENERAL CONDITIONS

Florida Department of Environmental Protection
Siting Coordination Office, MS 5500
2600 Blair Stone Road
Tallahassee, Florida 32399-3000
SCO@dep.state.fl.us

Florida Department of Environmental Protection
Southeast District Office
3301 Gun Club Road
West Palm Beach, Florida 33406-3007

Florida Department of Economic Opportunity
Bureau of Planning and Growth
107 East Madison Street
Tallahassee, Florida 32399-2100

Florida Fish & Wildlife Conservation Commission
Conservation Planning Services
620 South Meridian Street, MS 5B5
Tallahassee, Florida 32399-1600
FWCConservationPlanningServices@myfwc.com

Florida Department of Transportation
District Administration
605 Suwannee Street
Tallahassee, Florida 32399-0450

Florida Department of Agriculture and Consumer Services
Office of General Counsel
407 South Calhoun Street
Tallahassee, Florida 32399-0800

Florida Department of Health
Division of Disease Control and Health Protection
Environmental Administrator
Bureau of Environmental Health
On-site Sewage Programs
4052 Bald Cypress Way Bin A08
Tallahassee, Florida 32399-1713

Florida Department of Health in Okeechobee County
Environmental Health Director
1728 Northwest 9th Avenue
Okeechobee, Florida 34972

SECTION A: GENERAL CONDITIONS

St. Johns River Water Management District
Regulatory, Engineering and Environmental Services
Palm Bay Service Center
525 Community College Parkway
Southeast Palm Bay, Florida 32909
ApplicationSupport@sjrwmd.com

Florida Department of State
Division of Historical Resources
500 South Bronough Street
Tallahassee, Florida 32399-0250

Okeechobee County
Planning and Development
1700 Northwest 9th Avenue
Okeechobee, Florida 34972

Indian River County
Community Development Director
1801 27th Street
Vero Beach, Florida 32960-3388

[Section 403.511, F.S.]

XX. PROFESSIONAL CERTIFICATION

To ensure protection of public health, safety, and welfare, any construction, modification, or operation of an installation which may be a source of pollution, or of a public drinking water supply, shall be in accordance with sound professional engineering practices pursuant to Chapter 471, F.S.; and all final geological papers or documents involving the practice of the profession of geology shall be in accordance with sound professional geological practices pursuant to Chapter 492, F.S. Where required by Chapter 471 or 492, F.S., applicable portions of amendment requests, petitions for modifications, post-certification submittals, and supporting documents which are submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared or approved them.

[Rule 62-4.050, F.A.C.]

XXI. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. Purpose of Submittals

Conditions which provide for the post-certification submittal of information to DEP or other agencies by the Licensee are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the Certified Facility and the construction and maintenance of the Certified Facility. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with these Conditions, without further agency action. A submittal of information or determination of

SECTION A: GENERAL CONDITIONS

compliance pursuant to a post-certification submittal under this Condition does not provide a point of entry for a third party.

B. Filings

All post-certification submittals of information by Licensee are to be filed with the DEP SED Office and any other agency that is entitled to receive a submittal pursuant to these Conditions. The SCO shall be copied on all post-certification submittals in electronic .pdf format only, unless otherwise requested, via email to SCO@dep.state.fl.us. Each submittal shall clearly identify the Certified Facility name, PA#, and the Condition number(s) (i.e. Section X, Condition XX.y.(z)) requiring the submittal. As required by §403.5113(2), F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.

[Section 403.5113, F.S.; Rule 62-17.191(3), F.A.C.]

C. Completeness

DEP shall review each post-certification submittal for completeness. This review may include consultation with the other agency(ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the submittal. DEP's finding of completeness shall specify the area of the Certified Facility affected and shall not delay further processing of the post-certification submittal for non-affected areas.

If any portion of a post-certification submittal is found to be incomplete, the Licensee shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

[Rule 62-17.191(1)(c)2., F.A.C.]

D. Interagency Meetings

DEP may conduct an interagency meeting with other agencies that received a post-certification submittal. The purpose of such an interagency meeting shall be for the agency(ies) with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether compliance with these Conditions has been provided. Failure of DEP to conduct an interagency meeting or failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions nor to delay the timeframes for review established by these Conditions. At DEP's request, a field inspection shall be conducted with the Licensee and the agency representative in conjunction with the interagency meeting.

E. Determination of Compliance

DEP shall give written notification within 90 days, to the Licensee and the other agency(ies) to which the post-certification information was submitted of DEP's determination of whether there is demonstration of compliance with these Conditions. If it is determined that compliance with the Conditions has not been provided, the Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall constitute a determination of compliance. A post-certification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

SECTION A: GENERAL CONDITIONS

F. Commencement of Construction

If DEP does not object within the time period specified in paragraph E., above, Licensee may begin construction pursuant to the terms of these Conditions and the subsequently submitted construction details.

G. Revisions to Design Previously Reviewed for Compliance

If revisions to site-specific designs occur after submittal, the Licensee shall submit revised plans prior to construction for review in accordance with the post-certification process specified in this Condition.

[Sections 120.569, 373.413, 373.416, and 403.511, F.S.; Rules 62-17.191 and 62-17.205, F.A.C.]

XXII. POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY

Within 90 days after certification, and within 90 days after any subsequent modification or certification, the Licensee shall provide the SCO a complete summary of those post-certification submittals that are identified in these Conditions when due-dates for the information required of the Licensee have been identified. A summary shall be provided as a separate document for each transmission line, if any. Such submittals shall include, but are not limited to monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the SCO, in a sortable spreadsheet, electronically, in the format shown below or equivalent. For subsequent modifications and certifications, a Post-Certification Submittal Requirements Summary shall be required for only those resulting in new or altered post-certification requirements.

Condition Number	Requirement and Timeframe	Due Date	Name of Agency or Agency Subunit to whom the submittal is required to be provided

[Section 403.5113, F.S.; Rule 62-17.191(3), F.A.C.]

XXIII. POST-CERTIFICATION AMENDMENTS

If, subsequent to certification, the Licensee proposes any material change to the SCA and revisions or amendments thereto, as certified, the Licensee shall submit a written request for amendment and a description of the proposed change to the SCA to the Department. Within 30 days after the receipt of a complete request for an amendment, the Department shall determine whether the proposed change to the SCA requires a modification to the Conditions.

SECTION A: GENERAL CONDITIONS

A. If the Department concludes that the change would not require a modification to the Conditions, the Department shall provide written notification of the approval of the proposed amendment to the Licensee, all agencies, and all other parties to the Certification.

B. If the Department concludes that the change would require a modification to the Conditions, the Department shall provide written notification to the Licensee that the proposed change to the SCA requires a request for modification pursuant to §403.516, F.S.

[Section 403.5113, F.S.]

XXIV. MODIFICATION OF CERTIFICATION

A. Pursuant to §403.516(1)(a), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department to modify any Condition which would not otherwise require approval by the Siting Board, after notice and receipt of no objection by a party to the certification within 45 days after notice by mail to the party's last address of record, and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days of public notice.

B. The Department may modify Conditions, in accordance with §403.516(1)(b), F.S., which are inconsistent with the terms of any subsequent and separately DEP-issued permits, permit amendments, permit modifications, or permit renewals under a federally delegated or federally approved permit program. Such modification may be made without further notice if the matter has been previously noticed under the requirements for any federally delegated or approved permit program.

C. In accordance with §403.516(1)(c), F.S., the Licensee may file a petition for modification with the Department, or the Department may initiate the modification upon its own initiative.

D. Any anticipated facility expansions, production increases, or process modifications which may result in new, different or increased discharge or emission of pollutants, change in fuel, or expansion in generating capacity must be reported by submission of an appropriate request for an amendment, modification, or certification.

E. Any anticipated facility change that results in a change to the Site Delineation, attached hereto as part of Attachment A (Maps), must be accompanied by a map or aerial photo showing the proposed new boundaries of the site. Within 120 days after completion of construction of the approved facility change, the Licensee shall provide the information required by Section A. General Conditions, Condition I. Scope, paragraphs D., E., F., or G., as appropriate.

[Section 403.516, F.S.; Rule 62-17.211, F.A.C.]

XXV. COASTAL ZONE CONSISTENCY

Pursuant to §§373.428 and 403.511, F.S., certification of the Facility constitutes the State's concurrence that the licensed activity or use is consistent with the federally approved program under the Florida Coastal Management Act.

[Sections 373.428, 380.23, and 403.511(7), F.S.]

SECTION A: GENERAL CONDITIONS

XXVI. WATER QUALITY CERTIFICATION

Pursuant to the Operating Agreement between the Department, Water Management Districts, and U.S. Army Corps of Engineers, a written Final Order granting ‘certification’ constitutes certification by the Department that the Project activities comply with applicable state water quality standards.

[2012 Operating Agreement, Jacksonville District USACOE, DEP, and Water Management Districts, Section II.A.1.(f)]

XXVII. TRANSFER OF CERTIFICATION

A. This Certification is transferable in whole or in part, upon Department approval, to an entity determined to be able to comply with these Conditions. A transfer of certification of all or part of the Certified Facility may be initiated by the Licensee’s filing of a Notice of Intent to Transfer Certification with the Department’s SCO. The Notice of Intent shall: identify the intended new certification holder or Licensee; identify the current, and the new entity responsible for compliance with the Certification; and include a written agreement from the intended Licensee/Transferee to abide by all Conditions of Certification, as well as, applicable laws and regulations. Upon receiving a complete Notice of Intent, the transfer shall be approved unless the Department objects to the transfer on the grounds that the new Licensee will be unable to comply with the Conditions of Certification, specifies in writing its reasons therefore, and gives notice and opportunity to petition an administrative hearing pursuant to §120.57, F.S. Upon approval, the Department will initiate a modification to the Conditions to reflect the change in ownership in accordance with Rule 62- 17.211, F.A.C.

B. In the event of the dissolution of the Licensee, the Department may transfer certification to successor entities which are determined to be competent to construct, operate, and maintain the Certified Facility in accordance with the Conditions of Certification and which are proper applicants as defined by the PPSA. Upon determination that such a successor entity complies with the requirements for transfer of certification, the Department will initiate a modification to the Conditions to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.

[Chapter 120, F.S.; Rule 62-17.211, F.A.C.]

XXVIII. LABORATORIES AND QUALITY ASSURANCE

Chemical, physical, biological, microbiological, and toxicological data collected as a requirement of these Conditions must be reliable and collected and analyzed by scientifically sound procedures. Unless otherwise specified in these Conditions, the Licensee shall adhere to the minimum field and laboratory quality assurance, methodological and reporting requirements of the Department as set forth in Chapter 62-160, F.A.C.

[Chapter 62-160, F.A.C.]

XXIX. ENVIRONMENTAL RESOURCES

A. General

1. Submittals for Construction Activities

SECTION A: GENERAL CONDITIONS

a. Prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the DEP SED Office for review, all information necessary for a complete *Application for Individual and Conceptual Approval Environmental Resource Permit* (State 404 Program Permit), DEP Form 62-330.060(1), F.A.C. A copy of the submittal shall also be provided to the SCO.

This form may: a) be submitted concurrently with a SCA; b) be submitted as part of an amendment request or a petition for modification; or c) be submitted as a post-certification submittal following approval of a project through certification, modification, or amendment. Post-certification submittal information may be submitted by discrete portions of the Certified Facilities for a determination of compliance with these Conditions of Certification. Such Environmental Resource Permit (ERP) submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapter 62-330, F.A.C., as applicable, unless otherwise stated in these Conditions. While the information is provided for review via submittal of the ERP form, pursuant to §403.511, F.S., issuance of a separate ERP is not required for Certified Facilities.

Those forms submitted as part of a SCA, an amendment, or modification, shall be processed concurrently with, and under the respective certification, amendment, or modification procedures. Those forms submitted as a post-certification submittal (after certification, modification, or amendment and prior to construction) shall be processed in accordance with Section A. General Conditions, Condition XXI., Procedures for Post-Certification Submittals.

No construction shall commence on a Project feature, or in a particular segment for a linear facility, until the Department has determined that there is a demonstration of compliance with these Conditions. For post-certification submittal reviews, the Department's determination is governed by Section A. General Conditions, Condition XXI., Procedures for Post-Certification Submittals.

b. Concurrent with submittal of the DEP form required in subparagraph A.1.a., above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department compliance review. Available DEP-approved wetland and surface water delineations within the boundaries of a certified site or a portion thereof may be used and reproduced for this delineation submittal and verification.

[Section 373.416, F.S.; Chapters 62-330 and 62-340, F.A.C.]

2. Construction, operation, and maintenance of the proposed Project (including any access roads and structures constructed within wetlands and other surface waters, and/or associated facilities) shall satisfy any applicable non-procedural requirements in the Department rules.

[Section 373.414(1)(a), F.S.]

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by subparagraph A.1.a., above, including plans or other supporting documentation, shall not be considered binding on the

SECTION A: GENERAL CONDITIONS

Department unless a specific condition of this Certification or a formal wetlands jurisdictional determination under §373.421(2), F.S., provides otherwise.

[Sections 373.421 and 403.504, F.S.]

B. Surface Water Management Systems

1. Information regarding surface water management systems (SWMS) will be reviewed for consistency with the applicable non-procedural requirements under Part IV of Chapter 373, F.S., following submittal of Form 62-330.060(1) F.A.C., to the DEP SED Office.

2. All construction, operation, and maintenance of the SWMS(s) for the Certified Facilities shall be as set forth in the plans, specifications, and performance criteria contained in the SCA and other materials presented during the certification proceeding, post-certification submittals, and as otherwise approved. If specific requirements are necessary for construction, operation, and/or maintenance of an approved SWMS, those requirements shall be incorporated into a SWMS Plan for that system and included in Attachment B (Surface Water Management System Plans). Any alteration or modification to the SWMS Plan or the SWMS as certified requires prior approval from the Department.

3. To allow for stabilization of all disturbed areas, immediately prior to construction, during construction of the SWMS, and for a period of time after construction of the SWMS, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the licensed work, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007) unless a project-specific erosion and sediment control plan is approved as part of this License. If project-specific Conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual*. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

4. The Licensee shall complete construction of all aspects of the SWMS described in the ERP Application Form, submitted as part of a post-certification submittal, amendment, modification, or certification application including water quality treatment features,

SECTION A: GENERAL CONDITIONS

and discharge control facilities prior to use of the portion of the Certified Facility being served by the SWMS.

5. At least 48 hours prior to the commencement of construction of any new SWMS for any part of a Certified Facility authorized by this Certification, the Licensee shall submit to the Department a written notification of commencement using an “Environmental Resource Permit Construction Commencement Notice” (DEP Form 62-330.350(1), F.A.C.) indicating the actual start date and the expected completion date.

6. Each phase or independent portion of the approved system must be completed in accordance with the submitted DEP Form prior to the operation of the portion of the Certified Facility being served by that portion or phase of the system.

7. Within 30 days, or such other date as agreed to by DEP and the Licensee, after completion of construction of any new portions of the SWMS, the Licensee shall submit to the DEP SED’s ERP Section, and copy the SCO, a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required “As-Built Certification and Request for Conversion to Operation Phase” (DEP Form 62-330.310(1), F.A.C.). Additionally, if deviations from the approved drawings are discovered, the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

8. Any substantial deviation from the approved drawings, exhibits, specifications, or Conditions, may constitute grounds for revocation or enforcement action by the Department.

9. The operation phase of any new SWMS approved by the Department shall not become effective until the Licensee has complied with the requirements of the Conditions herein, the Department determines the system to be in compliance with the approved plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system.

10. The Department’s SED Office must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in off-site discharge or sediment transport into wetlands or surface waters, a written dewatering plan must be submitted to and approved by the Department prior to the dewatering event.

[Section 373.414, F.S.; Chapters 62-25, 62-302, 62-330, and Rule 62-4.242, F.A.C.]

C. Wetland and Other Surface Water Impacts

1. All Certified Facilities shall be constructed in a manner which will eliminate or reduce adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent practicable or otherwise comply with substantive criteria for elimination or reduction. When impacts to wetlands will occur as a result of a future amendment, modification, or certification, and cannot be practicably eliminated or reduced, the Licensee may propose, and the Department or Board shall consider mitigation to offset otherwise unpermissible activities under the ERP review process pursuant to paragraph A.1., above.

2. Proposed mitigation plans submitted with the DEP ERP Application forms required in subparagraph A.1.a., above, or submitted and approved as part of an amendment, modification, or certification, and that are deemed acceptable by DEP, shall include applicable

SECTION A: GENERAL CONDITIONS

construction conditions, success criteria and monitoring plans, and shall be incorporated into these Conditions as Attachment C (Wetland Mitigation Plan).

[Sections 373.413, 373.414, 373.415, 403.511, and 403.814(6), F.S.; Chapters 62-312, 62-330, 62-340, 62-342, and 62-345, F.A.C.]

XXX. THIRD PARTY IMPACTS

The Licensee is responsible for maintaining compliance with these Conditions even when third party activities authorized by the Licensee occur in or on the certified site.

[Section 403.506(1), F.S.]

XXXI. FACILITY OPERATION

The Licensee shall properly operate and maintain the Certified Facility and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with these Conditions, as required by the Final Order of Certification, these Conditions, or a post-certification amendment or modification. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the Final Order of Certification, these Conditions, or a post-certification amendment or modification. Further, the Licensee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this Certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.

[Rule 62-4.160(6), F.A.C.]

XXXII. RECORDS MAINTAINED AT THE FACILITY

A. These Conditions or a copy thereof shall be kept at the site.

B. The Licensee shall hold at the site, or other location designated by these Conditions, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation required by these Conditions, copies of all reports required by these Conditions, and records of all data used to complete the SCA for this approval. These materials shall be retained at least 3 years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

C. Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;
2. the person responsible for performing the sampling or measurements;
3. the dates analyses were performed;
4. the person responsible for performing the analyses;
5. the analytical techniques or methods used; and
6. the results of such analyses.

[Rules 62-4.160(12) and (14)(b), F.A.C.]

XXXIII. WATER DISCHARGES

A. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, the Licensee shall not discharge to surface or ground waters of the State, wastes in concentrations, which, alone or in combinations with other substances or components of discharges (whether thermal or non-thermal), are carcinogenic, mutagenic, or teratogenic to human beings (unless specific criteria are established for such components in Rule 62-520.400, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

B. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, all discharges and activities must be conducted so as to not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of Rules 62-4.242(1)(a), (1)(b), , and 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in Rules 62-4.242(2) and (3), F.A.C.

C. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, all dewatering discharges must be in compliance with Rule 62-621.300, F.A.C.

[Chapters 62-4, 62-302, 62-520, 62-550, 62-620, and 62-621 F.A.C.]

XXXIV. SOLID AND HAZARDOUS WASTE

A. Solid Waste

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-701, F.A.C., for any solid waste generated within the Certified Facility during construction, operation, maintenance, and closure.

[Chapter 62-701, F.A.C.]

B. Hazardous Waste, Used Oil, Petroleum Contact Water, and Spent Mercury

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-730, F.A.C., for any hazardous waste generated within the Certified Facility. An EPA identification number must be obtained before beginning hazardous waste activities unless the facility is a Conditionally Exempt Small Quantity Generators (CESQGs). CESQGs generate no more than 100 kg (220 lbs.) of hazardous waste in any month.

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-710, F.A.C., for any used oil and used oil filters generated within the Certified Facility.

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-737, F.A.C., for any spent mercury-containing lamps and devices generated within the Certified Facility.

SECTION A: GENERAL CONDITIONS

The Licensee shall comply with all applicable provisions of Chapter 62-740, F.A.C., for any petroleum contact water located within the Certified Facility.

[Chapters 62-710, 62-730, 62-737, and 62-740, F.A.C.]

C. Hazardous Substance Release Notification

1. Any owner or operator of a facility who has knowledge of any release of a hazardous substance from a Certified Facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the STATE WATCH OFFICE, (800) 320-0519, as soon as possible, but not later than one working day of discovery of the release.

2. Releases of mixtures and solutions are subject to these notification requirements only where a component hazardous substance of the mixture or solution is released in a quantity equal to or greater than its reportable quantity.

3. Notification of the release of a reportable quantity of solid particles of antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc is not required if the mean diameter of the particles released is larger than 100 micrometers (0.004 inches).

[Chapter 62-150, F.A.C.]

D. Contaminated Site Cleanup

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-780, F.A.C., for any violations of relevant provisions of Chapter 376 or 403, F.S., that result in legal responsibility for site rehabilitation pursuant to those chapters. This responsibility for site rehabilitation does not affect any activity or discharge permitted or exempted pursuant to Chapter 376 or 403, F.S., or rules promulgated pursuant to Chapter 376 or 403, F.S.

[Chapter 62-780, F.A.C.]

XXXV. STORAGE TANK SYSTEMS

Registration, construction, installation, operation, maintenance, repair, closure, and disposal of storage tank systems within a Certified Site that store regulated substances shall be in accordance with Chapters 62-761 and 62-762, F.A.C., in order to minimize the occurrence and environmental risks of releases and discharges. Mineral acid storage tank systems are subject only to Rule 62-762.891, F.A.C.

A. Incident Notification Requirements.

Notification of the discovery of the loss from a storage tank system of a regulated substance exceeding 100 gallons on impervious surfaces, other than secondary containment, such as driveways, airport runways, or other similar asphalt or concrete surfaces, provided that the loss does not come in contact with pervious surfaces or of the discovery of any other incident listed in Rule 62-761.405 or 62-762.411, F.A.C., shall be made to the County on Incident Notification Form 62-761.900(6) within 24 hours or before the close of the County's next business day.

SECTION A: GENERAL CONDITIONS

B. Discharge Reporting Requirements

Upon discovery of an unreported discharge of a regulated substance, the Licensee shall report to the County on Discharge Report Form 62-761.900(1) within 24 hours or before the close of the County's next business day those items listed in Rule 62-761.405, F.A.C., including a spill or overfill event of a regulated substance to soil or another pervious surface, equal to or exceeding 25 gallons, unless the regulated substance has a more stringent reporting requirement specified in 40 CFR Part 302.

C. Discharge Cleanup

If a discharge of a regulated substance occurs at a certified facility, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules. The Licensee is advised that other federal, state, or local requirements may apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with that Chapter.

D. Out of Service and Closure Requirements

Storage tank systems shall be taken out-of-service and/or closed as necessary in accordance with Rules 62-761.800 and 62-762.801, F.A.C., as applicable.

[Chapters 62-761, 62-762, and 62-780, F.A.C.]

SECTION B: SPECIFIC CONDITIONS

SECTION B. SPECIFIC CONDITIONS

I. VARIANCES

A. FPL is granted a variance from the maximum and mean pond depth requirements of the SJRWMD ERP Applicant's Handbook (A.H.) Vol. II, Section 8.8 (Pond Depth) and the 2:1 ratio requirement of Section 8.9 (Pond Configuration).

B. FPL is granted a variance from Okeechobee Land Development Regulations, Article VII, Sections 7.06.05(A)(5) (pond depth) and 7.06.05(B)(9) to allow excavation of wet detention ponds deeper than 10 feet and to allow those ponds to have straight shorelines.

[Section 403.507(5)(d), F.S.]

II. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Potable Water

The Licensee shall keep a log of the number of persons served as described in Rule 64E-8(9)(c), F.A.C., by the OCEC potable water system on a monthly basis. If the number of persons totals more than 24, then the Licensee shall notify the DEP SED Office and the Okeechobee County Department of Health (DOH).

[Applicant Agreement with the Department of Health and the Department of Environmental Protection]

A. If the number of persons totals no more than 24, then the Licensee shall follow the DOH's limited use potable water system (LUPWS) standards, requirements, and procedures set forth in these Conditions of Certification in Section B., Condition X.B.2.-4.

B. If the number of persons is greater than 24, then the Licensee shall follow the Department's standards, requirements, and procedures for a public water system set forth in subparagraphs B.1.-4., below.

1. All potable water supply well(s) shall be constructed according to public well standards found in Chapter 62-532, F.A.C., and shall comply with the required setbacks in Rule 62-555.312, F.A.C.

2. The non-transient, non-community potable water supply system(s) shall be designed and operated in conformance with the applicable non-procedural requirements of Chapters 62-550, 62-555, 62-560, and 62-699 F.A.C. Information as required in Chapters 62-550, 62-555, 62-560, and 62-699, F.A.C., shall be submitted to the Department prior to construction and operation of any potable water system. The potable water supply system shall be staffed in accordance with Chapters 62-602 and 62-699, F.A.C. All monitoring reports shall be submitted to the Department's SED Office Potable Water Section and the SCO.

3. The list of requirements for a Preliminary Design Report (PDR) can be found in Rule 62-555.520(4), F.A.C. A preliminary design report or specifications, details, and design drawings shall be submitted to the Department's SED Office Potable Water Section and the SCO prior to construction and use for review in accordance with Section A., Condition XXI., "Procedures for Post-Certification Submittals".

4. For the non-transient, non-community potable water supply system(s), a demonstration of financial, managerial, and technical capacity (capacity

SECTION B: SPECIFIC CONDITIONS

development) pursuant to Rule 62-555.525, F.A.C., must be completed and submitted to the Department's SED Office Potable Water Section and the SCO, using DEP Form 62-555.900(20).

[Chapters 62-532, 62-550, 62-555, 62-560, 62-602, 62-699, Rules 64E-8.001(9)(a), (9)(b), and (9)(c), F.A.C.]

III. DEPARTMENT OF TRANSPORTATION

A. Access Management to the State Highway System

Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, F.A.C. Adverse impacts to existing operation of SR 60 are not anticipated. However, a separate right-of-way access permit from DOT is required.

[Section 403.511(3), F.S.; Chapters 14-96 and 14-97, F.A.C.]

B. Overweight or Over-Dimensional Loads

Operation of overweight or over-dimensional loads by the applicant on State transportation facilities during construction and operation of the utility facility will be subject to safety and permitting requirements of Chapter 316, F.S., and Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

[Chapter 316, F.S.; Chapter 14-26, F.A.C.]

C. Use of State of Florida Right-of-Way or Transportation Facilities

All usage and crossing of State of Florida right-of-way or transportation facilities will be subject to Chapter 14-46, Utilities Installation or Adjustment, F.A.C.; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance, and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual.

The placement of the transmission lines should take into consideration the planned widening of state transportation facilities. The cost of relocating or reconstructing the transmission line will be borne by the applicant to the extent required by §337.403, F.S., and Chapter 14-46, F.A.C.

[Sections 337.403 and 337.404, F.S.; Chapters 14-15 and 14-46, F.A.C.]

D. Standards

The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Utility Accommodation Manual; and pertinent sections of the Department of Transportation's Project Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

[Chapter 14-15, F.A.C.]

SECTION B: SPECIFIC CONDITIONS

E. Drainage

Any drainage onto State of Florida right-of-way and transportation facilities will be subject to the requirements of Chapter 14-86, Drainage Connections, F.A.C., including the attainment of any permit required thereby.

[Chapter 14-86, F.A.C.]

F. Use of Air Space

Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects Affecting Navigable Airspace, Subpart B, Notice of Construction or Alteration. Notification will be provided to FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or Alteration in accordance with instructions therein. A subsequent determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C, for any structure that is located within a 10-nautical-mile radius of the geographical center of a public-use airport or military airfield in Florida will be required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the site of the proposed structure. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for marking and/or lighting of the proposed structure are made mandatory by Florida law. For a site under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

[Chapter 333, F.S.; Rule 14-60.009, F.A.C.]

G. Best Management Practices

Traffic control during facility construction and maintenance will be subject to the standards contained in the Manual on Uniform Traffic Control Devices; Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C.; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance, and Utility Operation on the State Highway; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; and Florida Department of Transportation's Utility Accommodation Manual, whichever is more stringent.

It is recommended that the Applicant encourage transportation demand management techniques by doing the following:

- Placing a bulletin board on site for carpooling advertisements.
- Requiring that heavy construction vehicles remain on-site for the duration of construction activity for which the equipment is required to the extent practicable.

If the Applicant uses contractors for the delivery of any overweight or over-dimensional loads to the site during construction, the Applicant should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316,

SECTION B: SPECIFIC CONDITIONS

F.S., and Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

[Chapter 316, F.S.; Chapter 14-26, F.A.C.]

IV. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

A. Nothing in this Certification shall be construed to limit the authority of the SJRWMD to declare a water shortage and issue orders pursuant to Chapter 373, F.S. In the event of a declared water shortage, the Licensee must adhere to the water shortage restrictions, as specified by the SJRWMD.

[Paragraph 5.1(b), A.H., November 2015]

B. Leaking or inoperative well casings, valves, or controls must be repaired or replaced as required to eliminate the leak or make the system fully operational.

[Paragraphs 2.3(a) and 5.1(d), A.H., November 2015]

C. Licensee's consumptive use of water as authorized by this certification shall not interfere with legal uses of water existing at the time of certification application. If interference occurs, SJRWMD will request that DEP revoke the Certification, in whole or in part, to curtail or abate the interference, unless the interference associated with the Licensee's consumptive use of water is mitigated by Licensee pursuant to the Well Interference Monitoring, Avoidance, and Mitigation Plan (included in Attachment D).

[Paragraphs 3.6 and 5.1(e), A.H., November 2015]

D. Licensee shall implement the FPL OCEC Well Interference Monitoring, Avoidance and Mitigation Plan (Attachment E) as described therein and as modified by Condition AA., if required.

[Paragraphs 3.6 and, 5.1(e), A.H., November 2015]

E. Licensee's consumptive use of water as authorized by this Certification shall not have significant adverse hydrologic impacts to off-site land uses existing at the time of the certification application. If significant adverse hydrologic impacts occur, the SJRWMD will request that DEP revoke the Certification, in whole or in part, to curtail or abate the adverse impacts, unless the impacts associated with Licensee's consumptive use of water are mitigated by Licensee pursuant to a SJRWMD-approved plan.

[Paragraphs 2.3(f) and 5.1(f), A.H., November 2015]

F. A SJRWMD-issued identification tag shall be prominently displayed at each withdrawal site by permanently affixing such tag to the pump, headgate, valve, or other withdrawal facility as provided by Rule 40C-2.401, F.A.C. Licensee shall notify the SJRWMD in the event that a replacement tag is needed.

[Paragraph 5.1(h), A.H., November 2015]

G. The Licensee's consumptive use of water as authorized by this License shall not significantly and adversely impact wetlands, lakes, rivers, or springs. If significant adverse impacts occur, the SJRWMD will request that DEP revoke the License, in whole or in part, to curtail or abate the significant adverse impacts, unless the impacts associated with the Licensee's consumptive use of water are mitigated by the licensee pursuant to a SJRWMD-approved plan.

SECTION B: SPECIFIC CONDITIONS

[Paragraphs 2.3(f) and 5.1(i), A.H., November 2015]

H. The Licensee's consumptive use of water as authorized by this License shall not reduce a flow or level below any minimum flow or level established by the SJRWMD or the DEP pursuant to §§73.042 and 373.0421, F.S. If the Licensee's use of water causes or contributes to such a reduction, then the SJRWMD will request that DEP revoke the License, in whole or in part, unless the Licensee implements all provisions applicable to the Licensee's use in a SJRWMD-approved recovery or prevention strategy.

[Paragraphs 2.3(i) and 5.1(j), A.H., November 2015]

I. The Licensee's consumptive use of water as authorized by the License shall not cause or contribute to significant saline water intrusion. If significant saline water intrusion occurs, the SJRWMD will request that DEP revoke the License, in whole or in part, to curtail or abate the saline water intrusion, unless the saline water intrusion associated with the Licensee's consumptive use of water is mitigated by the Licensee pursuant to a SJRWMD-approved plan.

[Paragraphs 2.3(g) and 5.1(k), A.H., November 2015]

J. The Licensee's consumptive use of water as authorized by the License shall not cause or contribute to flood damage. If the Licensee's consumptive use causes or contributes to flood damage, the SJRWMD will request that DEP revoke the License, in whole or in part, to curtail or abate the flood damage, unless the flood damage associated with the Licensee's consumptive use of water is mitigated by the Licensee pursuant to a SJRWMD-approved plan.

[Paragraphs 2.3(f) and 5.1(l), A.H., November 2015]

K. The lowest quality water source, including reclaimed water, surface water, and stormwater, must be used for each consumptive use authorized by these Conditions of Certification when available, except when Licensee demonstrates, as determined by SJRWMD, that the use of the lower quality water source is not economically, environmentally, or technologically feasible, in accordance with the SJRWMD's Consumptive Use Permit Applicant's Handbook, Paragraph 2.3(e), A.H., November 2015.

[Paragraph 2.3(e), A.H., November 2015]

L. Well modifications, construction, and abandonments shall conform to SJRWMD non-procedural requirements in Chapter 40C-3, F.A.C.

[Paragraph 5.1(c), A.H., November 2015]

M. Prior to well construction, if the final well locations are greater than 200 feet from those originally proposed in the certification application, the Licensee shall submit to the DEP SCO and SJRWMD for review and approval, in accordance with Condition XXI, "Procedures for Post-Certification Submittals", an evaluation of the impacts of the proposed pumpage from the proposed well location(s) on adjacent existing legal users, environmental features, the saline water interface, wetlands, and other water bodies.

[Section 373.223, F.S.; Paragraphs 2.3(f) and (g), A.H., November 2015]

N. Within 90 days of completion of construction of any Upper Floridan Aquifer (UFA) or Avon Park Producing Zone (APPZ) production wells, Licensee shall submit to the DEP SCO and SJRWMD:

SECTION B: SPECIFIC CONDITIONS

1. The specific locations of the wells on a map with a minimum scale of one inch equals 800 feet, or by latitude/longitude.
2. Detailed well specifications and drawings.
3. Geophysical logging program conducted during construction of the well(s). The program must include the following: Gamma, Caliper, Electric (spontaneous potential (SP) and electrical resistivity), Fluid Resistivity, Temperature, Flow, and Video.
4. Downhole water quality testing program to include field-testing at 20-foot intervals upon penetration of the top of the upper portion of the UFA for specific conductivity, chlorides, temperature, and pH.

[Chapter 40C-3, F.A.C.; Paragraphs 2.3(c) and (d), A.H., November 2015]

O. All landscape irrigation shall be conducted in accordance with the times, days, and within the manner set forth in Rule 40C-2.042, F.A.C.

[Rule 40C-2.042, F.A.C.; Paragraph 5.2, A.H., November 2015]

P. Maximum annual use of water from the UFA for power plant process, cooling, potable, service, irrigation, and well testing water must not exceed 3,285 million gallons (9.0 mgd annual average). If required by Conditions CC., and DD., all or part of this allocation shall be obtained from the Avon Park Producing Zone (APPZ).

[Paragraphs 2.3(a), (b), (c), (d), (e) and 5.2(d), A.H., November 2015]

Q. Licensee may use water from the existing UFA well (Main Pump Well, SJRWMD ID 454668) for construction of the power plant and associated facilities. Maximum annual water use from this well must not exceed 164.75 million gallons (0.45 mgd annual average) as provided for in SJRWMD Consumptive Use Permit 143225-1.

[Paragraphs 2.3(a), (b), (c), (d), (e), and 5.2(d), A.H., November 2015]

R. Maximum annual use of water from the surficial aquifer and/or UFA for landscape irrigation of the site must not exceed 0.744 million gallons (0.002 mgd) per acre, not to exceed a total quantity of 10.51 million gallons (0.029 mgd annual average).

[Paragraphs 2.3(a), (b), (c), (d), (e), and 5.2(d), A.H., November 2015]

S. Maximum annual use of water from the surficial aquifer and/or UFA for potable and service water uses at the facility must not exceed 16.82 million gallons (0.046 mgd annual average).

[Paragraphs 2.3(a), (b), (c), (d), (e), and 5.2(d), A.H., November 2015]

T. Total withdrawal of groundwater from the UFA wells 1-6 (SJRWMD IDs 455798-455803, respectively), UFA replacement wells 10-15 (SJRWMD IDs 457111-457116) and surficial aquifer wells 7-9 (SJRWMD IDs 455804, 455805, and 457087, respectively) must be recorded continuously, totaled monthly, and reported to the DEP SCO and the SJRWMD at least every six months from the initiation of the monitoring using Form EN-50. The reporting dates each year will be as follows:

Reporting Period	Report Due Date
January - June	July 31

SECTION B: SPECIFIC CONDITIONS

July - December January 31

[Paragraph 2.3(a), A.H., November 2015]

U. Prior to use, all proposed wells must be equipped with totalizing flow meters. All flow meters must maintain +/- 5% accuracy, be verifiable, and be installed according to the manufacturer's specifications.

[Paragraphs 4.1 and 4.2, A.H., November 2015]

V. The Licensee must maintain all flow meters. In case of failure or breakdown of any meter, the DEP SCO and SJRWMD must be notified in writing within 5 days of its discovery. A defective meter must be repaired or replaced within 30 days of its discovery.

[Paragraphs 4.1 and 4.2, A.H., November 2015]

W. The Licensee must have the flow meters calibrated once every 10 years within 30 days of the anniversary date of certification issuance, and recalibrated if the difference between the actual flow and the meter reading is greater than 5%. SJRWMD Form No. EN-51 must be submitted to the DEP SCO and SJRWMD within 10 days of the inspection/calibration.

[Paragraphs 4.1 and 4.2.1, A.H., November 2015]

X. The Licensee has indicated that dewatering will be necessary to facilitate construction of the plant. The Licensee has estimated dewatering of the surficial aquifer will occur over an approximate 24-month period at a rate of 487.3 million gallons per year (annual average 1.33 mgd). Prior to commencement of construction of those portions of the project that involve dewatering activities, the Licensee's construction contractor will be required to submit a final dewatering plan to the DEP SCO and the SJRWMD for review and approval in accordance with Condition XXI., "Procedures for Post-Certification Submittals." This plan shall include at a minimum:

1. A map showing the locations of dewatering activities with associated projected drawdowns. If projected drawdowns initially appear to cause adverse environmental impacts or interference to existing legal uses, mitigation measures must be proposed and included in the Dewatering Plan;
2. A map delineating the portions of the property where dewatering activities will take place and the extent of the proposed excavations, both vertically and laterally. This map must include the locations and dimensions of any proposed ponds to receive dewatering discharges;
3. Procedures to ensure that dewatering will not cause or contribute to flood damage including the proposed rate and duration of water pumped for dewatering;
4. A map providing the proposed locations and capacities (gpm) of proposed dewatering pump(s);
5. Detailed description of turbidity treatment and erosion control measures at the discharge point(s);
6. Indicating requested dewatering allocation and schedules;
7. Water quality monitoring plans; and
8. If necessary, a water treatment system design.

SECTION B: SPECIFIC CONDITIONS

[Paragraphs 2.3(a), (b), (f), (g), and (h), A.H., November 2015]

Y. Prior to commencing use of the UFA for cooling tower makeup water, Licensee shall construct one well into the APPZ and perform a step-drawdown test on that APPZ well. In addition, Licensee shall perform an aquifer performance test (APT) on the upper portion of the UFA with APPZ and UFA observation wells. No later than 90 days before conducting the APT, Licensee shall provide an APT Plan to the DEP SCO and SJRWMD to be reviewed and approved in accordance with Condition XXI., “Procedures for Post Certification Submittals” prior to Licensee commencing with the APT. The APT Plan must follow SJRWMD guidelines, as appropriate, for conducting an APT as set forth in Appendix D of the SJRWMD’s Applicant’s Handbook: Consumptive Uses of Water incorporated by reference in Rule 40C-2.101(1)(a), F.A.C., (effective November 3, 2015).

[Paragraphs 2.3(c) and (d), A.H., November 2015]

Z No later than 90 days after the APT is complete, Licensee shall provide an APT final report (“APT Report”) documenting well construction, APT procedures, data analysis, and APT results to the DEP SCO and SJRWMD for review and approval in accordance with Condition XXI., “Procedures for Post-Certification Submittals”. The APT Report shall be signed and sealed by a Florida Registered Professional Geologist or Professional Engineer.

[Paragraphs 2.3(c) and (d), A.H., November 2015]

AA. If, after the approval of the APT Report, there is a significant difference between the APT results and the values used in Licensee’s groundwater impact modeling evaluations, Licensee shall update its groundwater impact model, as well as the Okeechobee Clean Energy Center Well Interference Monitoring, Avoidance and Mitigation Plan, as necessary, to reflect the updated modeling results. A “significant difference” shall mean the leakance or transmissivity values are 30 % higher or lower than those included in the Licensee’s groundwater flow model data submitted with the SCA. If updated modeling is required, no later than 30 days after approval of the APT report, the Licensee shall provide to the DEP SCO and the SJRWMD, a proposed modeling plan to update its groundwater impact model (“Modeling Update Plan”) for review and approval in accordance with Condition XXI., “Procedures for Post-Certification Submittals”. The Modeling Update Plan shall incorporate the Licensee’s APT results to evaluate impacts of predicted drawdown and utilize all updates available for this region.

No later than 90 days after receiving the SJRWMD’s written approval of the Modeling Update Plan, Licensee shall complete the modeling according to the plan, prepare a written report detailing the impacts indicated by the updated modeling, and submit the report to the DEP SCO and SJRWMD for review and approval in accordance with Condition XXI., “Procedures for Post-Certification Submittals”.

Within 60 days of SJRWMD approval of the updated modeling report, Licensee shall submit a written evaluation of any needed changes to the Okeechobee Clean Energy Center Well Interference Monitoring, Avoidance and Mitigation Plan to the SCO and SJRWMD for review and approval in accordance with Condition XXI., “Procedures for Post-Certification Submittals”. Licensee may also include this written evaluation in the updated modeling report.

If the results of the SJRWMD-approved updated modeling indicate that the OCEC Unit 1 proposed groundwater use will result in an additional 10% or greater reduction in

SECTION B: SPECIFIC CONDITIONS

flow of any existing legal user's well caused entirely by the OCEC Unit 1 proposed use (determined using the non-drought baseline current condition in the updated model), then Licensee shall mitigate those existing user's wells and facilities pursuant to the terms of the Okeechobee Clean Energy Center Well Interference Monitoring, Avoidance and Mitigation Plan (Attachment D) in advance of commencing commercial operation of OCEC Unit 1. Such existing legal users need not submit an interference claim to Licensee.

[Paragraphs 2.3(c), (d), (e), (f), (g), and 3.6, A.H., November 2015]

BB. No later than 60 days after the approval of the APT report, Licensee shall provide an Upper Floridan Aquifer Monitoring Plan to the DEP SCO and the SJRWMD for review and approval in accordance with Condition XXI., "Procedures for Post-Certification Submittals". This monitoring plan shall specify the location and construction specifics of the monitoring well(s) and should include, at a minimum:

1. Monitoring of the UFA between the proposed production well sites and closest adjacent legal users. This monitoring well shall measure water levels and water quality of the same zone of use of the closest adjacent legal user(s). The best available well depth and casing information for the closest adjacent legal user(s) must be used to determine the monitoring zone.
2. Determine an appropriate monitoring well drawdown threshold (i.e., number of feet of drawdown) that would trigger the actions described in "Avoiding Potential Interference" portion of the Well Interference Monitoring, Avoidance, and Mitigation Plan in Attachment D.
3. Quarterly major ion chemical analyses for all production and monitoring wells.
4. Daily water level measurements of UFA monitoring wells.

[Paragraphs 2.3(c), (d), (e), (f), and (g), A.H., November 2015]

CC. Not later than 90 days after approval of the APT report, Licensee shall incorporate the results of the APT and step-drawdown tests into the groundwater model and evaluate APPZ performance and water quality to determine whether the APPZ well can be used to supply water for cooling and other plant purposes. If this APPZ modeling indicates background APPZ water quality, when blended with water produced from UFA wells, is sufficient to allow OCEC Unit 1 operation at 5 cycles of concentration, Licensee shall use the APPZ well to the maximum extent possible for cooling water and other plant purposes as specified below. If this APPZ modeling indicates background water quality, when blended with water produced from UFA wells, is insufficient to allow OCEC Unit 1 operation at 5 cycles of concentration, Licensee is not required to implement withdrawals from the APPZ well and is not required to construct additional APPZ wells as referenced below.

[Paragraphs 2.3(c), (d), and (e), A.H., November 2015]

DD. If Licensee is using the APPZ well for cooling water and other plant purposes pursuant to the provision above, then not later than 2 years after initiating groundwater withdrawals for cooling and other plant purposes, and annually thereafter, Licensee shall either modify one upper UFA well to the lower quality APPZ or construct and use one additional APPZ well to replace an UFA well. Starting with the initial APPZ well and as additional APPZ wells

SECTION B: SPECIFIC CONDITIONS

are constructed, Licensee shall use the greatest quantity of water from the APPZ that, when combined with water from the UFA, produces a water quality sufficient to allow operation at five cycles of concentration. Licensee may cease well modification or additional APPZ well construction and use upon the earlier of (a) the date when APPZ water withdrawals reach 100% of total non-surficial aquifer withdrawals; or (b) the water quality produced from blending the UFA and APPZ well exceeds the constraints identified in Condition FF.

[Paragraphs 2.3(c), (d), and (e), A.H., November 2015]

EE. If Licensee is using APPZ well(s), Licensee shall submit a Lowest Quality Groundwater Source Report annually to the DEP SCO and SJRWMD beginning no later than 1 year after initiation of groundwater withdrawals for cooling water and other plant operational purposes. This Lowest Quality Groundwater Source Report shall identify the quantities of water Licensee withdraws from the APPZ, the water quality of that APPZ water, and the water quality of that APPZ water blended with water withdrawn from the UFA. Licensee may cease lowest quality groundwater source reporting upon the earlier of (a) the date when APPZ water withdrawals reach 100% of total non-surficial aquifer withdrawals; or (b) the SCO in consultation with the SJRWMD approves the Licensee's request to do so based on monitored water quality data demonstrating that using APPZ wells is environmentally, technically, or economically infeasible.

[Paragraphs 2.3(c), (d), and (e), A.H., November 2015]

FF. If at any time a trend of the blended water quality of the OCEC Unit 1 cooling water supply reasonably projects that five cycles of concentration cannot be maintained in the plant's circulating water system over the next year of operation using the plant design basis water treatment methodology, Licensee may reduce or discontinue withdrawals from the APPZ well(s) and correspondingly increase withdrawals from UFA wells as necessary to maintain the lowest water quality meeting the above referenced water quality limitation of 5 cycles of concentration. No post-certification authorization is required to initiate this change. Within 90 days of such reduction, Licensee shall submit a written report for informational purposes to the DEP SCO and SJRWMD describing the reduction or elimination of APPZ well withdrawals, including the identification of the well(s) reduced and information on the water quality of the OCEC water supply.

[Paragraphs 2.3(c), (d), (e), and (g), A.H., November 2015]

GG. Licensee acknowledges that the water needs of Florida's citizens will require alternative water sources such as surface water projects in the future as determined by the water management districts pursuant to the water supply planning process of §373.709, F.S., and other applicable provisions of Chapter 373, F.S. Licensee will in good faith evaluate the technical, environmental, and economic feasibility of connection to and use of alternative water sources such as surface water supplies when such sources become available according to the terms of this Condition.

Upon notification by the SJRWMD that an alternative water source has potentially become available in the vicinity of OCEC Unit 1, including sources that lie outside of the boundary of the SJRWMD, Licensee shall evaluate the feasibility of connection to and use of the alternative water source. As used herein, the term "alternative water source" means any source not identified as a traditional water supply source in the applicable water supply plan

SECTION B: SPECIFIC CONDITIONS

adopted by the SJRWMD pursuant to §373.709, F.S., or successor provision, for the area encompassing the facility. Within 180 days of the notification from SJRWMD of the potential availability of an alternative water source, the Licensee shall submit a report to the DEP SCO and the SJRWMD evaluating the technical, environmental, and economical feasibility of each alternative water source identified. The report shall contain an analysis of each alternative water source, including the quantity of water available, the projected date(s) of availability, and costs associated with obtaining and transporting the alternative water to the OCEC Unit 1 facility. If the SJRWMD determines that use of additional alternative water sources are environmentally, technically, and economically feasible, within 120 days of such determination, Licensee shall develop and provide an implementation schedule to reduce, by the amount of additional alternative water source, the quantity of ground water authorized for consumption by the site, to DEP SCO and SJRWMD for review and approval in accordance with Condition XXI, “Procedures for Post-Certification Submittals”. Once approved, Licensee shall take the necessary steps to implement the schedule. Within 10 days of receiving notice from SJRWMD that an alternative water source has potentially become available in the vicinity of OCEC Unit 1, Licensee shall provide a copy of that notice to Indian River County. Licensee shall submit a copy of its alternative water source evaluation report to Indian River County at the time it submits that report to the SJRWMD.

If by December 31, 2021, there has been no notification provided by the SJRWMD that an alternative water source has potentially become available in the vicinity of OCEC Unit 1, Licensee shall, in coordination with the SJRWMD and Indian River County, conduct a study, as described above, to identify and evaluate the technical, environmental, and economic feasibility of connecting to and using alternative water sources that have the potential to become available in the vicinity of OCEC Unit 1, including sources that lie outside the boundary of the SJRWMD. Licensee shall submit the study to the SJRWMD and Indian River County by June 30, 2022.

Licensee’s submission of the study shall not relieve Licensee of any obligation to evaluate the feasibility of using an alternative water source upon future notification from the SJRWMD of an alternative water source that has potentially become available in the vicinity of OCEC Unit 1, including sources that lie outside the boundary of the SJRWMD.

[Paragraph 2.3(e), A.H., November 2015]

V. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. *Listed Species Conditions*

The following table contains state and federally listed species that occur in the State of Florida and may occur within FPL’s Okeechobee Clean Energy Center Project Site and associated linear facilities right-of-way. The table contains species that are potentially impacted by the activities proposed on FPL’s Okeechobee Clean Energy Center Project Site and associated linear and non-linear facilities. Therefore, these recommended Conditions of Certification apply to the species listed in Table 1., below.

Table 1.

Common Name	Scientific Name	Status
American alligator	<i>Alligator mississippiensis</i>	FT(SA)*

SECTION B: SPECIFIC CONDITIONS

Audubon's crested caracara	<i>Polyborus plancus audubonii</i>	FT
Eastern indigo snake	<i>Drymarchon corais couperi</i>	FT
Everglade snail kite	<i>Rostrahmus sociabilis plumbeus</i>	FE
Florida burrowing owl	<i>Athene cunicularia</i>	SSC
Florida grasshopper sparrow	<i>Ammodramus savannarum floridanus</i>	FE
Florida sandhill crane	<i>Grus canadensis pratensis</i>	ST
Gopher frog	<i>Lithobates capito</i>	SSC
Gopher tortoise	<i>Gopherus polyphemus</i>	ST
Limpkin	<i>Aramus guarauna</i>	SSC
Little blue heron	<i>Egretta caerulea</i>	SSC
Sherman's fox squirrel	<i>Sciurus niger shermani</i>	SSC
Snowy egret	<i>Egretta thula</i>	SSC
Southeastern American kestrel	<i>Falco sparverius paulus</i>	ST
Tricolored heron	<i>Egretta tricolor</i>	SSC
White ibis	<i>Eudocimus albus</i>	SSC
Wood stork	<i>Mycteria americana</i>	FT

FE = Federally designated Endangered; FT = Federally designated Threatened; ST = State-designated Threatened; SSC = State Species of Special Concern

*Due to similarity to another federally threatened species

Note: Florida's Endangered and Threatened species rule changed in November 2010.

The list is now comprised of federally designated endangered and threatened species or state-designated threatened species. Additionally, the Species of Special Concern (SSC) designation has been retained in the rule until those species designated as SSC are evaluated for listing as state-designated threatened species.

[Article IV, Section 9, Florida Constitution; Chapters 68A-27 and 68A-16, F.A.C.]

B. General Listed Species Survey

1. The Licensee shall coordinate with the Florida Fish and Wildlife Conservation Commission (FWC) to obtain and follow the current survey protocols for all listed species that may occur within the Okeechobee Clean Energy Center Project Site and associated linear facilities' right-of-way, as well as accessible appropriate buffers within FPL's property or rights-of-way as defined by the listed species' survey protocols, prior to conducting detailed surveys. Guidance related to species-specific survey protocols can be found in the FWC's Florida Wildlife Conservation Guide at: <http://myfwc.com/conservation/value/fwgc/>.

SECTION B: SPECIFIC CONDITIONS

2. Surveys shall be conducted for the species listed in Table 1, above, prior to clearing and construction in accordance with the survey protocols. The results of those detailed surveys shall be provided to the FWC in a report, and coordination shall occur with the FWC on appropriate impact avoidance, minimization, or mitigation methodologies.

[Article IV, Section 9, Florida Constitution; Sections 379.2291, 403.507, 403.526, and 403.5113(2), F.S.; Chapter 68A-27, F.A.C.]

C. Specific Listed Species Surveys

Before land clearing and construction activities within the FPL Okeechobee Clean Energy Project Site and associated linear facilities rights-of-way, the Licensee shall conduct an assessment for terrestrial listed species and shall note all habitat, occurrence or evidence of listed species. Wildlife surveys shall be conducted during the reproductive or "active" season for each species that falls before the projected clearing activity schedule unless otherwise approved by the FWC. For species that are difficult to detect, the Licensee may make the assumption that the species is present and plan appropriate avoidance/mitigation measures after consultation with the FWC. The Licensee will submit avoidance/mitigation measures for FWC post-certification review and approval at least 60 days prior to commencing clearing or construction activities within the surveyed area. The surveys required by these Conditions of Certification may be conducted prior to issuance of the Final Order of Certification, in which case this Condition would be considered satisfied.

1. This survey shall be conducted in accordance with U.S. Fish and Wildlife Service (USFWS) or FWC guidelines and methodologies by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for each potentially occurring listed species.

2. This survey shall identify any wading bird colonies within the FPL Okeechobee Clean Energy Project Site and associated linear facilities that may be affected.

3. This survey shall identify locations of breeding sites, nests, and burrows for listed wildlife species. Nests and burrows shall be recorded with global positioning system (GPS) coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, the FWC prefers that any applicable protection radii surrounding groups of nest sites and burrows be included on a site-specific basis, rather than around individual nests and burrows, and be physically marked so that clearing and construction shall avoid impacting them.

4. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community (Florida Land Use, Cover and Forms Classification System, or FLUCFCS, at the third degree of detail) of each community that is contained within the FPL Okeechobee Clean Energy Project Site and associated linear facilities prior to land clearing and construction activities using a geographic information system (GIS).

Examples of such wildlife-based habitat classification schemes include Florida's State Wildlife Action Plan (FWC 2012), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (Florida Natural Areas Inventory 2010)*.

[Article IV, Section 9, Florida Constitution; Sections 379.2291 F.S.; Chapters 68A-4, 68A-16, and 68A-27, F.A.C.]

SECTION B: SPECIFIC CONDITIONS

*Florida Fish and Wildlife Conservation Commission. 2012. Florida's State Wildlife Legacy Initiative: Florida's State Wildlife Action Plan. Tallahassee, Florida.

Florida Natural Areas Inventory. 2010. Guide to the natural communities of Florida: 2010 edition. Florida Natural Areas Inventory, Tallahassee, Florida.

Stys, B., R. Kautz, D. Reed, M. Kertis, R. Kawula, C. Keller, and A. Davis. 2004. Florida vegetation and land cover data derived from 2003 Landsat ETM+ Imagery. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida.

D. Listed Species Locations

Where any suitable habitat or evidence is found of the presence of listed species, including but not limited to those specified in paragraphs E., through I., below, within the FPL Okeechobee Clean Energy Center Project Site and associated linear facilities, the Licensee shall report those locations to, and confer with, the FWC to determine whether additional pre-clearing surveys are warranted, and to identify potential mitigation or avoidance recommendations. If additional pre-clearing surveys are required by the FWC as appropriate and as specified in these Conditions of Certification, they shall occur in the reproductive season prior to the anticipated date for the start of construction within the FPL Okeechobee Clean Energy Center Project Site and associated linear facilities' right of way. The Licensee shall not construct in areas where evidence of listed species was identified during the initial survey until the particular listed species issues have been resolved as follows:

1. **Listed Wildlife Species:** If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the FWC, and the USFWS.
2. **Species Management Plan:** If total avoidance of state-listed wildlife species is not feasible, the Licensee shall consult with the FWC to determine the steps appropriate for the species potentially impacted to avoid, minimize, mitigate, or otherwise appropriately address potential impacts. For wildlife species, these steps shall be memorialized in a Species Management Plan and submitted to the FWC for review and approval.

[Article IV, Section 9, Florida Constitution; Sections 379.2291 F.S.; Chapter 68A-27, F.A.C.]

E. Gopher Tortoise

1. The Licensee shall conduct surveys for gopher tortoises (*Gopherus polyphemus*), in accordance with the FWC-approved Gopher Tortoise Management Plan (as revised) and the FWC-approved Gopher Tortoise Permitting Guidelines, or subsequent FWC approved versions of the Plan or Guidelines. A burrow survey covering a minimum of 15% of the potential gopher tortoise habitat to be impacted by development is required in order to apply for a relocation permit. Immediately prior to capturing tortoises for relocation, a 100% survey is required to effectively locate and mark all potentially occupied tortoise burrows and to subsequently remove the tortoises. Burrow survey methods are outlined in Appendix 4 of the Gopher Tortoise Permitting Guidelines, "Methods for Locating Gopher Tortoise Burrows on Sites Slated for Development." Surveys must be conducted as described in paragraph E.3., below. Surveys shall not be conducted within 30 days of any ground disturbance or clearing activities on the donor site. All surveys completed by authorized agents or other licensees are subject to field verification by the FWC.

SECTION B: SPECIFIC CONDITIONS

2. The Licensee is not required to provide a monitoring compliance assessment for activities that occur more than 25 feet from a gopher tortoise burrow entrance, provided that such activities do not harm gopher tortoises or violate rules protecting gopher tortoises. Examples of such violations noted in the past by the FWC include, but are not limited to, killing or injuring a tortoise more than 25 feet away from its burrow, harassing a tortoise by blocking access to its burrow, and altering gopher tortoise habitat to such an extent that resident tortoises are taken.

The Licensee shall coordinate with and provide the FWC detailed gopher tortoise relocation information in accordance with the FWC-approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal. This information shall provide details on the location for on-site recipient areas and any off-site FWC-approved temporary contiguous habitat, as well as appropriate mitigation contributions per tortoise, as outlined in the Gopher Tortoise Permitting Guidelines.

Any commensal species observed during the burrow excavations that are listed by the FWC shall be relocated in accordance with the applicable guidelines for that species in accordance with Appendix 9 of the Gopher Tortoise Permitting Guidelines.

To the maximum extent practicable or feasible, all staging and storage areas shall be sited to avoid impacts to gopher tortoise burrows and habitat.

[Article IV, Section 9, Florida Constitution; Sections 403.507, 403.526, 403.5113 and 379.2291, F.S.; Rules 62-17.660 and 68A-27, F.A.C.]

F. Sandhill Crane

1. The Licensee shall conduct surveys for nesting sandhill cranes immediately prior to any construction that occurs during the January through August breeding season. Basic guidance for conducting wildlife surveys may be found in the Florida Wildlife Conservation Guide and the FWC Nongame Technical Report No. 15 (http://f50006a.eos-intl.net/ELIBSQL12_F50006A_Documents/97stys.pdf) provides guidance on survey methods for sandhill cranes.

2. If there is evidence of nesting during this period, any active Florida sandhill crane nests shall be buffered by 400 feet to avoid disturbance by human activities. If nesting is discovered after construction has begun or if maintaining the recommended buffer is not possible, the Licensee shall consult with the FWC to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

[Article IV, Section 9, Florida Constitution; Section 379.2291 F.S.; Chapter 68A-27, F.A.C.]

G. Wading Birds

1. The Licensee shall conduct surveys for nesting wading birds during their breeding season, which extends from March through August. Basic guidance for conducting wildlife surveys may be found in the Florida Wildlife Conservation Guide.

2. If there is evidence of nesting during this period, any wading bird nest sites shall be buffered by 100 meters (328 feet) to avoid disturbance by human activities. If nesting is discovered after construction has begun, or the removal or trimming of trees with active nests is unavoidable, or if maintaining the recommended buffer is not possible, the

SECTION B: SPECIFIC CONDITIONS

Licensee shall consult with the FWC to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

[Article IV, Section 9, Florida Constitution; Section 379.2291 F.S.; Rule 68A-27, F.A.C.]

H. Eastern Indigo Snake

The Licensee shall consult with the USFWS and the FWC to ensure measures to avoid the “take” of Eastern indigo snakes on FPL Okeechobee Clean Energy Center Project Site and associated linear facilities right-of-way are implemented during construction and operation, in accordance with the *Standard Protection Measures for the Eastern Indigo Snake* (USFWS, 2013). The Eastern indigo snake protection/education plan (Plan) has been developed by the USFWS. At least 30 days prior to any clearing/land alteration activities, the Applicant shall notify the USFWS South Florida Field Office at verobeach@fws.gov that the Plan will be implemented.

1. Pre-Construction Activities

a. The Licensee will post educational posters in the construction office and throughout the construction site, including any access roads. The posters must be clearly visible to all construction staff. Please see the following link for a sample poster: http://www.fws.gov/northflorida/indigosnakes/20130812_EIS%20Standard%20Protection%20Measures_final.pdf.

b. Prior to the onset of construction activities, the Licensee will conduct a meeting with all construction staff (annually for multi-year projects) to discuss identification of the snake, its protected status, what to do if a snake is observed within the Project area, and applicable penalties that may be imposed if state and/or federal regulations are violated. An educational brochure including color photographs of the snake will be given to each staff member in attendance and additional copies will be provided to the construction superintendent to make available in the onsite construction office.

c. Construction staff will be informed that in the event that an Eastern indigo snake (live or dead) is observed on the Project Site during construction activities, all such activities are to cease until the established procedures are implemented according to the Plan, which includes notification to the USFWS South Florida Field Office.

2. During Construction Activities

a. During initial site clearing activities, an on-site observer may be utilized to determine whether habitat conditions suggest a reasonable probability of an Eastern indigo snake sighting (example: discovery of snake sheds, tracks, lots of refugia and cavities present in the area of clearing activities, and presence of gopher tortoises and burrows).

b. If an Eastern indigo snake is discovered during gopher tortoise relocation activities (i.e. burrow excavation), the USFWS shall be contacted within one business day to obtain further guidance which may result in further project consultation.

c. Periodically during construction activities, the Applicant’s designated agent should visit the Project area to observe the condition of the posters and Plan materials and replace them as needed. Construction personnel should be reminded of the instructions (above) as to what is expected if any Eastern indigo snakes are seen.

SECTION B: SPECIFIC CONDITIONS

3. Post-Construction Activities

Whether or not Eastern indigo snakes are observed during construction activities, a monitoring report should be submitted to the USFWS South Florida Field Office within 60 days of project completion. The report can be sent electronically to: verobeach@fws.gov.

[Article IV, Section 9, Florida Constitution; Chapter 68A-27, F.A.C.]

I. Federally Listed Species

The Licensee shall consult with the USFWS as the site may contain suitable habitat for the federally listed species identified in Table 1., above, to avoid the “take” of federally listed species on the FPL Okeechobee Clean Energy Center Project Site and associated linear facilities right-of-way during construction and operation.

[Article IV, Section 9, Florida Constitution; Section 403.5113, F.S.; Chapter 68A-27 and Rule 62-17.660, F.A.C.]

VI. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES

A. Any alterations associated with the reconfiguration of this plant may need to have a survey as determined in consultation with the Department of State, Division of Historical Resources (DHR). A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the Certified Facility. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR. Upon completion of the survey, the results will be compiled into a report which shall be submitted to DHR. If feasible, sites considered to be eligible for the National Register shall be avoided during construction of the Project and access roads, and subsequently during maintenance. If avoidance of any discovered sites is not feasible, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR, as appropriate.

B. If historical or archaeological artifacts or features are discovered at any time within the Certified Facility, the Licensee shall notify the DEP SED Office and the DHR, R.A. Gray Building, 500 South Bronough Street, Room 423, Tallahassee, Florida 32399- 0250, telephone number (850) 245-6333, and the Licensee shall consult with DHR to determine appropriate action.

[Sections 267.061, 403.531, and 872.02, F.S.]

VII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Only herbicides registered by the U.S. Environmental Protection Agency and the Florida Department of Agriculture and Consumer Services shall be used at Certified Facilities. Herbicide applications will be in accordance with label directions and will be carried out by a licensed applicator, in compliance with all federal, state and, local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.

[Chapter 487, F.S.]

SECTION B: SPECIFIC CONDITIONS

VIII. OKEECHOBEE COUNTY

A. *Floodplain Management/Flood Resistant Development*

All construction shall be in accordance with the applicable Floodplain Management and Flood Resistant Development non-procedural requirements in Sections 6.05 and 6.06 of the Okeechobee County Land Development Regulations. This shall not be construed as requiring FPL to obtain separate permits or approvals from the County.

[Sections 6.05 and 6.06, Okeechobee County Land Development Regulations]

B. *Parking and Loading*

All off-street parking and off-street loading facilities shall be designed and constructed in accordance with the applicable non-procedural requirements of Section 7.04, Okeechobee County Land Development Regulations. The required number of off-street parking and off-street loading facilities will be as depicted on the Conceptual Site Plan included in the Site Certification Application. This shall not be construed as requiring FPL to obtain separate permits or approvals from the County.

[Section 7.04.01(D), Okeechobee County Land Development Regulations]

C. *Drainage and Stormwater*

With the exception of the identified variances from Sections 7.06.05(A)(5) and 7.06.05(B)(9) of the Okeechobee County Land Development Regulations, the Project shall be designed and constructed in accordance with the applicable non-procedural requirements of Sections 7.05 and 7.06 of the Okeechobee County Land Development Regulations. This shall not be construed as requiring FPL to obtain separate permits or approvals from the County.

[Sections 7.05.05 and 7.06, Okeechobee County Land Development Regulations]

D. *Landscaping and Tree Preservation*

1. In accordance with Section 7.11.04(A)(11), Okeechobee County Land Development Regulations, preserved trees and shrubs within the proposed mitigation area shall be used to meet the requirements of Section 7.11.03(B)(1), Okeechobee County Land Development Regulations.

2. FPL shall maintain a minimum 5-foot buffer of natural/ organic ground cover and at least one tree and three shrubs every 50 linear feet where the Site is adjacent to a lot or parcel in single-family use. Okeechobee County recognizes that the proposed mitigation area will serve as adequate perimeter buffer from adjacent parcels in accordance with Sections 7.11.03(B)(3) and 7.11.05(F), Okeechobee County Land Development Regulations.

3. Okeechobee County recognizes that it is not practicable to incorporate the stormwater management system into the irrigation system. All landscaping shall conserve water through xeriscaping where practicable.

4. No oak tree with a circumference greater than 48 inches measured at a point four and one-half feet above the base of the tree shall be removed in accordance with Section 7.11.04(D), Okeechobee County Land Development Regulations.

SECTION B: SPECIFIC CONDITIONS

5. Any proposed plantings and landscaping material shall be installed and maintained in accordance with Section 7.11.05(A) and (B), Okeechobee County Land Development Regulations.

[Sections 7.11.03, 7.11.04, 7.11.05(A),(B), and (F), Okeechobee County Land Development Regulations; Policy S4.2, Okeechobee County Comprehensive Plan]

E. Construction Design Standards

The applicable portions of the administration building shall be designed and constructed in accordance with applicable provisions of standard codes and maps incorporated in Sections 8.00.00 through 8.01.01, Okeechobee County Land Development Regulations, and Section 18-2, Okeechobee County Code.

[Sections 8.00.00, 8.01.00, and 8.01.01, Okeechobee County Land Development Regulations; Section 18-2, Okeechobee County Code]

F. Signs

Any signs associated with the Project located in Okeechobee County shall be designed, constructed, and maintained in accordance with the applicable non-procedural requirements of Article IX, Okeechobee County Land Development Regulations. Signs that are not visible from a public street or adjoining property are exempt from these requirements in accordance with Section 9.01.00(a), Okeechobee County Land Development Regulations. This shall not be construed as requiring FPL to obtain separate permits or approvals from the County.

[Article IX, Okeechobee County Land Development Regulations]

G. Open Burning

Open burning associated with land clearing operations shall be coordinated with the State of Florida, Division of Forestry.

[Section 34-26, Okeechobee County Code; Policy Cl.3, Okeechobee County Comprehensive Plan]

H. Waste

All solid waste, hazardous waste, and construction waste shall be collected and disposed of in accordance with the applicable non-procedural requirements of Chapter 49, Okeechobee County Code.

[Chapter 49, Okeechobee County Code]

I. User Fees

FPL shall be responsible for payment of fire rescue department user fees in accordance with Section 52- 71, Okeechobee County Code. Pursuant to Okeechobee County Ordinance No. 2014-0002, no impact fees are associated with the Project.

[Section 52- 71, Okeechobee County Code; Okeechobee County Ordinance No. 2014-0002]

SECTION B: SPECIFIC CONDITIONS

IX. INDIAN RIVER COUNTY

A. *Traffic*

In accordance with Indian River County (IRC) turn lane standards found in land development regulation Section 952.12 Traffic Standards, and based on the anticipated construction and operating conditions presented in the Project traffic study, the Applicant/Licensee shall construct, as part of the Project, an east bound right turn lane on SR 60 at the Project's entrance consistent with applicable DOT and IRC design standards.

[Applicant Agreement – 12/15]

B. *Traffic Impact Fees*

In accordance with land development regulation Chapter 910 Concurrency, and associated impact fee payment standards of Title X Impact Fees, prior to Project construction, the Applicant/Licensee shall pay Indian River County transportation (traffic) impact fees for the Project administration building with the acknowledgement that in accordance with the FPL/Indian River County franchise agreement, the fees will be off-set from the franchise agreement revenue. The amount of the impact fee shall be based on the "Unincorporated Indian River County: Impact Fee Schedule (Effective Date 2/2/2015)", applying the "Manufacturing" land use category "Transportation" fee to the final under air square footage (housing administrative staff) of the Project administration building.

[Applicant Agreement – 12/15]

C. *Emergency Services*

1. The Applicant/Licensee shall reimburse Indian River County for extraordinary emergency services expenses or services including but not limited to expenses and services related to hazardous materials events, consistent with Indian River County Emergency Services District ordinance section 208.13.

[Indian River Code, Section 208.13; Applicant Agreement – 4/16]

2. Prior to construction of the Project, FPL shall make a one-time payment to Indian River County in the amount of \$90,000 to be used by Indian River County to support ordinary emergency services support for construction and operation of the Project in the event that Okeechobee County requests Indian River County's emergency support under Indian River County's mutual aid agreement with Okeechobee County. Notwithstanding the terms of the FPL/Indian River County franchise agreement, FPL agrees not to off-set this one-time payment of \$90,000 against franchise agreement revenue, in recognition that Indian River County agrees to provide to FPL an annual accounting of use of this fund.

[Applicant Agreement – 4/16]

3. To facilitate familiarity with the Project and emergency services training deemed necessary by Indian River County, first, coinciding with commencement of major mechanical equipment construction and then, prior to operation, FPL shall provide on-site orientation of the facility to IRC emergency response personnel and familiarize them with known hazards, chemicals, and fire protection systems, and FPL shall fund emergency services training deemed necessary by Indian River County up to the \$200,000 limit set forth below. Notwithstanding the terms of the FPL/Indian River County franchise agreement, FPL agrees not

SECTION B: SPECIFIC CONDITIONS

to off-set any fees, charges, or other impositions assessed by Indian River County associated with these two orientation events and emergency services training deemed necessary by Indian River County, up to a total of \$200,000, against franchise agreement revenue.

[Applicant Agreement – 4/16]

X. DEPARTMENT OF HEALTH

A. On-Site Sewage Treatment and Disposal

1. No later than 90 days prior to commencement of construction of the on-site sewage treatment and disposal system, Licensee shall submit all information for an on-site sewage treatment and disposal system identified in Form DH 4015 to the DOH, DEP SED Office, and SCO for confirmation of consistency with applicable non-procedural requirements of Rule 64E-6, F.A.C., in accordance with Condition XXI., “Procedures for Post-Certification Submittals”.

a. Form DH 4015 Page 1 of 4 “Application for Construction Permit” collects specific information necessary to locate the system and to verify the design specifications for the on-site sewage treatment and disposal system.

- 1) Applicant, agent, contact information.
- 2) Legal description for the property.
- 3) Zoning for the property.
- 4) Distance to the nearest available sewer.
- 5) Address of the property.
- 6) Directions to the property. Please include any protocols for seeking permission to conduct an inspection.
- 7) Regarding the water supply, (used for determining well setback) please specify whether the on-site well to be used for potable water production will be producing more or less than 2000 gallons per day total flow.
- 8) A building description that describes the facility and activities in sufficient detail to estimate the domestic sewage flow based on Rule 64E-6.008, F.A.C.

9) Please include a floor plan in sufficient detail to verify the domestic wastewater sizing criteria and a plumbing diagram sufficient to demonstrate that only domestic wastewater will be routed to the onsite sewage treatment and disposal system and that industrial wastewater and floor drains will be routed to an alternative DEP-regulated system. Rule 64E-6.002(29), F.A.C., defines wastewater carried off by floor drains, utility sinks, and equipment drains located in buildings in industrial or manufacturing areas as industrial, hazardous, or toxic sewage waste.

b. Form DH 4015 Page 2 of 4 “Part II - Site Plan”. Use of this form is not required however the site plan needs to include the information specified in Rule 64E-6.004(3)(a), F.A.C.

c. Form DH 4015 Page 3 of 4 “Site Evaluation and System Specifications” collects site-specific information that is used to verify that the property is large

SECTION B: SPECIFIC CONDITIONS

enough to accommodate the nutrient loading from the anticipated sewage flow, there is sufficient area for the system and future repair, the system meets the minimum setback requirements and separation from the seasonal high water table and unsuitable soil horizons. The site evaluation may be performed by the system design engineer, a master septic tank contractor, a certified environmental health specialist, a soil scientist, or by DOH personnel per Rule 64E-6.004(3), F.A.C.

1) Applicant, agent, lot, block, property identification that tie the site evaluation to the application information.

2) Estimated flow and authorized lot flow demonstrate that that the authorized nutrient loading to the property are not exceeded.

3) Unobstructed area is the area that includes the drainfield plus a reserve for future system repair.

4) Benchmark location states the physical location where the elevation reference point or benchmark is located.

5) The elevation of the proposed system site ties the grade elevation at the location of the soil profiles to the benchmark.

6) The minimum setbacks should reflect the distance from the system, as shown on the site plan, to the listed protected features.

7) If the site is frequently flooded, the site evaluation should indicate that fact. Ten-year flood elevations and the site elevation referenced to NGVD or MSL are not applicable for this site.

8) Two soil profiles to 72 inches or refusal describing the soil using USDA Soil Classification methodology are required to determine soil texture for system sizing, and seasonal high water table depth for system elevation and depth to unsuitable soil necessitating system elevation or soil replacement.

9) Other site observations that contribute to the determination of seasonal high water table elevation.

10) Soil texture and loading rate to be used for sizing the system drainfield based on application of the Rule 64E-6.008, Table III and Rule 64E-6.009, F.A.C.

11) Depth (below grade) of any excavation necessary to remove an unsuitable soil horizon.

12) The drainfield configuration based on the site plan and detailed system design plans.

13) The DOH shall require an engineer to provide detailed system design plans, if applicable, under the provisions of Rule 64E-6.004(4), F.A.C.

[Rules 64E-6.004(1), (2), and (3), F.A.C.]

2. The on-site sewage treatment and disposal system shall be installed by a state-registered septic tank contractor or state-licensed plumber.

[Section 381.0065(4), F.S.]

SECTION B: SPECIFIC CONDITIONS

3. Following installation of the on-site sewage treatment and disposal system, but prior to covering the system with earth, the system will require inspection by the representatives of the DOH in Okeechobee County. Additional inspections are required for incomplete or non-compliant items. As the high water table conditions require a mound installation, a second inspection is necessary after the system is covered with earth and stabilized with sod.

If the on-site sewage treatment and disposal system is designed by an engineer, the DOH shall require the design engineer to certify that the installed system complies with the approved design and installation requirements per Rule 64E-6.004(4), F.A.C.

[Rules 64E-6.003(2), 64E-6.004(4), and 64E-6.009(3)(f), F.A.C.]

4. As the facility is an industrial-equivalent zoned activity an annual inspection by a representative of the Florida Department of Health in Okeechobee County will be required to verify ongoing compliance with the requirements of §381.0065(4)(i), F.S., along with payment of the associated annual operating fee under Rule 64E-6.030(1)(l), F.A.C., (currently \$150.00 per year as of April 5, 2016). Pursuant to §403.511(1), F.S., this shall not be construed as requiring FPL to obtain separate permits for operation of the on-site sewage treatment and disposal system.

[Section 381.0065(4)(i)3, F.S.; Applicant Agreement]

5. Should the on-site sewage treatment and disposal system require repair, replacement, modification, or abandonment, such action shall be taken in accordance with the non-procedural requirements of Chapter 64E-6, F.A.C., and §381.0065, F.S.

[Section 381.0065(4), F.S.; Rules 64E-6.001(4), .003(1), and .0015(1), F.A.C.]

B. Limited Use Public Water System

1. The Licensee shall keep a log of the number of persons served as described in Rule 64E-8, F.A.C., by the OCEC potable water system on a monthly basis. If the number of persons totals more than 24, then the Licensee shall notify the DEP SED Office and the Okeechobee County DOH.

[Applicant Agreement with the Department of Health and the Department of Environmental Protection]

a. If the number of persons is greater than 24, then the Licensee shall follow the Department's standards, requirements, and procedures for a public water system set forth in these Conditions of Certification, in Section B., Condition II.B.1.-4.

b. If the number of persons reported is 24 or less, then the Licensee shall follow the DOH's LUPWS standards, requirements, and procedures set forth in subparagraphs 2-4., below.

2. Construction

The LUPWS, the Licensee shall submit all information required to complete Form DH 4092B "Application for Limited Use and Multifamily Water System" to the DOH and the Department's SED Office for consistency with applicable non-procedural requirements of Rule 64E-8, F.A.C., in accordance with Condition XXI., "Procedures for Post-Certification Submittals".

SECTION B: SPECIFIC CONDITIONS

a. Form DH 4092B “Application for Limited Use and Multifamily Water System Construction Permit” collects specific information necessary to locate the system and to verify the design specification for the LUPWS.

- 1) Application type, water system name, and address.
- 2) Water system owner and contact information.
- 3) Water System contractor/builder and contact information.
- 4) Facility information and description of equipment to be installed.

b. Upon the submittal of Form DH 4092B, the Licensee shall pay an initial \$105 fee to the Okeechobee County DOH. Pursuant to §403.511(1), F.S., this shall not be construed as requiring FPL to obtain separate permits for operation of the LUPWS.

[§381.0062, F.S.; Rule 64E-8, F.A.C.; Applicant Agreement]

3. Operation

a. Upon completion of construction, and in accordance with Rule 64E-8, F.A.C., the Licensee shall monitor the water well for bacteria and the water system for bacteria lead, and nitrate. These samples shall be sent to a DOH certified laboratory, and test results received from the certified laboratory are to be submitted to the DOH. The Licensee must then request, in writing, the DOH to perform a new facility inspection.

b. Beginning with initial operation of the LUPWS and continuing through the operational life of the LUPWS, every 60 months there shall be chemical testing for lead and nitrate levels. Additionally, every quarter year the Licensee shall collect samples of the system’s spent water and send them to a DOH certified laboratory for coliform bacteria testing. All testing shall be performed and repeated in accordance with Rule 64E-8, F.A.C.

[Rule 64E-8, F.A.C.]

c. Annually, on or before September 30, the Licensee shall submit a \$105 fee to the DOH, and shall submit all information required to complete Form DH 4092A, “Application for Limited Use Public Water System” to both the DOH and the DEP SED Office for consistency with applicable non-procedural requirements of Rule 64E-8, F.A.C., in accordance with Condition XXI, “Procedures for Post-Certification Submittals”. Pursuant to §403.511(1), F.S., this shall not be construed as requiring FPL to obtain separate permits for operation of the LUPWS.

d. Form DH 4092A “Application for Limited Use Public Water System” collects information necessary to locate the system and to verify ownership and operating specifications.

- 1) Application type and water system site information.
- 2) Water system owner name and contact information.
- 3) Water system operator name and contact information.
- 4) On-site contact person name, location, and phone number.

SECTION B: SPECIFIC CONDITIONS

e. The Facility will be inspected annually by a representative of the Okeechobee County DOH to verify ongoing compliance with requirements of Section 381.0062, F.S.

[Section 381.0062(2)(d), F.S.; Rule 64E-8, F.A.C.]

4. Forms

All applicable forms necessary to comply with the DOH's Conditions for a LUPWS may be accessed by the following website:

<http://www.floridahealth.gov/environmental-health/drinking-water/limited-use-wells.html>.

[Chapters 62-532, 62-550, 62-555, 62-560, 62-602, 62-699, Rules 64E-8.001(9)(a), (b), and (c), F.A.C.]

HISTORY

Certified 6/29/216; signed by DEP Secretary Steverson

Modified (A) 7/24/2017 (No Change); signed by Siting Administrator Mulkey

Modified (B) 1/3/2019; signed by Siting Administrator Mulkey