

**STATE OF FLORIDA
DEPARTMENT
OF
ENVIRONMENTAL PROTECTION**



Conditions of Certification

**Florida Power & Light Company
Riviera Beach Energy Center**

PA 09-54A

Modified March 15, 2011

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SECTION A: GENERAL CONDITIONS

SECTION A: GENERAL CONDITIONS

I. SCOPE

A. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501-518, 403.520-5365 the Transmission Line Siting Act (TLSA); and 403.9401-9425, the Natural Gas Transmission Pipeline Siting Act (NGPSA), Florida Statutes (F.S) this certification is issued to Florida Power & Light (FPL) as owner/operator of the Riviera Beach Energy Center and Licensee. Subject to the requirements contained in these Conditions of Certification (Conditions) FPL will operate a 1250 MW facility consisting of one combined cycle unit and ancillary equipment. These units are located on a 39 acre site which is located primarily in the City of Riviera Beach with a small portion in the City of West Palm Bach in Palm Beach County, Florida. UTM coordinates are; Zone 17, 594.249 kilometers (km) East and 2,960.632 km North. The construction laydown area is located with existing transmission lines on approximately 7 acres on the west side of U.S. Highway 1.

B. The certified facility includes but is not limited to the following major associated facilities;

1. Cooling water intake culvert located on property owned by the Port of Palm Beach;
2. Switchyards (138 kV and 230 kV);
3. Manatee Viewing Center; and
4. An offsite construction laydown and parking area that will be located on FPL property west of U.S. Highway 1.
5. Riviera Beach Lateral Natural Gas Pipeline Corridor
6. Natural gas compressor station

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. including on-site associated facilities, but excluding off-site linear facilities such as transmission lines, 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 Section 403.503(28), F.S., and an aerial photograph delineating the boundaries of the Site. The survey and aerial photograph shall be identified as Site Delineation and attached hereto as part of Attachment A.

The Licensee shall notify the Department of any change to the site boundary depicted in the Site Delineation in Attachment A. The notification shall be accompanied by an updated land survey (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 plant is located to be the boundaries of the Site.

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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 facilities such as transmission lines, 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 within the site; and an aerial photograph delineating the boundaries of the certified areas within the Site. For electrical power plants, the boundaries of the Certified Areas of the Site shall include both the certified “electrical power plant generating facilities” as identified in Section 403.503(28), F.S. and its on-site “associated facilities” (including on-site linear facilities) as defined by Section 403.503(7), F.S. The survey and the aerial photograph shall be known as Delineation of the Certified Area of the Site and attached hereto as part of Attachment A.

F. Within 180 days after completion of construction of associated off-site linear facilities, as defined by Section 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 area(s), following acquisition of all necessary property interests and the corridor narrowing as described in section 403.503(11), F.S., which shall be known as Delineation of Off-Site Linear Facilities and attached as part of Attachment A.

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

G. If construction on, or condemnation or acquisition of, the right-of-way for the transmission line or natural gas pipeline is not commenced within 5 years after the date of certification or such later date as may be authorized by the board, the certification of the ROW for which construction on, or condemnation or acquisition of has not commenced shall become void.

H. Unless otherwise specified within the Conditions of Certification, Licensee shall make a good faith effort to timely comply with any newly established General Condition within 6 months. Licensee shall promptly notify the Department regarding any newly established General Condition for which licensee cannot timely comply.

[Sections 403.511, 403.531, and 403.9416, F.S.; subsections 62-4.160(8) and 62-17.205(2), F.A.C.]

II. APPLICABLE RULES AND STATUTES

The construction and operation of the certified facility shall be in accordance with all applicable non-procedural provisions of Florida Statutes (F.S.) and Florida Administrative Code (F.A.C.), including, but not limited to, the non-procedural portions of the following 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 or as otherwise provided under the Act:

Florida Statutes:

Chapter 120 (Administrative Procedure Act)

Chapter 163 (Intergovernmental Programs)

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Chapter 252 (Emergency Management)
Chapter 253 (State Lands)
Chapter 258 (State Parks & Preserves)
Chapter 267 (Historical Resources)
Chapter 373 (Water Resources)
Chapter 376 (Pollutant Discharge Prevention and Removal)
Chapter 379 (Fish and Wildlife Conservation)
Chapter 380 (Land & Water Management)
Chapter 403 (Environmental Control)
Chapter 487 (Pesticide Regulation and Safety)
Chapter 556 (Underground Facility Damage Prevention and Safety)

Florida Administrative Codes:

5I-2 (Open Burning)
18-2 (Management of Uplands Vested in the Board of Trustees)
18-14 (Administrative Fines for Damaging State Lands)
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)
62-214 (Requirements for Sources Subject to the Federal Acid Rain Program)
62-256 (Open Burning)
62-296 (Stationary Sources-Emission Standards)
62-297 (Stationary Sources-Emission Monitoring)
62-301 (Surface Waters of the State)
62-302 (Surface Water Quality Standards)
62-303 (Identification of Impaired Surface Waters)
62-304 (Total Maximum Daily Loads)
62-312 (Dredge and Fill Activities)
62-330 (Environmental Resource Permitting)
62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)
62-343 (Environmental Resource Permit Procedures)
62-345 (Uniform Mitigation Assessment Method)
62-346 (Environmental Resource Permitting in Northwest Florida – Revised April 21, 2009)
62-520 (Groundwater Classes, Standards and Exemptions)
62-522 (Groundwater Permitting and Monitoring Requirements)
62-528 (Underground Injection Control)
62-531 (Water Well Contractor Licensing Requirements)

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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 (Treatment Plant Classification and Staffing)
62-701 (Solid Waste Management Facilities)
62-702 (Solid Waste Combustor Ash Management)
62-730 (Hazardous Waste)
62-761 (Underground Storage Tank Systems)
62-762 (Aboveground Storage Tank Systems)
62-769 (Florida Petroleum Liability and Restoration Insurance Program)
62-770 (Petroleum Contamination Site Clean-Up Criteria)
62-780 (Contaminated Site Clean-Up Criteria)
62-807 (Natural Gas Transmission Pipeline)
62-814 (Electric and Magnetic Fields)
64E-6 (Standards for Onsite Sewage Treatment and Disposal Systems)

For Facilities in the South Florida Water Management District:

40E-4 (Surface Water Management)
40E-40 (General Surface Water Management Permits)
40E-41 (Surface water Management Basin and Related Criteria)
Basis of Review for ERP Applications

For Facilities in the Southwest Florida Water Management District:

40D- 4 (Individual Environmental Resource Permits)
40D-8 (Water Levels and Rates of Flow)
40D-40 (Standard General Environmental Resource Permits)
Basis of Review for ERP Applications

For Facilities in the St. Johns River Water Management District:

40C-4 (Environmental Resource Permits: Surface Water Management Systems)
40C-8 (Minimum Flows and Levels)
40C-40 (Standard General Environmental Resource Permits)
40C-41 (Surface Water Management Basin Criteria)
40C-42 (Regulation of Stormwater Management Systems)
Applicant's Handbook: Regulation of Stormwater Management Systems Handbook
Applicant's Handbook: Management of Surface Waters (MSSW) Handbook

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For Facilities in the Suwannee River Water Management District:

40B-4 (Regulations)

40B-400 (Environmental Resource Permits)

ERP Applicant's Handbook

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 certifications.

B. Upon written notification to the Department, any holder of a certification issued pursuant to the PPSA 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.

[Section 403.511(5)(b), F.S.; subsection 62-4.160(10), F.A.C.]

IV. DEFINITIONS

Unless otherwise indicated herein, the meaning of terms used herein shall be governed by the applicable definitions contained in Chapters 373 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 determined by the Department. As used herein, the following shall apply:

A. "Application" means the documents required by the Department to be filed to initiate a certification review and evaluation, including the initial document filing, amendments, and responses to requests from the Department for additional data and information. For purposes of this license application shall also include materials submitted for petitions for modification to the Conditions of Certification, as well as supplemental applications.

B. "Associated Facilities" is defined by Section 403.503(7), F.S.

C. "Certified Area" means the area within the site in which the certified facilities are located. For linear facilities this term shall mean the area encompassed by the boundaries of the certified easements and/or ROWs.

D. "Certified Facility" or "Certified Facilities" means the certified electrical power generation facilities and all on- or off-site associated structures including but not limited to: steam generating units, transformers, substations, fuel and water storage tanks, air and water pollution control equipment, storm water control ponds and facilities, cooling towers, and related structures. This term shall also mean linear and associated facilities, including but not limited to: transmission lines, natural gas pipelines, and compressor stations.

E. "DCA" means the Florida Department of Community Affairs.

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- F. “DEP” or “Department” means the Florida Department of Environmental Protection.
- 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” 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 Permit System permit issued in accordance with the federal Clean Water Act.
- N. “PSD permit” means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.
- O. “ARPC”, “CFRPC”, “ECFRPC”, “NCFRPC”, “NEFRPC”, “SFRPC”, “SWFRPC”, “TBRPC”, “TCRPC”, “WFRPC”, or “WRPC” means the Apalachee, Central Florida, East Central Florida, North Central Florida, Northeast Florida, South Florida, Southwest Florida, Tampa Bay, Treasure Coast, West Florida or Withlacoochee Regional Planning Council, respectively.
- P. “ROW” means right-of-way.
- Q. “Site” means any proposed location within which will be located an electrical power plant's generating facility and onsite support facilities, or an alteration or addition of electrical generating facilities and onsite support facilities resulting in an increase in generating capacity, including offshore sites within state jurisdiction.
- R. “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 Sections 373.403(13) and (14), F.S. However, until the effective date of the rules authorized by Section 373.4145(1)(b), F.S., the term “surface water management system” is limited to stormwater management systems.
- S. “NWF, SR, SJR, SWF, or SF WMD” means the Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida Water Management District, respectively/
- T. “Title V permit” means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.

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V. TRANSFERABILITY OF DEFINITIONS

Definitions in other Chapters of the Department's rules may be used to clarify the meaning of terms used in these Conditions unless transfer of such definition would defeat the purpose or alter the intended effect of the provisions of these Conditions.

[Rule 62-4.021, F.A.C.]

VI. FEDERAL PERMITS

The following permits have been issued pursuant to federal programs and they are applicable to the certified facility. The Department may consider a violation of any of these federal permits as a violation of this license.

A. Air

The provisions of the following paragraphs shall be conditions of this certification. The Licensee shall comply with the substantive provisions and limitations set forth in both Air Construction Permit No. 0990042-006-AC, 0990042-009-AC and Title V Air Operation Permits Numbers 0990042-004-AV and 0990042-005-AV as part of these Conditions of Certification, and as those provisions may be modified, amended, or renewed in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification. Any violation of such provisions shall be a violation of these Conditions of Certification.

1. Air Construction Permit(s)

Air Construction Permit 0990042-006-AC and 0990042-009-AC are incorporated by reference herein as part of this Certification and attached as Appendix I.

[Chapter 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C.]

2. Title V Permit

Title V Air Operation Permits No. 0990042-004-AV and 0990042-005-AV are incorporated by reference herein as part of this Certification and attached as Appendix II.

[Chapters 62-204, 62-210, 62-213, 62-214, 62-296, and 62-297, F.A.C.]

B. Water

1. Industrial Wastewater Discharge

Any discharges during operation shall be in accordance with all applicable provisions of NPDES permit No. FL0001546 (attached as Appendix III) as well as any subsequent modifications, amendments and/or renewals.

[Chapter 62-621, F.A.C.]

2. NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP)

Any storm water discharges associated with construction activities on the site shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. Prior to commencing construction activities on the site that:

- contribute to stormwater discharges to surface waters of the State or into a municipal separate storm sewer system (MS4); and

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- disturb one or more acres of land (less than one acre if the activity is part of a larger common plan of development);

a Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP) must be obtained as applicable.

[Section 403.0885, F.S.; Rule 62-621.300, F.A.C.]

3. NPDES Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity.

Any storm water discharges associated with industrial activity shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. For industrial activities at the site that result in a discharge of stormwater to surface waters of the State or into a municipal separate storm sewer system (MS4), and fall under any one of the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14), a Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity (MSGP) shall be obtained as applicable.

[Section 403.0885, F.S.; Rule 62-621.300, F.A.C.]

4. NPDES Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity

Prior to discharge of produced ground water from any non-contaminated site activity which discharges by a point source to surface waters of the State, as defined in Chapter 62-620, F.A.C., the Licensee must first obtain coverage under the Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity. Similarly, if the activity involves a point source discharge of ground water from a petroleum contaminated site, the Licensee must obtain coverage under the Generic Permit for discharge from petroleum contaminated sites. Before discharge of ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed as required by Rule 62-621.300, F.A.C to determine if the activity can be covered by either permit.

If the activity cannot be covered by either generic permit, the Licensee shall apply for an individual wastewater permit at least ninety (90) days prior to the date discharge to surface waters of the State is expected. No discharge to surface water is permissible without an effective permit.

[Section 403.0885, F.S.; Rule 62-621.300, F.A.C.]

C. Other

For informational purposes, it should be noted that other federal permits for the certified facility may include permits issued by federal agencies such as the U.S. Army Corp of Engineers, U.S. Nuclear Regulatory Commission, and the U.S. Environmental Protection Agency.

VII. DESIGN AND PERFORMANCE CRITERIA

Certification, including these Conditions of Certification, is predicated upon preliminary designs, concepts, and performance criteria described in the Application 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 Application or as explained at the certification hearing (if any). Conformance to those criteria, unless specifically

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modified in accordance with Sections 403.516, 403.5315, 403.9418, 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. In any instance where a conflict occurs between the Application's design criteria and the Conditions of Certification, the Conditions shall prevail.

[Sections 403.516, 403.5315, and 403.9418, F.S.; Rules 62-17.211, 62-17.680, and 62-807.610, F.A.C.]

VIII. 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 Department 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.

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

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

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

IX. REPLACEMENT FOR RESTORATION OF SYSTEM INTEGRITY

A. Replacement of all or a portion of a transmission line(s) or natural gas pipeline certified under the TLISA or the NGPSA that is necessary to restore system integrity following an emergency as defined by Sections 252.34(6), (7) or (9), F.S., and requiring deviation from any condition of certification shall not be considered a modification pursuant to Section 403.5315, F.S. A verbal report of the emergency replacement for restoration of system integrity shall be made to the Department as soon as possible. Within 30 days after correction of the emergency condition requiring a replacement for system integrity, a report to the Department shall be made outlining the details of the emergency condition requiring the replacement and the steps taken for its relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.

B. The Department will use its enforcement discretion when evaluating violations that result from operating the Certified Facility under emergency conditions. During and after the emergency conditions, the Licensee must use due diligence to bring the facility back into compliance as soon as possible. In addition, the Licensee must use its best efforts and best management practices to minimize adverse environmental impacts. The Licensee shall notify the Siting Office and the appropriate DEP district office when the emergency condition has ended. Furthermore, the Licensee must include all monitoring data, which would otherwise be required under normal operating circumstances, recorded during emergency conditions when submitting reports as required by these conditions. Any exceedances and/or violations recorded

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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.

[Sections 403.511, 403.531, and 403.9416, F.S.]

X. CONSTRUCTION PRACTICES

A. Local Building Codes

Any local government has the right to charge appropriate fees or require that construction be in compliance with applicable building construction codes.

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

B. Particulate Matter

The Licensee shall take reasonable precautions to control emissions of unconfined particulate matter in accordance with subparagraph 62-296.320(4)(c)1., F.A.C. The Licensee shall take appropriate measures to stabilize those portions of the certified area that are disturbed by construction or operation of the certified facility that may cause release of particulate matter.

[Rule 62-296.320, F.A.C.]

C. Open Burning

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapters 62-256 and 5I-2, F.A.C. Prior to any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., Licensee shall seek approval from the applicable DEP District Office, whose approval may be granted in conjunction with the approval of the Division of Forestry. Burning shall not occur if not approved by the Department or if the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions. A copy of any submittal by Licensee relating to open burning shall be submitted to the affected county in which open burning will take place as requested or required by that county, for informational purposes.

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

D. Solid Wastes

Solid wastes resulting from construction shall be disposed of in accordance with the applicable non-procedural requirements of Chapter 62-701, F.A.C.

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

E. Flood Control Protection

The certified facilities shall be constructed in a manner that complies with any applicable non-procedural County flood protection requirements.

F. Vegetation

For areas located in Florida Department of Transportation (DOT) ROW's Chapter 7 of the Florida DOT *Utility Accommodation Manual* located at this web address

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<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710020001/Chapter-7.pdf> shall serve as guidelines for best management practices.

G. Underground Utilities

During design and prior to construction of any linear facility, Licensee shall contact Sunshine One Call and obtain a listing (design and construction tickets) of all the known existing underground utilities within the ROW. Licensee shall provide the affected county and the Siting Office with a copy of the information received from Sunshine One Call. Licensee must follow all applicable portions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, F.S.

[Chapter 556, F.S.]

H. Electric and Magnetic Fields

Any transmission lines that are associated facilities shall comply with the applicable requirements of Chapter 62-814, F.A.C.

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

I. Wells

Any existing wells in the path of construction 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 subsection 62-532.500(4), F.A.C., or with the rules of the authorizing agency.

[Rule 62-532.440 and subsection 62-532.500(4), F.A.C.]

J. Abandonment of Existing Septic Tanks

Any existing septic tanks 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.]

K. Storage Tanks

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 and 62-762, F.A.C.]

XI. RIGHT OF ENTRY

A. Upon presentation of credentials or other documents as may be required by law, the Licensee shall allow authorized representatives of DEP or other agencies with jurisdiction over a portion of the certified facility:

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.

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B. When requested by DEP, 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 DEP and the Licensee, furnish any information required by law, which is needed to determine compliance with the certification. If the Licensee becomes aware that relevant facts were not submitted or were incorrect in the Application or in any report to DEP or other agencies, such facts or information shall be promptly corrected and submitted.

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

XII. DISPUTE RESOLUTION

If a situation arises in which mutual agreement cannot be reached between the Licensee, DEP and another agency receiving a post-certification submittal or between DEP and the Licensee regarding compliance with the Conditions of Certification, then the matter shall be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The Licensee or DEP may request DOAH to establish an expedited schedule for the processing of such a dispute.

[Sections 403.527, 403.531, and 120.57, F.S.]

XIII. 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.

XIV. ENFORCEMENT

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of Certification are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S., as applicable. Any noncompliance by the Licensee with a Condition of Certification 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. Abandonment of the certified facility will be considered grounds for enforcement action.

B. Consistent with the Florida Rules of Evidence and of Civil Procedure, 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.

[Sections 403.121, 403.131, 403.141, 403.151, 403.161, 403.514, 403.533, and 403.9419, F.S.; subsections 62-4.160(1) and 62-4.160(9), F.A.C.]

XV. 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 Sections 403.512, 403.532, and 403.9425, F.S., or for violations of any of these Conditions of Certification. This License is valid only for the specific processes and operations applied for and indicated in the approved

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drawings or exhibits. 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.

[Sections 403.512, 403.532, and 403.9425, F.S.; subsection 62-4.160(2), F.A.C.]

XVI. SAFETY

As provided in Sections 403.087(7) and 403.722(5), F.S., 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 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 this certified facility, or from penalties therefore.

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

XVII. HERBICIDES

For licenses issued under the TLISA and/or NGSPA herbicides applied at the site or in any ROW shall only be those registered by the U.S. Environmental Protection Agency and which have state approval. Herbicide application rates and concentrations 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.

[Sections 403.061, 403.088, 487.031, and 487.041, F.S.]

XVIII. CIVIL AND CRIMINAL LIABILITY

A. This certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any conditions of this certification, applicable rules or regulations of the Department, or any other state statutes or regulations which may apply.

B. This License is not a waiver of any other Department approval that may be required for other aspects of the certified facility under federally delegated or approved programs.

[Sections 403.141, 403.161, 403.511, 403.531, and 403.9416, F.S.]

XIX. PROPERTY RIGHTS

A. The issuance of this certification 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 herein provided and 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 certified facility must comply with

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the applicable portions of Chapters 18-2, 18-20, and 18-21, F.A.C., and Chapters 253 and 258, F.S. If any portion of the certified facility is located on sovereign submerged lands, the Licensee must submit section G of the Joint Application for Environmental Resource Permits 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. The Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Rules 18-2.018 or 18-21.0051, F.A.C.

D. The Licensee is hereby advised that Florida law states: “No person shall commence any excavation, construction, or other activity involving the use of sovereign or other state lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, F.S., until such person has received from the Board of Trustees of the Internal Improvement Trust Fund 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 to the satisfaction of the Department.

[Chapters 253 and 258, and Sections 403.511, 403.531, and 403.9416, F.S.; Chapter 3.1.1. of the B.O.R.; Chapters 18-2, 18-14, 18-21, 62-340, and subsections 62-343.900(1) and 62-4.160(4), F.A.C.; Upland Easement Application and Section G of the Environmental Resource Permit Application Form.]

XX. PROCEDURAL RIGHTS

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.

[Chapter 120, and Sections 403.511(5)(c), 403.531(5), and 403.9416(4), F.S.]

XXI. 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 of Certification specify otherwise or unless the Licensee and DEP are notified in writing of an agency's change in address for such submittals and notices:

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Florida Department of Environmental Protection
Siting Coordination Office, MS 48
3900 Commonwealth Blvd.
Tallahassee, FL 32399-3900

Florida Department of Environmental Protection
Southeast District Office
400 North Congress Ave, Suite 200
West Palm Beach, FL 33401

Florida Department of Community Affairs
Office of the Secretary
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

Florida Fish & Wildlife Conservation Commission
Office of Policy and Stakeholder Coordination
620 South Meridian Street
Tallahassee, FL 32399-1600

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

Florida Department of Agriculture and Consumer Services
Division of Forestry
3125 Conner Boulevard
Tallahassee, FL 32399-1650

Treasure Coast Regional Planning Council
Office of the Executive Director
421 SW Camden Avenue
Stuart, FL 34994

South Florida Water Management District
Office of General Counsel
3301 Gun Club Road
West Palm Beach, FL 32177

Florida Department of State
Division of Historical Resources
500 S. Bronough Street
Tallahassee, FL 32399-0250

City of Riviera Beach
Office of the City Attorney

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600 W. Blue Heron Blvd.
Riviera Beach, FL 33404

City of West Palm Beach
Office of the City Attorney
401 Clematis Street, Fifth Floor
West Palm Beach, FL 33401

[Section 403.511, 403.531, and 403.9416, F.S.]

XXII. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. Purpose of Submittals

Conditions of Certification 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 the Conditions of Certification, without further agency action.

B. Filings

All post-certification submittals of information by Licensee are to be filed with the DEP Siting Coordination Office, the DEP District Office(s), and any other agency that is entitled to receive a submittal pursuant to any Condition of Certification. All filings with the Siting Coordination Office shall be submitted in .pdf format only, unless otherwise requested. 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 Section 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.

Within 90 days after certification, and within 90 days after any subsequent modification or certification, the Licensee shall provide the Department a complete summary of those post-certification submittals that are identified in the Conditions of Certification where due-dates for the information required of the Licensee are 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 DEP Siting Coordination Office and any affected agency or agency subunit to which the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below or equivalent.

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

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[Section 403.5113, F.S., subsection 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, 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.

[subparagraph 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 agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether compliance with the Conditions of Certification 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, Licensee shall conduct a field inspection with 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 whether there is demonstration of compliance with the conditions of certification. If it is determined that compliance with these conditions has not been provided, 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.

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 the Conditions of Certification and the subsequently submitted construction details.

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G. Revisions to Design Previously Reviewed for Compliance

The Licensee shall submit to DEP, and/or applicable agencies, proposed revisions to post-certification submittals for review. Such submittals shall include the same type of information required for the original submittal and shall be submitted prior to construction/implementation.

H. Variation to Submittal Requirements

DEP, in consultation with the appropriate agencies that have regulatory authority over a matter to be addressed in a post-certification submittal, and Licensee may jointly agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

I. Disputes

Any agency which received a post-certification submittal pursuant to these Conditions may dispute a determination that a submittal provides reasonable assurances of compliance with the Conditions of Certification made by DEP on matters within that agency's jurisdiction by following the procedures set forth in Chapter 120, F.S. The agency's statement disputing DEP's determination shall state with particularity the location to which the agency's dispute relates. Work in areas other than the location to which the agency's dispute relates will not be affected by the agency's dispute.

[Sections 120.569, 373.413, 373.416, 403.511, 403.531, and 403.9416, F.S.; Rules 62-17.191 and 62-17.205, F.A.C.]

XXIII. POST CERTIFICATION AMENDMENTS

If, subsequent to certification, a Licensee proposes any material change to the application 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 application 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 application requires a modification to the Conditions of Certification.

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

B. If the Department concludes that the change would require a modification to the conditions of certification, the Department shall provide written notification to the Licensee that the proposed change to the application requires a request for modification pursuant to Sections 403.516 and 403.5317, F.S.

[Section 403.5113, F.S.]

XXIV. MODIFICATION OF CERTIFICATION

A. Pursuant to Sections 403.516(1)(a), 403.5315(1), 403.9418(1)(a), 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department of Environmental Protection to modify, after notice and receipt of no objection by a party or other substantially affected person, any conditions which would not otherwise require

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approval by the Siting Board. In addition, the Department is delegated the authority to modify conditions as follows:

The certification shall be modified to conform to subsequent DEP-issued amendments, modifications, or renewals of any separately issued Prevention of Significant Deterioration (PSD) permit, Title V Air Operation permit, Underground Injection Control (UIC) permit, or National Pollutant Discharge Elimination System (NPDES) permit for the certified facility. In the event of a conflict, the more stringent of the conditions of such permits or of these Conditions of Certification shall be controlling.

B. 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.

C. Any anticipated facility change that results in a change to the boundaries of the certified area must be accompanied by a map or aerial photo showing the proposed new boundaries of the certified area. The Department may consider any such change to be a modification of the Conditions of Certification. Within 60 days after completion of construction of the new project the Licensee shall provide: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as a legal description, delineating the boundaries of the certified area; and an aerial photograph delineating the new boundaries of the certified area. The survey and aerial photograph shall be attached hereto as part of Attachment A.

D. The Licensee may file a petition for modification with the Department, or the Department may initiate the modification upon its own initiative.

[Sections 120.569(2)(n), 403.511(5)(a), 403.516, 403.5315, and 403.9418, F.S.; Rule 62-17.211 and Chapter 62-343, F.A.C.]

XXV. INCORPORATION OF EXISTING STATE AND LOCAL PERMITS/LICENSES

The operation of the certified facility shall be in accordance with all applicable provisions of any state or local government regulation incorporated into these Conditions. All state and locally issued permits are intended to be incorporated herein, such that the licensee shall comply with the substantive provisions and limitations set forth in those permits. The inadvertent omission of any state or locally issued permit from these Conditions can be remedied by a modification of the Conditions to include provisions from the state or locally issued permit.

At any time following certification, should the licensee become aware of any state or locally issued permit not included herein, the licensee shall promptly notify the SCO for incorporation into these Conditions. Likewise, when the Department is made aware of any separately issued permits that were inadvertently not included in the Conditions, the Conditions will be modified to incorporate the substantive provisions and limitations of any such permit.

XXVI. COASTAL ZONE CONSISTENCY

Pursuant to Sections 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.

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

XXVII. FINANCIAL RESPONSIBILITY

The Department may require the Licensee to submit proof of financial responsibility and may require the Licensee to post an appropriate bond in those instances where the Department is authorized to require proof of financial responsibility or a bond pursuant to a law or Department rule that is applicable to the Certified Facility.

[Rule 62-4.110, F.A.C.]

XXVIII. TRANSFER OF CERTIFICATION

This certification is transferable in whole or in part, upon Department approval, to an entity determined to be competent to construct, operate and maintain the certified facility in accordance with these Conditions of Certification. The Department will consider whether the entity is a proper applicant as defined by the PPSA, TLSA and/or NGPSA, in making its approval. 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. A copy of the necessary form may be obtained by contacting the Siting Coordination Office. Upon approval, the Department will initiate a modification to the Conditions of Certification to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.

In the event of the dissolution of a certified 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, TLSA and/or NGPSA. Upon determination that such a successor entity complies with the above, the Department will initiate a modification to the Conditions of Certification 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.]

XXIX. 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. Standard Operating Procedures can be downloaded from the following website: <http://www.dep.state.fl.us/labs/qa/sops.htm>.

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

XXX. ENVIRONMENTAL RESOURCES

A. General

1. Submittals for Construction Activities

a. Prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the appropriate DEP District's Environmental Resource Permitting Section(s) for review, all information necessary for a complete *Joint Application for Environmental Resource Permit (ERP)*, DEP Forms 62-343.900(1), or 62-346.900(1) and 62-312.900(1) for activities in Northwest Florida. These forms may be

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submitted; a) concurrently with a site certification application, an amendment request, or a petition for modification; or b) as a post-certification submittal following approval of a project through certification, an amendment, or a modification. Such ERP applications, once received, shall be reviewed in accordance with the 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 Chapters 62-330, 62-341, 62-343, and 62-346, F.A.C., as applicable unless otherwise stated in these Conditions.

Those forms submitted as part of a site certification, 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 project approval and prior to construction) shall be processed in accordance with Section A. Condition XXII. Procedures for Post-Certification Submittals.

No construction shall commence until the appropriate notification from the Department has been received.

b. The Licensee shall submit 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 approval.

[Section 373.416, F.S.; Chapters 62-312, 62-340 and subsections 62-343.070(2) and 62-346.070(2), paragraph 62-343.090(2)(b), and Forms 62-343.900(1) and 62-346.900(1), 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, F.S.; paragraph 62-17.665(7)(d), F.A.C.]

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by Condition A.1.a. above, including plans or other supporting documentation, shall not be considered binding on the Department unless a specific condition of this license or a formal wetlands jurisdictional determination under Section 373.421(2), F.S., provides otherwise.

[Sections 373.421, 403.504, 403.523, and 403.9404, F.S.]

B. Surface Water Management

1. Surface water management systems will be evaluated under Part IV of Chapter 373, F.A.C. following submittal of Form 62-343.900(1) or 62-346.900(1), as applicable, to the appropriate office of the Department.

2. All construction, operation, and maintenance shall be as set forth in the plans, specifications and performance criteria contained in the Department's files and approved by this license. Any alteration or modification to the surface water management system as licensed requires prior approval from the Department.

3. Immediately prior to, during construction, and for the period of time after construction to allow for stabilization of all disturbed areas, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion

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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 of transferring suspended solids into the receiving waterbody exists due to the licensed work, and shall remain in place at all locations until construction 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, 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* (Florida Department of Transportation and Florida Department of Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007). The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as practicable. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments and other disturbed areas, and before conversion from 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 surface water management system described in the DEP ERP Application Form, as part of a postcertification submittal, amendment, or modification, including water quality treatment features, and discharge control facilities prior to use of the portion of the certified facility being served by the surface water management system.

5. The Department must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite 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. All dewatering discharges must be in compliance with Rule 62-621.302, F.A.C.

6. At least 48 hours prior to the commencement of construction of any new surface water management system authorized by this license, the Licensee shall submit to the Department a written notification of commencement using an "Environmental Resource Permit Construction Commencement Notice" (DEP Form 62-343.900(3) or 62-346.900(3), F.A.C, as applicable), indicating the actual start date and the expected completion date. When the duration of construction will exceed one year, the licensee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (DEP Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

7 Each phase or independent portion of the approved system must be completed in accordance with the submitted DEP Form prior to the operation of site infrastructure located within the area served by that portion or phase of the system.

8. Within 30 days after completion of construction of any new portions of the surface water management system, the Licensee shall submit to the Siting Office and DEP

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district Office 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 by a Registered Professional" (DEP Form 62-343.900(5) or 62-346.900(4), F.A.C., as applicable). 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.

9. Any substantial deviation from the approved drawings, exhibits, specifications or Conditions, may constitute grounds for revocation or enforcement action by the Department. Examples of substantial deviations may include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.

10. Prior to the operation of any new surface water management system, the Licensee shall submit to the Department a "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (DEP Form 62-343.900(7), F.A.C.). The operation phase of any new surface water management system 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.

[Chapters 62-25, 62-302, 62-330, 62-343, and 62-346, F.A.C., 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 avoid or minimize adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent feasible. When unavoidable impacts to wetlands will occur, an applicant may propose and the Department shall consider mitigation to offset otherwise unpermissible activities under the Environmental Resource Permit review process pursuant to A.1.a above.

2. Proposed mitigation plans submitted with the DEP ERP Application forms required in Condition 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 construction conditions, success criteria and monitoring plans and shall be incorporated into the Conditions of Certification and attached as Attachment B.

[Sections 373.413, 373.414, 373.4145, 403.511, 403.531, 403.814(6), and 403.9416, F.S.; Chapters 62-330, 62-341 62-342, 62-343, 62-345, and 62-346, F.A.C.]

XXXI. THIRD PARTY IMPACTS

The Licensee is responsible for maintaining compliance with these conditions of certification even when third party activities authorized by the Licensee occur in or on the certified area. Such third party activities authorized by the Licensee may include but are not limited to mining, hunting, and timbering.

[Sections 403.506(1), 403.524(1), and 403.9405(1), F.S.]

XXXII. 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

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achieve compliance with these Conditions of Certification, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with these Conditions and when required by Department rules.

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

XXXIII. RECORDS MAINTAINED AT THE FACILITY

A. These Conditions of Certification or a copy thereof shall be kept at the work site of the Certified Facility.

B. Upon request, the Licensee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

C. The Licensee shall hold at the certified facility, 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 Application for this approval. These materials shall be retained at least three (3) years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

D. 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.

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

XXXIV. WATER DISCHARGES

A. Discharges

1. The Licensee shall not discharge to surface waters wastes which are acutely toxic, or present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant locally occurring wildlife or aquatic species. The Licensee shall not discharge to ground waters wastes in concentrations which, alone or in combination with other substances, or components of discharges (whether thermal or non-thermal) are carcinogenic, mutagenic, teratogenic, or toxic to human beings (unless specific criteria are established for such components in Rule 62-520.420, 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.

2. 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, and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the

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antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;

3. All dewatering discharges must be in compliance with Rule 62-621.300, F.A.C.

[Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., and Rule 62-621.300, F.A.C.]

B. Wastewater Incident Reporting

1. The Licensee shall report to the Department any unauthorized discharge to surface or ground waters. Any information shall be provided orally within 24 hours from the time the Licensee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Licensee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

2. For unauthorized releases or spills of treated or untreated wastewater reported that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the Department by calling the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the Licensee becomes aware of the discharge. The Licensee, to the extent known, shall provide the following information to the State Warning Point:

- a. Name, address, and telephone number of person reporting;
- b. Name, address, and telephone number of permittee or responsible person for the discharge;
- c. Date and time of the discharge and status of discharge (ongoing or ceased);
- d. Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
- e. Estimated amount of the discharge;
- f. Location or address of the discharge;
- g. Source and cause of the discharge;
- h. Whether the discharge was contained on-site, and cleanup actions taken to date;
- i. Description of area affected by the discharge, including name of water body affected, if any; and
- j. Other persons or agencies contacted.

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3. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department shall waive the written report.

[Chapter 376, F.S.; subsection 62-620.610(20), F.A.C.]

XXXV. SOLID AND HAZARDOUS WASTE

A. Solid Waste

The Licensee shall comply with all applicable provisions of Chapters 62-701 and 62-702, F.A.C., for any solid waste generated within the certified facility during construction and/or operation.

[Chapters 62-701 and 62-702, F.A.C.]

B. Hazardous Waste

The Licensee shall comply with all applicable non-procedural provisions of DEP 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, except for Conditionally Exempt Small Quantity Generators (CESQGs) who are exempt from this regulation under Title 40 Code of Federal Regulations (CFR), §261.5. CESQGs generate no more than 100 kg (220 lbs) of hazardous waste in any month.

[Chapter 62-730, 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 facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the State Warning Point Number, (850) 488-1320, within 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. Water Quality Reporting Requirements for the Solid Waste Program

All solid and/or hazardous waste water quality monitoring reports and all solid and/or hazardous waste ground water, surface water and leachate analytical results shall be submitted electronically. Water quality monitoring reports shall be submitted in a pdf format. The water quality data Electronic Data Deliverable (EDD) shall be provided to the Department in an electronic format consistent with requirements for importing the data into the Department's databases. Water quality monitoring reports shall be signed and sealed by a Florida registered professional geologist or professional engineer with experience in hydrogeological investigations and shall include the following:

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1. Cover letter;
2. Summary of exceedances and recommendations;
3. Ground water contour maps;
4. Chain of custody forms;
5. Water levels, water elevation table;
6. Ground Water Monitoring Report Certification, using the appropriate Department form;
7. Appropriate sampling information on Form FD 9000-24 (DEP-SOP-001/01); and,
8. Laboratory and Field EDDs and error logs, as applicable.

All submittals in response to this specific condition shall be sent both to:

Florida Department of Environmental Protection
[District name] District Office
[address]
[city], Florida [zip code]

And to:

Florida Department of Environmental Protection
Solid Waste Section
2600 Blair Stone Road, MS 4565
Tallahassee, Florida, 32399-2400

And to:

Florida Department of Environmental Protection
Siting Coordination Office, MS 48
3900 Commonwealth Blvd.
Tallahassee, FL 32399-3900

[Rules 62-160.110, 62-160.240, 62-160.340, and 62-730.225, F.A.C.]

XXXVI. STORAGE TANK SYSTEMS

Registration, construction, installation, operation, maintenance, repair, closure, and disposal of storage tank systems 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 of a regulated substance from a storage tank system 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 subsections 62-761.450(2) or 62-762.451(2), F.A.C., shall be made to the

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County on Incident Notification Form 62-761.900(6) within 24 hours or before the close of the County's next business day:

B. Discharge Reporting Requirements

Upon discovery of an unreported discharge, the owner or operator 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 paragraph 62-761.450(3)(a), F.A.C., including a spill or overflow 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 C.F.R. Title 40, Part 302.

C. Discharge Cleanup

If a discharge of a regulated substance occurs at a facility, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (for example, Chapter 62-770, F.A.C., Petroleum Contamination Site Cleanup Criteria). Owners and operators are advised that other federal, state, or local requirements may apply to these activities. If the contamination present is subject to the provisions of Chapter 62-770, 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 and 62-762, F.A.C.]

XXXVII. NOISE

The Licensee shall comply with applicable local noise ordinances, if any, during construction and operation of the certified facility.

XXXVIII. SCREENING

The Licensee shall comply with applicable local government requirements concerning the screening of the certified facility.

XXXIX. ELEVATORS

The Licensee shall comply with all applicable requirements of Chapter 399, F.S. concerning elevator safety within the certified facility.

[Chapter 399, F.S.]

XL. FIRE PROTECTION

The Licensee shall comply with all applicable codes and standards of the National Fire Safety Code within the certified facility.

[Chapter 69A-60, F.A.C.]

SECTION B: SPECIFIC CONDITIONS

SECTION B. SPECIFIC CONDITIONS

I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. *Horizontal Directional Drilling (HDD)*

Prior to construction utilizing HDD methods, provide detailed description of all best management practices that will be utilized to protect water quality.

B. *Wetland Impacts*

Prior to construction provide a detailed monitoring and maintenance plan for the restoration of the temporary wetland impacts, to ensure that the area has been restored to the appropriate grade to allow natural vegetation to recruit successfully. If the time lag for restoration is greater than one year from the time of impact to the time native vegetation has recruited mitigation may be required for the temporal loss of wetland function.

C. *Discharge of Hydrostatic Test Water*

The Licensee shall be considered exempt from the requirements of Chapter 62-660, F.A.C., for the discharge of wastewater generated by the hydrostatic pressure testing of gas pipelines providing the following criteria are met. "Pigging", as used in this text, is defined as the forcing of a sponge bullet through a pipeline for cleaning purposes.

1. This exemption does not relieve the Licensee from complying with appropriate water quality standards or from obtaining appropriate authorization from any other federal, state or local agencies.
2. There is no direct discharge to surface waters or to wetlands.
3. There is no off-site discharge to an adjacent property unless consent is obtained by the facility from the property owner. Proof of such consent shall be provided to the Department.
4. If applicable, Licensee will dispose of all wastewater (condensable) collected in the line collection chamber(s) during pigging in a Department approved manner.
5. The use of detergents or any other chemicals during the pigging operation is prohibited.
6. Dispose of all collected solids in accordance with applicable regulations.
7. Inspect each discharge for floating solids, visible oil sheen and foam once per hour. If these or any water quality violations are detected, the discharge is to be immediately discontinued until best management practices such as absorbent pads, booms, hay bales, or similar methods can be used to correct the problem.
8. Use best management practices such as settling tanks for energy dissipation and the prevention of erosion prior to any land application.
9. Note the following setback distances:
 - a. Maintain distances of 100 feet and 75 feet from the point of discharge to public and private water supply wells respectively.

SECTION B: SPECIFIC CONDITIONS

b. Provide a setback distance of 500 feet from the point of discharge to Outstanding Florida Waters, Class I surface waters or to Class II surface waters approved or conditionally approved for shellfish harvesting.

10. Record and maintain daily discharge quantities and provide the records to Department personnel upon request.

11. Collect a grab sample of the hydrostatic test water prior to each discharge and have it analyzed for oil & grease, total suspended solids and total recoverable petroleum hydrocarbons. The results of the analyses should be retained and made available to Department personnel upon request.

12. Notify the Department at least 3 working days prior to discharge of any hydrostatic test water. Include the date and time of release, flow, size of pipe and a location map in the notification.

13. Testing water for existing pipes should only be used one time.

14. Failure to comply with any of these requirements may lead to revocation of this exemption and enforcement action.

If such requirements cannot be met then the Licensee shall be required to submit all documentation necessary for an Industrial Wastewater Permit prior to any discharge of hydrostatic test water.

D. Stormwater

Prior to construction provide details on the drainage for the compressor station, including how the stormwater will be handled, treated, and discharged in accordance with State rules.

[Chapters 62-4.040 and 62-660, F.A.C.; Chapter 4.1.1. of the B.O.R]

E. Toxic, Deleterious or Hazardous Materials

If hazardous substances are used in the construction or maintenance of the certified facility, Licensee shall provide the DEP with reasonable assurances that such hazardous substances will not enter stormwater drains or waterbodies (including groundwater).

[Rules 62-761.451; 62-762.451 F.A.C.]

F. Reporting

The Licensee shall report all spills of materials having potential to significantly pollute surface or ground waters and which are not confined to a building or similar containment structure, by telephone immediately after discovery of such spill. The Licensee shall submit a written report within forty-eight hours, excluding weekends, from the original notification; the Siting Coordination Office shall be copied on this report. The telephone report shall be submitted by calling the DEP District Office Industrial Wastewater Compliance/Enforcement Section. After normal business hours, the Licensee shall contact the State Warning Point by calling (850) 413-9911 or (850) 413-9912. The written report shall include, but not be limited to, a detailed description of how the spill occurred, the name and chemical make-up (include any MSDS sheets)

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of the substance, the amount spilled, the time and date of the spill, the name and title of the person who first reported the spill, the size and extent of the spill and surface types (impervious, ground, water bodies, etc.) it impacted, the cleanup procedures used and status of completion, and include a map or aerial photograph showing the extent and paths of the material flow. Any deviation from this requirement must receive prior approval from the Department.

[Chapter 376, F.S.; Rule 62-160, F.A.C.]

II. FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

The Licensee shall obtain a Sovereign Submerged Land Lease (Attachment D) prior to operation of the RBEC. A copy of the lease and any renewals of the lease shall be submitted by the Licensee to the Siting Coordination Office.

III. DEPARTMENT OF TRANSPORTATION

A. *Post Certification Review Items*

1. **Access Management to the State Highway System:** Any access to the State Highway System will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, F.A.C:

2. **Overweight or Overdimensional Loads:** Operation of overweight or overdimensional 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 Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

3. **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 Rule 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. U.S. 1 has been identified as Florida Intrastate Highway System (FIHS) facility. DOT requests any information for the plant site plan specifically within Dixie Highway and U.S. 1 limits be coordinated with the Department's District Four office. If Florida Power and Light is specifically requesting to use the vacant right of way between Broadway and Greenwood Avenue adjacent to 59" Street, this parcel of land is designated as one of the Department's storage hurricane disposal sites for Palm Beach County. A general use and temporary access permit may be required if the site is utilized. The placement of the transmission line and pipeline should take into consideration the planned widening of these facilities. The cost of relocating or reconstructing the transmission line and pipeline will be borne by the applicant to the extent required by Section 337.403, Florida Statutes, and Rule Chapter 14-46, Florida Administrative Code.

4. **Standards:** The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and

SECTION B: SPECIFIC CONDITIONS

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.

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

6. **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, Airspace Protection, 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 725-040-1 1, Airspace Obstruction Permit Application, in accordance with the instructions therein.

7. **Level of Service on State Roadway Facilities:** All traffic impacts to State roadway facilities on the FIHS or the SIS, or funded by Section 339.2819, F.S., will be subject to the requirements of the level of service standards adopted by local governments pursuant to Rule Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C., in accordance with Section 163.3180(10), F.S.. All traffic impacts to State roadway facilities not on the FIHS, the SIS, or funded by Section 339.2819, F.S., will be subject to adequate level of service standards established by the local governments.

B. Best Management Practices

1. Traffic control during facility construction and maintenance will be subject to the standards contained in the Manual on Uniform Traffic Control Devices; Rule 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.

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2. It is recommended that the applicant encourage transportation demand management techniques by doing the following:

- Placing a bulletin board on site for car pooling advertisements.
- Requiring that heavy construction vehicles remain onsite for the duration of construction to the extent practicable.
- A temporary traffic control plan for handling construction related traffic is needed subject to the requirements and standards. The plan will need to be approved by Florida Department of Transportation prior to construction.

3. If the applicant uses contractors for the delivery of any overweight or overdimensional 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, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C..

IV. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. *West Indian Manatee*

1. Interim Warm-Water Refuge Heating System

The current trigger temperature identified in the Manatee Protection Plan under the Riviera Beach power plant's National Pollutant Discharge Elimination System permit is 61°F. In order to prevent an increased risk of manatee cold stress death during the RBEC conversion construction period, adaptive management protocols for the interim warm-water refuge heating system shall include the following:

a. Testing, monitoring, and evaluation of the interim heating system shall take place pursuant to the conditions found in Sections 2 Environmental Monitoring and Section 3 Biological Monitoring.

b. The trigger temperature shall be set at 65°F, during the period that the interim heating system is required. The interim heating system shall be designed such that when ambient water temperatures are below 65°F, as indicated from a selected ambient water temperature station (as agreed to in the Environmental Monitoring Plan), the interim heating system will provide a water temperature at or above 68°F, within the identified warm-water refuge until such time as the ambient water temperature reaches 65°F. The interim heating system shall be maintained and operated to achieve this result, in accordance with best management practices (BMP) established by Licensee, unless otherwise authorized by FWC and USFWS, or unless the safety or reliability of the electric power system would be compromised. The Licensee shall develop a BMP manual for the interim heating system that shall include the following components:

(1) operation and maintenance procedures for the interim heating system;

(2) requirement for a log demonstrating that the recommended operating and maintenance procedures and checks are performed;

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- (3) a spare parts list including the location of the spares;
- (4) a list of qualified operators and repair persons and their contact information;
- (5) a trouble shooting flowchart and repair personnel call out plan;
- (6) an incident log to track the status of troubleshooting and repair activities until the system is operable;
- (7) notification requirements to agencies.

c. Licensee shall submit its BMP manual to FWC for review and comment by August 15 of the year when the RBEC conversion commences which is expected to be 2011. Licensee will review, consider, and incorporate if practicable, comments from FWC that are received by September 15 of that year. A copy of the Licensee's BMP manual for the interim heating system shall be maintained at all times at the RBEC site and shall be made available upon request to authorized representatives of FWC and DEP.

d. If through the biological monitoring or daily visual assessments of manatee health, or scientific data it is indicated, that the 65°F interim heating system trigger temperature should be; raised or lowered to maintain a sufficient warm-water refuge, then FWC will consult with DEP, USFWS, and FPL to assess the information and develop a new strategy that can be agreed upon by all four parties. Such a new agreed upon strategy would be proposed by FWC in a DEP initiated modification to certification.

e. The interim warm-water refuge is described as the area located within the current warm-water refuge created by a portion of the plant's thermal discharge (see Attachment D).

f. The Licensee may request modification of applicable FWC conditions upon issuance by the DEP, in consultation with the FWC, of Final NPDES permit modification FL0001546 if such requested modifications to the conditions herein have been adopted into the Final NPDES permit.

g. Licensee shall provide written notification of the commencement of conversion to DEP and the FWC as soon as possible but no later than June 15 of the year when the RBEC conversion commences which is expected to be 2011.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Section 253.75 F.S., Rules 68A-27 F.A.C.]

2. Environmental Monitoring

The following monitoring requirements are applicable to the operation of the interim heating system during the conversion of the RBEC.

a. Evaluation of the interim heating system shall be conducted at RBEC during winter months (November 15 through March 31) of 2009-2010. The evaluation of the interim heating system is intended to determine its ability to provide a sufficient manatee warm-water refuge (as described in Interim Heating System and Environmental Monitoring

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conditions IV., A., 1. and 2. and the Licensee's Thermal Modeling Study) during the winter months shall take place prior to dismantlement of the current warm-water discharge. Evaluation of the system shall include empirical temperature data that will be collected and compared to the thermal modeling results to evaluate the performance of the interim heating system and the accuracy of the thermal model during cold fronts and varying tidal and wind conditions.

(1) By June 1, 2010, the initial monitoring tests of the interim warm-water heating system will have been conducted at the Riviera Beach power plant, the Licensee will contact DEP and FWC to provide and discuss the results. At that time, FWC, in consultation with the DEP and USFWS, and the Licensee, will determine what, if any, modifications need to be made to the operation of the interim heating systems and FWC will request that DEP initiate a modification to certification if necessary.

b. By June 15 of the year when the RBEC conversion commences, which is expected to be 2011, the Licensee (Florida Power & Light Company) shall submit to the FWC, DEP Siting Office, and the USFWS an Environmental Monitoring Plan. The Environmental Monitoring Plan shall include, at a minimum, the following components:

(1) Monitoring of the interim heating system and warm-water refuge during the conversion process (as described in Interim Heating System and Environmental Monitoring conditions IV., A., 1. and 2. and the Licensee's Thermal Modeling Study) shall take place during the winter months (November 15 through March 31).

(2) Monitoring of the RBEC's interim warm-water refuge during the conversion shall consist of ambient air and water temperatures measured at multiple locations within the interim warm-water refuge. The number and configuration of temperature monitoring stations must be sufficient to provide a three-dimensional view, over time, of the thermal plume.

(3) Temperature monitoring stations will be deployed during the conversion phase in the interim refuge. As part of this Environmental Monitoring Plan as described in this Section 2., the Licensee shall include a plan to convey the data from the temperature monitoring stations to the appropriate agencies on a daily basis when the trigger is on and the heaters are running and on a weekly basis when the ambient temperature is greater than 65 degrees.

(4) Specific locations for the temperature monitoring station(s), sampling frequencies, station depths data collection methods, and reporting frequencies must be identified and may be subject to further revision depending on receipt of any required permits, licenses and approvals.

(5) The Environmental Monitoring Plan, including the proposed monitoring locations, shall be approved prior to implementation. FWC, in consultation with the DEP and USFWS, shall indicate its approval or disapproval of the submitted plan within 90 days of the originally submitted information. In the event that additional information from the licensee is necessary to complete and approve the Plan, FWC, in consultation with the DEP and USFWS, shall make a written request to the licensee for additional information no later than 30 days after receipt of the submitted information. A final plan shall be in place by September 1 of the year when the RBEC conversion commences, which is expected to be 2011.

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c. The Licensee will prepare an environmental monitoring report that includes all data (made available in electronic form) and statistical analyses collected as a result of the environmental monitoring requirements. This report will be submitted yearly, by August 1 of each year, while the interim warm-water system is in operation during the construction period of the RBEC. Within 180 days of the submittal of the final yearly environmental monitoring report, a summary report of all environmental monitoring shall be completed and submitted to the FWC and DEP Siting Office for review.

d. If, in the review of the annual environmental monitoring reports, FWC, in consultation with the DEP and USFWS, determines the need to modify the Environmental Monitoring Plan, FWC will notify the Licensee to discuss the findings. At that time, FWC, in consultation with the DEP and USFWS and the Licensee, will determine what, if any, modifications need to be made to the Environmental Monitoring Plan and FWC will request that DEP initiate modifications to certification if necessary.

e. If the Licensee determines the Environmental Monitoring Plan is in need of modifications during the operation of the interim heating system, the Licensee will contact the agencies to discuss the proposed modifications. At that time, FWC, in consultation with the DEP and USFWS and the Licensee, will determine what if any modifications need to be made to the Environmental Monitoring Plan and the FWC will request that DEP initiate a modification to certification if necessary.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431(2) F.S., Section 20.331 F.S., Section 253.75 F.S., Rules 68A-27 F.A.C.]

3. Biological Monitoring

The following monitoring requirements for manatee distribution and abundance are applicable to the operation of the interim heating system during the conversion of the RBEC:

a. By June 15 of the year when the RBEC conversion commences, which is expected to be 2011 the Licensee shall submit to the DEP Siting Office and FWC, a Biological Monitoring Plan. The Biological Monitoring Plan shall include at a minimum the following components:

(1) Monitor the winter (October 15 through March 31) distribution and abundance of manatees during the time frame that includes the operation of the interim warm-water heating system.

(2) Biological monitoring shall be conducted through aerial surveys during the winter months (November 15 through March 31) beginning the first winter of the plant's conversion and continuing through the completion of the RBEC conversion process. However, the FPL will consult with FWC to determine the status of other aerial survey data collection efforts to determine the appropriate start date for these required aerial surveys

(3) Specific aerial survey paths, sampling frequencies, and methodologies for aerial surveys. At a minimum, aerial survey flight paths shall encompass known manatee winter habitat including travel corridors and passive warmwater sites from Hobe

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Sound (Highway 707 bridge) to Boynton Inlet on a bi-weekly basis while the interim heating system is in operation during the winter months (November 15 through March 31)

(4) Aerial surveys shall be designed so the data collected will provide an evaluation of manatee abundance and distributional changes within the survey area (see IV.A.3.a.(3)) in a statistically valid manner that is consistent with past aerial survey data.

(5) The Biological Monitoring Plan shall be reviewed and approved prior to implementation. FWC, in consultation with the DEP and USFWS, shall recommend its approval or disapproval of the submitted plan to DEP within 90 days of the originally submitted information. In the event that additional information from the licensee is necessary to complete and approve the Plan, FWC, in consultation with the DEP and USFWS, shall make a written request to the Licensee for additional information no later than 30 days after receipt of the submitted information. A final plan shall be in place by September 1 of the year when the RBEC conversion commences, which is expected in 2011.

b. The Licensee shall provide a manatee observer(s) who has sufficient experience in detecting indicators of cold stress in manatees. The monitoring protocols and individuals acting as manatee observer(s) will require approval from the FWC.

c. The manatee observer will be required to conduct a daily visual assessment of the condition and general distribution of manatees using the interim warm-water refuge during the winter months (November 15 through March 31) during the interim period. The visual assessments shall be conducted for a sufficient length of time to assess most of the manatees present at the plant and accessible to the observer on that day. If an approved observer is not available, licensee shall notify FWC as soon as possible, but no later than 48 hours, to coordinate actions necessary to resume the observation program.

d. The Licensee shall provide one moveable land-based observation platform located along the interim warm-water refuge. This will be used by the manatee observer(s) for conducting assessments of cold stress symptoms and by FWC or USFWS staff monitoring manatee use of the interim refuge through photo identification.

e. The Licensee will prepare a biological monitoring report that includes all data (made available in electronic form) and statistical analyses completed as a result of the requirements set forth in the biological monitoring plan. This report will be submitted yearly, by August 1 of each year, when the interim warm-water system is in operation during the construction period. Within 180 days of submittal of the final yearly biological monitoring report a summary of all biological monitoring reports shall be completed and submitted to the FWC and DEP Siting Office for review.

f. If, in the review of the biological monitoring reports, FWC, in consultation with DEP and USFWS, determines the need to modify the Biological Monitoring Plan, FWC will notify the Licensee to discuss the findings. At that time, FWC, in consultation with the DEP and USFWS, and the Licensee will determine what if any modifications need to be made to the Biological Monitoring Plan and the FWC will request that DEP initiate a modification to certification if necessary.

g. If the Licensee determines the Biological Monitoring Plan is in need of modifications during the operation of the interim heating system, the Licensee will contact the

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agencies to discuss the proposed modifications. At that time, FWC, in consultation with the DEP and USFWS, and the Licensee will determine what, if any, modifications need to be made to the Biological Monitoring Plan and the FWC will request that DEP initiate a modification to certification if necessary.

h. The Licensee will provide personnel from the FWC, USFWS, USGS Sirenia Project, or a designee of these agencies, access to the RBEC property to conduct manatee monitoring activities. Reasonable notice shall be given to the Licensee by the agencies. Access would be limited to normal weekday business hours (8:00 a.m. - 5:00 p.m.) unless arrangements are made in advance with the Licensee.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Section 253.75 F.S., Rules 68A-27 F.A.C.]

4. Contingency Plan

FWC and USFWS' LOA (Letter of Authorization) network responders will be responsible for all efforts related to manatee rescues, rehabilitation activities, and carcass recovery during the RBEC conversion. In order to effectively implement contingency plans during the plant conversion and to address manatee health-related issues due to a malfunction or inability of the interim warm-water heating system to effectively provide a warm-water refuge during the winter months (November 15 through March 31), the following conditions are required:

a. If the observer (pursuant to Biological monitoring Conditions IV.A.3(a)-(c); identifies manatees with apparent signs of cold stress disease, digital photographs should be taken of the animal(s) and the FWC shall be called as soon as possible on the day of the observations through the following methods. An FWC biologist can be reached via pager at 800-714-0620 (enter the callers contact number followed by the code "03". A page will be returned within 30 minutes; if not, resend the page. For immediate emergency situations FWC's Wildlife Alert number can also be called at 888-404-FWCC.

b. The Licensee will notify FWC and USFWS immediately if there is a mechanical failure of the interim heating system, or if, for any other reason the interim heating system is not operating in a manner that will provide warm-water sufficient to keep the warm-water refuge at a temperature of 68° F or greater.

c. The Licensee shall provide in-kind services and financial assistance, not to exceed \$100,000 in total value, to FWC for manatee rescue or recovery in the event that there is a failure of the interim heating system resulting from Licensee's failure to comply with Condition IV.A.1 that causes death or identifiable cold stress to manatees in Palm Beach County. This condition would apply during the winter months (November 15 through March 31). The in-kind assistance and funds would only be used to address manatee-related cold stress issues in the area that the interim system affects.

d. The Licensee will provide personnel from the FWC, USFWS, USGS-Sirenia Project, or a designee of these agencies, access to the RBEC property to conduct manatee monitoring activities. Reasonable notice shall be given to the licensee by the agencies. Access would be limited to normal weekday business hours (8:00 a.m. - 5:00 p.m.) unless arrangements are made in advance with the Licensee.

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e. The Licensee will include as part of its safety orientation manatee awareness training for full-time permanent construction personnel at the RBEC site. This training will be designed to educate the construction work force about the legal requirements to avoid manatees and to provide them with contact information if they should spot an injured manatee.

f. All visitors to RBEC will be required to comply with FPL's safety and security requirements. Personnel will receive an orientation from FPL or its contractor prior to commencing observations or other activities.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Rules 68A-27 F.A.C.]

5. Development of a Long-Term Manatee Strategy

It is expected that at some point in the future the warm-water habitat created by the RBEC will diminish or be terminated in that event the FWC and USFWS believes it is in the best interest of the Licensee, FWC, USFWS, DEP, and the Florida manatee population to begin strategic long term planning to reduce the adverse affects to the Florida manatee population before this occurs.

a. Within two years of the formal approval by FWC and USFWS of a Warm-Water Action Plan (Plan), inclusive of a future-oriented Management Policy for Warm-Water Manatee Habitat, the Licensee shall host and chair a workshop designed to: (a) articulate a strategy for achieving the goals of that Plan, (b) develop a timetable for implementing the strategy, (c) review progress to date in achieving the strategy, and (d) identify impediments and solutions.

b. Within one year of the workshop held pursuant to Condition IV.A.5.a, the Licensee shall provide the FWC and USFWS with a formal report of the workshop, including findings, conclusions, and recommendations.

c. Over the course of the operating life span of the RBEC the Licensee shall develop an exit strategy for the RBEC that prevents significant losses to the manatee population when the Licensee determines reduce or eliminate the RBEC's thermal discharge to the extent that a dependable warm-water refuge is no longer present. The Licensee's strategy shall consider FWC and USFWS's statewide Warm-Water Action Plan approved by FWC and USFWS.

d. The Licensee shall work closely with the FWC and USFWS to evaluate progress toward achieving the vision and goals of the Warm-Water Action Plan and to develop adaptive changes to the Plan as needed to promote manatee recovery through participation in periodic workshops and/or conferences designed to accomplish such evaluation and adaptive changes.

e. The FWC and USFWS must be notified, in writing, within 30 days of any sale, conveyance, or other transfer of the facility.

6. Manatee Construction Conditions for In-Water Work

a. The Standard Manatee Conditions for In-Water Work (revision 2009) are required for all in-water work in or adjacent to waters accessible to manatees. Blasting

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or pile hammering activities to break rock shall be prohibited in waters accessible to manatees. If no other alternative exists, a modification of these conservation measures can be requested. An adequate Blast and Protected Species Watch Plan must be submitted to and approved by the Imperiled Species Management Section of the FWC prior to these methodologies being used.

b. To reduce the possibility of injuring or killing a manatee during construction, in-water work shall not be performed between November 15 and March 31 unless essential to support the RBEC project's schedule. If in-water work during the winter cannot be avoided the Licensee will contact the agencies to determine alternative conditions that will be implemented to address the proposed activity.

c. At least one person shall be designated as a manatee observer when in-water work is being performed. That person shall have experience in manatee observation, be approved by the FWC two weeks before the beginning of construction, and be equipped with polarized sunglasses to aid in observation. The manatee observer must be on site during all in-water construction activities and will advise personnel to cease operation upon sighting a manatee within 50 feet of any in-water construction activity. Movement of a work barge, other associated vessels, or any in-water work shall not be performed after sunset, when the possibility of spotting manatees is negligible. Observers shall maintain a log detailing manatee sightings, work stoppages, and other protected species-related incidents. A report, summarizing all activities noted in the observer logs, the location and name of project, and the dates and times of work shall be submitted within 30 days following project completion, to the FWC's Imperiled Species Management Section at: 620 South Meridian Street, 6A, Tallahassee, Florida 32399-1600, or e-mailed at fcmpmail@myfwc.com.

d. To reduce the risk of entrapment and drowning of manatees, grating shall be installed over any existing or proposed pipes or culverts greater than 8 inches, but smaller than 8 feet in diameter that are submerged or partially submerged and reasonably accessible to manatees. Bars or grates no more than 8 inches apart shall be placed on the accessible end(s) during all phases of the construction process and as a final design element to restrict manatee access.

[Sections 403.507 and 403.509, F.S.; Section 3 79.1025 F.S., Section 379.2291 F. S., Section 3 79.2431 (2) F.S., Section 20.331 F.S., Rules 68A-27 Florida Administrative Code.]

7. Manatee Viewing Center

Once a public viewing venue is established at the manatee embayment, the licensee shall ensure that staff or trained volunteers are always present with the public to prevent manatee disturbance or harassment.

[Section 379.2431 (2) F.S., Section 20.331 F.S., Rules 68A-2 7 Florida Administrative Code.]

8. Force Majeure

If there is an act of God, terrorism, or war that prevents Licensee from providing the requisite warm water conditions, Licensee will notify FWC expeditiously and coordinate efforts to resume compliance with the certification conditions.

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9. Access to Manatee Protection Zones

For all activities necessary to perform essential operations, including in-water maintenance and inspection of equipment, emergency operations, and environmental monitoring within a No Entry or Motorboats Prohibited Manatee Protection Zone as defined by 68C-22, F.A.C., the following requirements are applicable. These requirements supplant the need for Licensee to obtain a permit to access these zones pursuant to 68C-22.003, F.A.C.

a. Vessels used to access the zone should be of the smallest size and horsepower needed to accomplish the required tasks, and all vessels should be clearly marked as belonging to the Licensee or authorized contractor performing the work on behalf of the Licensee. Whenever practicable, vessels should be equipped with a propeller guard. Vessel operation within the zone must be at no greater than Idle Speed.

b. At least one person on each vessel must be designated as a manatee observer. Said observer must have experience in manatee observation and be equipped with polarized sunglasses to aid in observation. The observer must be on the vessel at all times, maintain a vigilant watch, and advise all personnel as to the presence and location of nearby manatees.

c. Except in emergency situations, no in-water activity may be performed within 50 feet of a manatee. Manatees may not be approached, pursued, fed, watered, touched, or otherwise interacted with in any manner that causes disruption of their normal behavior. If one or more manatees are observed within 50 feet, all in-water activities must be stopped and may only be resumed after all manatees have moved away of their own volition.

d. Except in emergency situations, no in-water work may be performed before sunrise or after sunset (when the ability to see manatees is minimal).

e. All personnel entering the zone must be informed of the possible presence of manatees, the characteristics used to identify the presence of manatees, and the conditions and requirements set forth herein. All personnel must be advised that there are civil and criminal penalties for harming, harassing, or killing manatees, which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.

f. Any collision with and/or injury to a manatee must be reported immediately to the FWC Division of Law Enforcement (888-404-3922) and the FWC Imperiled Species Management Section (850-922-4330; fax: 850-922-4338).

g. The Licensee maintain records onsite detailing the nature and scope of all activities conducted within the restricted area during the previous year, including dates of activity and the number of vessels involved as well as the type and configuration of the vessels, by date. These records will be made available to FWC upon request.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Rules 68A-27 and 68C-22, F.A.C.]

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B. Terrestrial Wildlife

1. Listed Species Survey

Before land clearing and construction activities within the certified facility occur, the Licensee shall conduct an assessment for listed species which will note all habitat, occurrence or evidence of listed species. Listed species to be included in this survey shall include those listed as endangered, threatened or of special concern by Florida Fish and Wildlife Conservation Commission or those listed as endangered or threatened by U.S. Fish and Wildlife Service.

a. This survey shall be conducted in accordance with USFWS/FFWCC guidelines and methodologies by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for listed species.

b. This survey shall identify any wading bird colonies within the project that may be affected.

c. This survey shall identify locations of breeding locations, nests, and burrows for listed wildlife species. Nests and burrows may be recorded with 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 a protection radius surrounding nest sites and burrows be included, rather than individual nests and burrows, and be physically marked so that clearing and construction will avoid impacting them.

d. 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) including a wildlife-based habitat classification scheme such as the Comprehensive Wildlife Conservation Strategy (FWC 2005), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (FNAI 1990) of each community that is contained within the certified facility prior to land clearing and construction activities using GIS.

2. Listed Species Locations

Where any suitable habitat and evidence is found of the presence of listed species within the certified facility, the Licensee will report those locations to, and confer with, the appropriate regulatory agencies for possible additional pre-clearing surveys and to identify potential mitigation, or avoidance recommendations. If pre-clearing surveys are required, they shall be timed to be reasonably compatible with the construction schedule, considering the in-service date specified in the Public Service Commission's need determination. The Licensee will not construct in areas where evidence of listed species was identified during the initial survey until the particular listed species issues have been resolved.

a. *Listed Wildlife Species:* If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the appropriate DEP District Office(s), the FFWCC's Office of Policy and Stakeholder Coordination, the appropriate WMD, the appropriate local government(s) and the U.S. Fish and Wildlife Service.

b. *Listed Vegetation Species:* If listed vegetation species are found on public land or water, their presence shall be reported to the DEP Siting Coordination Office and

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the Florida Department of Agriculture and Consumer Services. Listed wildlife species and listed vegetation species on public land or water shall not be disturbed, if feasible.

c. *Species Management Plan*: If avoidance is not feasible, the Licensee shall consult with DEP, FWC, and, if necessary, the U. S. Fish and Wildlife Service for listed wildlife species, and with the Florida Department of Agriculture and Consumer Services for listed vegetation species on public land or water, to determine the steps appropriate for the species involved which are to be taken to avoid, minimize, mitigate, or otherwise appropriately address impacts within each agency's respective jurisdiction. For wildlife species, these steps shall be memorialized in a Wildlife Management Plan and submitted to DEP, FWC, and the appropriate local government.

[Article IV, Sec. 9, Fla. Const., Chapter 68A-27, F. A. C]

C. Scientific Collecting/Institutional Authorizations

FPL shall maintain and comply with a current Scientific Collection/Institutional permit, as applicable for salvaging of non-listed wildlife species at the RBEC, issued by the State of Florida Fish and Wildlife Conservation Commission. All substantive requirements of the permit/authorization are incorporated herein. A copy of the authorization shall be made available at the RBEC site.

[Rules 68A-9.002, 68A-25.002, 68A-27.003-.005]

D. Migratory Bird Nest Authorizations

FPL shall maintain and comply with a current Migratory Bird Nest permit as applicable for removal and replacement of inactive (i.e. containing no eggs or flightless young) nests of ospreys (*Pandion haliaetus*) and other migratory birds, pursuant to the Florida Fish and Wildlife Conservation Commission Osprey Nest Removal Policies, where necessary in the process of routine facility maintenance in Florida. All substantive requirements of the permit/authorization are incorporated herein. A copy of the required permit/authorization shall be made available at the RBEC site.

[Rules 68A-9.002 & 68A-27.005]

V. 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 appropriate DEP District office (s) and DHR, R. A. Gray Building, 500 S. Bronough Street, Rm 423, Tallahassee, Florida 32399-0250,

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telephone number (850) 245-6333, and the Licensee shall consult with DHR to determine appropriate action.

[Sections 267.061 and 403.531, and Chapter 372, F.S.]

VI. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

A. Decommissioning

The Licensee will continue to comply with the permit conditions of Consumptive Use Permit No. 50-04187-W and No. 50-04188-W until the existing power plant units are decommissioned.

B. Legal/Administrative Conditions

1. General

a. Responsible Entity

The Licensee shall be responsible for compliance with the Certification Conditions. If contractual rights, duties, or obligations are transferred under this Certification, notice of such transfer or assignment, including the identification of the entity responsible for compliance with the Certification, shall immediately be submitted to the DEP and the SFWMD by the previous certification holder (Licensee) and the Assignee. Any assignment or transfer shall carry with it the full responsibility for the limitations and conditions of this Certification. The previous Licensee shall be responsible for informing the Assignee of all authorized facilities and uses and the conditions under which they were authorized. The previous Licensee shall remain liable for corrective actions that may be required as a result of any violations prior to transfer or assignment of any contractual rights, duties, or obligations under this Certification.

[Sections 373.044, 373.113, 373.223, and 373.342, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.101(1), and 40E-6.35 1, F.A.C.]

b. Minimum Standards

This Certification is based on the Licensee's submitted information to the SFWMD which reasonably demonstrates that harm to the site water resources will not be caused by the authorized activities. The plans, drawings and design specifications submitted by the Licensee shall be considered the minimum standards for compliance.

[Sections 373.219, 373.223, 373.229, 373.308, and 373.316, F.S.; Rules 40E-2.091, 40E-20301, 40E-2.381, and 40E-3.500-531.]

c. Compliance Requirements

This project must be constructed, operated and maintained in compliance with and meet all non-procedural requirements set forth in Chapter 373, F.S., and Chapters 40E-2 (Consumptive Use), 40E-3 (Water Wells), and 40E-20 (General Water Use Permits), F.A.C.

d. Off-site Impacts

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It is the responsibility of the Licensee to ensure that harm to the water resources does not occur during the construction, operation, and maintenance of the project.

[Sections 373.223 and 373.309, F.S.; Rules 40E-2.091, 40E-2.381, 40E-3.301(3), and 40E-3.301(4), F.A.C.]

e. Liability

The Licensee shall hold and save the SFWMD harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment and/or use of any system authorized by this Certification, to the extent allowed under Florida law.

[Section 373.223, F.S.; Rules 40E-2.091, and 40E-2.381, F.A.C.]

f. Construction, Operation, and Maintenance Responsibilities

The Licensee shall be responsible for the construction, operation, and maintenance of all facilities installed for the proposed project.

[Section 373.309, F.S.; Rule 40E-3.301, F.A.C.]

g. Access

SFWMD representatives shall be allowed reasonable escorted access to the power plant site, the water withdrawal facilities and any associated facilities to inspect and observe any activities associated with the construction of the proposed project and/or the operation and/or maintenance of the on-site wells in order to determine compliance with the conditions of this Certification. The Licensee shall not refuse entry or access to any SFWMD representative who, upon reasonable notice, requests entry for the purpose of the above noted inspection and presents appropriate credentials.

[Sections 373.223 and 373.319, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.]

h. Post Certification Information Submittals

Information submitted to the SFWMD subsequent to Certification, in compliance with the conditions of this Certification, shall be for the purpose of the SFWMD determining the Licensee's compliance with the Certification conditions and the non-procedural criteria contained in Chapters 40E-2, 40E-3, and 40E-20, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder.

[Rule 62-17.191, F.A.C.]

i. Enforcement

The SFWMD may confer with DEP to request DEP to take any and all lawful actions that are necessary to enforce any condition of this Certification based on the authorizing statutes and rules of the SFWMD.

[Sections 373.223, 373.319, 373.603, and 403.514, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.]

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2. Processing of Informational Requests

a. Completeness and Sufficiency Review

At least ninety (90) days prior to the commencement of construction of any portion of the project, the Licensee shall submit to SFWMD staff, for a completeness and sufficiency review, any pertinent additional information required under the SFWMD's conditions of Certification for that portion proposed for construction. If SFWMD staff does not issue a written request for additional information within thirty (30) days, the information shall be presumed to be complete and sufficient.

[Sections 373.219 and 373.342, F.S.]

b. Compliance Review and Confirmation

Within sixty (60) days of the determination by SFWMD staff that the additional information is complete and sufficient, the SFWMD shall determine and notify the Licensee in writing whether the proposed activities conform to SFWMD rules, as required by Chapters 40E-2, 40E-3, and 40E-20, F.A.C., and the Conditions of Certification. If necessary, the SFWMD shall identify what items remain to be addressed. No construction activities shall begin until the SFWMD has determined either in writing, or by failure to notify the Licensee in writing, that the activities are in compliance with the applicable SFWMD criteria.

[Sections 373.219 and 373.342, F.S.]

c. Revisions to Site Specific Design Authorizations

The Licensee shall submit, consistent with the provisions of Condition B.2., any proposed revisions to the site specific design authorizations specified in this Certification to the SFWMD for review and approval prior to implementation. The submittal shall include all the information necessary to support the proposed request, including detailed drawings, calculations and/or any other applicable data. Such requests may be included as part of the appropriate additional information submittals required by this Certification provided they are clearly identified as a requested amendment or modification to the previously authorized design.

[Sections 373.085, 373.219, 373.223, 373.313, and 373.342, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-3.461, F.A.C.]

d. Dispute Resolution

Since this Certification is the only form of permit required from any agency, it is understood that the Licensee and the SFWMD shall strive to resolve disputes by mutual agreement.

[Sections 373.044, 373.085, 373.113, and 373.129, F.S.; Rule 40E-1.601, F.A.C.]

e. Objections

Objections to modifications of the terms and conditions of this Certification shall be resolved through the process established in Section 403.516, F.S.

f. Changes to Information Requirements

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The SFWMD and the Licensee may jointly agree to vary the informational requirements.

[Sections 373.085 and 373.229, F.S.; Rules 40E-2.101(1) and 40E-3.101(2), F.A.C.]

C. Water Use Conditions

1. General

a. Water Shortage Compliance

In the event of a declared water shortage, the Licensee must comply with any water withdrawal reductions ordered by the SFWMD in accordance with the Water Shortage Plan, Chapter 40E-21, F.A.C.

[Section 373.246, F.S.; Rule 40E-2.381, F.A.C.]

b. Interference with Existing Legal Uses

The Licensee shall mitigate interference with existing legal uses, in existence at the time of issuance of the Certification Order, caused in whole or in part by the Licensee's withdrawals, consistent with the approved mitigation plan. As necessary to offset the interference, mitigation may include pumpage reduction, replacement of the impacted individual's equipment, relocation of wells, change in withdrawal source, or other means. Interference to an existing legal use is defined as an impact that occurs under hydrologic conditions equal to or less severe than a 1 in 10 year drought event that results in the:

(1) Inability to draw water consistent with the provisions of the permit, such as when remedial structural or operational actions not materially authorized by existing permits must be taken to address the interference;

(2) Change in the quality of water pursuant to primary State Drinking Water Standards to the extent that the water can no longer be used for its authorized purpose, or such change is imminent; or

(3) Inability of an existing legal user to meet its permitted demands without exceeding the permitted allocation.

[Reference: Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]

c. Harm to Existing Off-Site Land Uses

The Licensee shall mitigate harm to existing off-site land uses caused by the Licensee's withdrawals, as determined through reference to the conditions for permit issuance. When harm occurs, or is imminent, the SFWMD will require the Licensee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to these Conditions of Certification includes:

(1) Significant reduction in water levels on the property to the extent that the designed function of the water body and related surface water management improvements are damaged, not including aesthetic values. The designed function of a water body is identified in the original permit or other government authorization issued for the construction of

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the water body. In cases where a permit was not required, the designed function shall be determined based on the purpose for the original construction of the water body (e.g., fill for construction, mining, drainage canal, etc.);

(2) Damage to agriculture, including damage resulting from reduction in soil moisture resulting from consumptive use;

(3) Land collapse or subsidence caused by reduction in water levels associated with consumptive use.

[Reference: Sections 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]

d. Harm to Natural Resources

The Licensee shall mitigate harm to natural resources caused by the Licensee's withdrawals, as determined through reference to the conditions for permit issuance. When harm occurs, or is imminent, the SFWMD will require the Licensee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to these Conditions of Certification includes:

(1) Reduction in ground or surface water levels that results in harmful lateral movement of the fresh water/salt water interface;

(2) Reduction in water levels that harm the hydroperiod of wetlands;

(3) Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;

(4) Harmful movement of contaminants in violation of state water quality standards; or

(5) Harm to the natural system including damage to habitat for rare or endangered species.

[Reference: Sections 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]

e. Well System Operation

At any time, if there is an indication that the well casing, valves, or controls associated with the on-site well system leak or have become inoperative, the Licensee shall be responsible for making the necessary repairs or replacement to restore the well system to an operating condition acceptable to the SFWMD. Failure to make such repairs shall be the cause for requiring that the well(s) be filled and abandoned in accordance with the procedures outlined in Chapter 40E-3, F.A.C.

[Reference: Sections 373.308 and 373.316, F.S.; Rules 40E-30041, 40E-3.101, 40E-3.41 I, and 40E-3.500-531, F.A.C.]

2. Site Specific Design Authorizations/Requirements

a. Authorized Monthly Withdrawals

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This Certification authorizes a maximum monthly withdrawal of 6.169 MGM from the Surficial aquifer for water pump bearing cooling water and landscape irrigation water.

b. Authorized Annual Withdrawals

This Certification authorizes an average annual withdrawal of 37.318 MGY from the Surficial aquifer for water pump bearing cooling water and landscape irrigation water.

c. Authorized Withdrawal Facilities

1 - 6" X 85' X 225 GPM WELL WITH UNKNOWN CASED DEPTH

1 - 6" X 100' X 225 GPM WELL CASED TO 84 FEET

1 - 6" X 175' X 225 GPM WELL WITH UNKNOWN CASED DEPTH

d. Emergency Withdrawals

Any withdrawals from the Surficial aquifer in excess of the withdrawals authorized under this Certification shall require prior SFWMD approval. Any withdrawals from alternative surface or ground water supply sources shall require prior SFWMD approval. The SFWMD may grant such approval for any emergency withdrawals less than 90 days in duration without modifying these Conditions of Certification. The SFWMD's approval shall be based on the non-procedural requirements of Chapter 40E-2, F.A.C.

e. Consistency Review of Authorized Withdrawals

Within five years from the date of issuance of the Certification Order and every five years thereafter, unless extended by mutual agreement between the Licensee and the SFWMD, the Licensee shall submit to the SFWMD a report on the project's consistency with SFWMD's Water Use Conditions of Certification contained herein. Within 90 days after receipt of the completed report, the SFWMD shall evaluate the information contained therein and issue a written notification to the DEP and the Licensee as to whether the ground water withdrawals for consumptive use authorized by this Certification remain in compliance with the provisions of Chapter 373, F.S., and Chapter 40-2, F.A.C., in effect at the time the certification was issued by the Siting Board. In determining whether the Licensee has established that its use of water complies with rule 40E-2, F.A.C., and the Basis of Review for Water Use Permit Applications within the SFWMD, the SFWMD shall evaluate whether the Licensee's use of water interferes with a legal use of water that existed at the time the certification was issued by the Siting Board. If the notification indicates that the withdrawals are not in compliance with these provisions, the SFWMD shall recommend to the Licensee possible alternatives for bringing the withdrawals into compliance with SFWMD's Water Use Conditions of Certification contained herein. In addition, if DEP determines, in consultation with SFWMD, based upon a review of a report submitted pursuant to this condition, that the Licensee has failed to establish that the Licensee's use of water meets the consumptive water use requirements described herein, DEP may seek to modify the authorization to use water in the certification or take other appropriate measures to ensure that the consumptive use of water meets the conditions for issuance in Chapter

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40E-2, F.A.C., as described herein. Any modification made pursuant to this condition shall not be subject to competing applications provided there is no increase in the allocation and no change in source.

f. Request for Modification of Withdrawals

The SFWMD may request a modification of the ground water withdrawals for consumptive use authorized by this Certification, in accordance with the provisions of Section 403.516, F.S. and Section 62-17.21 1, F.A.C. Any request for an increase in water withdrawals shall be made pursuant to the provisions of Section 403.516, F.S., and Section 62-17.21 1, F.A.C.

g. Dewatering Activities

Prior to commencement of construction of those portions of the project that involve dewatering activities, the Licensee shall submit a detailed plan for any such activities to the SFWMD for a determination of compliance with the non-procedural requirements of Chapters 40E-2, 40E-3 and 40E-20, F.A.C., in effect at the time of submittal. The following information, referenced to NGVD where appropriate, shall be submitted:

- (1) A detailed site plan which shows the location(s) for each proposed dewatering area;
- (2) The method(s) used for each dewatering operation;
- (3) The maximum depth for each dewatering operation;
- (4) The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;
- (5) The duration of each dewatering operation;
- (6) The discharge method, route, and location of receiving waters generated by each dewatering operation, including the measures (Best Management Practices) that will be taken to prevent water quality problems in the receiving water(s);
- (7) An analysis of the impacts of the proposed dewatering operations on any existing on and/or off-site legal users, wetlands, or existing groundwater contamination plumes;
- (8) The location of any infiltration trench(es) and/or recharge barriers; and
- (9) All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

[Sections 373.229 and 373.308, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-3.500-531, F.A.C.]

h. Monitoring and Reporting Requirements

Prior to commencement of operation of the new plant, the Licensee shall install one (1) saline water intrusion monitoring well east of the existing Surficial aquifer production wells, pursuant to the Licensee's proposed Saline Water Intrusion Monitoring Plan.

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Prior to the use of any withdrawal facility authorized under this Certification, the Licensee shall equip each withdrawal facility with a SFWMD-approved operating water use accounting system and submit a report of calibration to the SFWMD, pursuant to Section 4.1 of the Basis of Review For Water Use Permit Applications. Recalibration reports for the water use accounting system for each water withdrawal facility (existing and proposed) authorized under this Certification shall be submitted to the SFWMD every five years from each previous calibration, continuing at five year increments. The Licensee shall report monthly withdrawals for each withdrawal facility to the SFWMD quarterly. The quarterly reports shall include water levels in the monitoring well referenced to feet NGVD and conductivity, temperature, and chloride concentration for the monitoring and production wells. The Licensee shall specify the water accounting method and means of calibration on each report.

[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]

i. Existing Well Repair, Replacement, Abandonment

If any of the existing on-site wells require repair, replacement, and/or abandonment, the Licensee shall submit the information described in Chapter 40E-3, F.A.C., for review by the SFWMD prior to initiating such activities.

[Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.101, 40E-3.41, and 40E-3.000-531, F.A.C.]

j. New Well Construction

Prior to construction of any new or replacement production or monitoring wells, the Licensee shall submit the drilling plans and other pertinent information, required by Chapter 40E-3, F.A.C., to the SFWMD for review and approval. If the well locations are different from those previously reviewed and approved in this Certification, the Licensee shall also submit to the SFWMD, for review and approval, an evaluation of the impacts of the proposed pumpage from the proposed well location(s) on adjacent existing legal users, pollution sources, environmental features, and water bodies.

[Section 373.223, F.S.; Rules 40E22.091, 40E-2.301, and 40E-2.381, F.A.C.]

k. Water Conservation Plan

Prior to commencement of construction the Licensee shall submit a Water Conservation Plan, as required by Chapter 40E-2, F.A.C., in effect at that time, for review and approval by SFWMD staff. The plan shall, at a minimum, incorporate the following components:

(1) An audit of the amount of water needed in the Licensee's operational processes. The following measures shall be implemented within one year of audit completion if found to be cost effective in the audit:

i. Implementation of a leak detection and repair program;

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ii Implementation of a recovery/recycling or other program providing for technological, procedural or programmatic improvements to the Licensee's facilities; and

iii Use of processes to decrease water consumption.

(2) Development and implementation of an employee awareness program concerning water conservation.

D. Natural Gas Pipeline

1. Water Use Conditions

a. The Licensee is authorized to withdraw water from the SFWMD's C-17 Canal for hydrostatic testing of the completed pipeline. The test water shall be returned to the C-17 Canal upon completion of the testing program. The temporary withdrawal of the hydrostatic testing water is considered to be incidental to the pipeline construction and meets the criteria for a No-Notice Short-Term Dewatering General Water Use Permit, pursuant to Rule 40E-20.302(3), F.A.C.

b. The Licensee is authorized to withdraw a maximum of 2.125 MG of water from the SFWMD's C-17 Canal as make-up water to support the horizontal directional drill activities associated with the proposed subaqueous crossing of the C-17 Canal. The temporary withdrawal of the horizontal drill make-up water is considered to be incidental to the pipeline construction and meets the criteria for issuance of a Standard General Water Use Permit, pursuant to Rule 40E-20.301, F.A.C.

[Sections 373.085 and 373.086, F.S.; Rule 40E-6, F.A.C.]

2. Right Of Way Conditions

a. General Conditions

(1) The Licensee shall use the preferred construction method (horizontal directional drill or HDD) for the proposed crossing of the SFWMD's C-17 Canal. The staging area for the HDD shall be located outside of the SFWMD's right-of-way. If the Licensee determines that the HDD method is not technically or economically feasible, the Licensee may submit an application for an amendment or modification to this Certification for approval of an alternative crossing method that is consistent with the criteria set forth in Chapter 40E-6, F.A.C. The application for an amendment or modification shall include documentation demonstrating that the HDD method is not technically or economically feasible.

(2) At least ninety (90) days prior to the commencement of construction of the pipeline, the Licensee shall provide the SFWMD with the final proposed pipeline right-of-way location within the SFWMD's C-17 Canal right-of-way.

(3) At least ninety (90) days prior to the commencement of construction of any portion of the pipeline with the SFWMD's C-17 Canal right-of-way, or any use of SFWMD right-of-way related to construction of the pipeline, the Licensee shall submit complete scaled or fully-dimensioned 8½" X 11" drawings and engineering specifications to the SFWMD showing the proposed facilities for a determination of compliance with the requirements

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of Chapter 40E-6, F.A.C. The drawings shall depict the proposed facilities and uses in both plan and profile views and shall show, at a minimum, the following:

- (i) The proposed location of the facilities in relation to a section line, major road or other prominent well-known landmark by which the facility may be located in the field;
- (ii) The canal right-of-way lines;
- (iii) The top of the canal bank and its elevation (all elevations to be NGVD 1929 Datum);
- (iv) A cross-section of the canal taken at the location of the center line of the inlet structures showing the location of the inlet structures and their intake channel in relation to the existing canal section;
- (v) Erosion control methods and techniques; and
- (vi) Any other pertinent structures or uses.

(4) Within sixty (60) days of completion of the installation of the authorized facilities, the Licensee shall provide the SFWMD with as-built drawings signed and sealed by a Florida professional engineer verifying that the authorized facility was constructed in accordance with the post-Certification design plans previously approved by the SFWMD. As-built drawings shall include the canal design section in relation to the burial depth of the subaqueous crossing. Soundings are to be taken at a maximum of 10 foot intervals, from top of bank to top of bank and tied into the canal right-of-way lines and plotted on standard 10 x 10 cross-section paper or a similar cad drawing. The SFWMD's right-of-way lines, a north arrow, and the design canal section shall be superimposed. Mean Sea Level (MSL) or National Geodetic Vertical Datum (NGVD 1929) will be used as datum and English or a combination of English and equivalent metric units of measure employed.

b. Subaqueous Pipeline Installation Conditions

(1) The authorized installation shall be laid to an elevation which is adequate to provide a minimum of 36 inches of cover below the existing canal section or ultimate canal design section, whichever is deeper. The design section for the C-17 Canal at the proposed crossing location is a canal bottom width of 20' at elevation 0.3' NGVD/MSL, with 2 horizontal to 1 vertical side slopes. The berm width is 25' wide at elevation 14.5' (east) and elevation 14.0' (west).

(2) Backfilling of trenches that cross or otherwise impact the SFWMD's rights-of-way shall be compacted to 95% American Society of Testing Materials (ASTM) D698 standards. The Licensee shall provide the SFWMD with a report prepared by a professional engineer licensed in the state of Florida in which the engineer certifies that the required density has been achieved. Other trenching shall be backfilled in a manner so that compaction levels of the disturbed areas meet or exceed the compaction levels of adjacent undisturbed areas. Any area that exhibits subsidence shall be appropriately filled so no ponding occurs over the pipeline trench. The Licensee is responsible for restoring areas degraded by the authorized use to meet the SFWMD's required levee or berm design elevation based on pre-construction conditions documented by the Licensee and approved by the SFWMD prior to

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commencement of construction. To document pre-construction conditions, the Licensee shall perform a visual inspection of the right-of-way at the crossing location documented by photographs.

(3) The Licensee shall restore the canal right-of-way to pre-construction conditions documented by the Licensee and approved by the SFWMD prior to commencement of construction including, but not limited to, replacement of sod in previously sodded areas. To document pre-construction conditions, the Licensee shall perform a visual inspection of the right-of-way at the crossing location documented by photographs. If installation of the pipeline interferes or conflicts with an existing SFWMD facility, the Licensee shall modify the pipeline alignment to avoid said facility or modify installation so as to meet the SFWMD's requirements.

(4) The Licensee is responsible for identification of potential conflicts with existing facilities permitted by the SFWMD and for coordinating relocation of previously permitted facilities, as required, including obtaining the necessary right-of-way occupancy permit modifications for those previously permitted facilities.

(5) All work associated with the authorized installation within the SFWMD's C-17 Canal right-of-way shall be performed within a 100-foot wide work corridor centered on the installation alignment until such time as detailed engineering and subsurface testing is complete, upon which said 100-foot wide work corridor shall be narrowed to a 50-foot wide work corridor centered on the installation alignment.

(6) The portion of the authorized facilities crossing the SFWMD's rights-of-way must provide a minimum of 3' of cover below the existing ground elevation or the design berm elevation, whichever is lower. Vaults and manholes, if applicable, shall be installed so the top of the facility is set flush with the existing ground and in such a manner so as to withstand the weight of the SFWMD's heavy maintenance equipment and vehicles.

(7) The Licensee shall adequately identify the location of the crossing with a permanent type, above-ground, marker placed within the SFWMD's right-of-way at location(s) specified by the SFWMD's field representative.

(8) At no time shall the C-17 Canal be blocked or flows otherwise restricted or impeded. This shall include a prohibition on dams or fills being placed in the C-17 Canal during all phases of construction and maintenance.

(9) The Licensee and its authorized representatives and contractors shall only have the right to utilize the SFWMD's right-of-way for the pipeline and for those activities, uses and purposes specifically Certified. All other activities, uses and purposes on the SFWMD's right-of-way by Licensee not specifically Certified are prohibited. Furthermore, the Licensee shall not have the right to authorize any other person or entity to utilize the SFWMD's right-of-way for any activity, use, or purpose without the prior written consent of the SFWMD.

(10) The SFWMD reserves the right of priority access in order to perform its regional water management missions and the Licensee shall not interfere with that

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access, particularly during emergencies. Uninterrupted SFWMD access shall be maintained at all times.

(11) The Licensee shall be responsible for any mitigation or permitting arising from impacts to any state or federally listed threatened or endangered species on the SFWMD's right-of-way occurring from the construction or operation of the pipeline, in accordance with the terms and conditions of any State or Federal approvals, and all applicable regulatory laws, including, but not limited to Certification.

(12) The Licensee shall be responsible for relocation of all gopher tortoises on the SFWMD's right-of-way that are impacted by the proposed construction, in accordance with the terms and conditions of any State or Federal approvals, and all applicable regulatory laws, including, but not limited to Certification.

(13) The Licensee, its agents, employees, contractors and subcontractors shall be prohibited from removing any items of historical, architectural, archaeological, or cultural significance.

(14) The Licensee does not have any authority to incur liens for labor or materials on the SFWMD's right-of-way. All persons contracting with the Licensee, all material, men, contractors, mechanics, and laborers are hereby charged with notice they must look to the Licensee, and to the Licensee only, to secure the payment of any bill for work done or any materials furnished during the term of this Agreement. Pursuant to Sections 713.01(21) and (24) Florida Statutes, the SFWMD's right-of-way shall not be subject to liens for improvements and such liability is expressly prohibited. This paragraph shall be included in all contracts with the Licensee for materials for services involving the SFWMD's right-of-way. In the event that the Licensee shall not, within 10 days following the imposition of any such lien, cause the same to be released of record by payment or posting of a bond, the SFWMD shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by the SFWMD, including, but not limited to reasonable attorney's fees and expenses incurred by it in connection therewith, together with interest at the maximum rate allowed by law, shall be payable to the SFWMD by the Licensee on demand.

(15) The SFWMD, its Governing Board members, employees, contractors, and subcontractors, are not responsible or liable for any claims by the Licensee, or any partner, parent, affiliate, or subsidiary, for damages (including special and consequential), loss, expense, or costs with respect to the pipeline or other property or improvements arising directly, indirectly, or proximately from water level fluctuations, water flows, or operations of water control structures.

(16) If in the sole discretion of the SFWMD it becomes necessary to seek the relocation of the pipeline to accommodate the SFWMD's use of the SFWMD's right-of-way for flood control, water storage, water management, conservation and protection of water resources, aquifer recharge, water resource and water supply development, preservation of wetlands, streams and lakes, and/or Comprehensive Everglades Restoration Plan (CERP) purposes (hereinafter referred to as "SFWMD Project Purposes"), the SFWMD shall provide the Licensee at least two (2) years written notice prior to commencing activity on the SFWMD's right-of-way (hereinafter referred to as the "SFWMD's Relocation Notice"). The SFWMD and the Licensee

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may first explore all reasonable alternatives to keep the pipeline in its current location utilizing any reasonable engineering method approved by the SFWMD and the Licensee. However, any relocation is subject to approval by all required Certifying agencies. The Licensee shall be responsible, at its sole cost and expense, for all aspects of relocation and obtaining any and all required approvals.

(17) The Licensee shall be responsible for the increased cost that the SFWMD incurs in the event of canal widening, installation, repair, or replacement of culverts (or other SFWMD facilities) within the SFWMD's right-of-way due to the pipeline being located within the SFWMD's right-of-way. The increased cost shall be determined by the SFWMD requiring its contractor (selected as the lowest responsive and responsible bidder) to provide the following information: an estimate based on work being performed assuming no pipeline is in place, and the accepted bid based on the work being performed with the pipeline in place. The difference between the estimate and the bid constitutes the SFWMD's increased cost. The Licensee shall pay the SFWMD's increased cost no later than thirty (30) days after receipt of written notice from the SFWMD of the amount of the increased cost, the amount of the estimate, the bid submitted by the Contractor, and the name of the contractor submitting the bid. The SFWMD shall provide the Licensee notice if its intent to solicit the aforementioned bids at least 60 days prior to requesting proposals from contractors.

(18) For purposes of this condition, "Pollutant" shall mean any hazardous or toxic substance, material, or waste of any kind or any contaminant, pollutant, petroleum, petroleum product, or petroleum by-product as defined or regulated by environmental laws. "Disposal" shall mean the release, storage, use, handling, discharge or disposal of such Pollutants. "Environmental Laws" shall mean any applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restriction. The Licensee shall not cause the Disposal of any Pollutants upon the SFWMD's right-of-way or upon any adjacent lands. The Licensee shall operate and occupy the SFWMD's right-of-way in compliance with all Environmental Laws. Any Disposal of Pollutants, whether caused by the Licensee or any other third party, shall be reported to the SFWMD immediately upon the knowledge thereof by the Licensee. The Licensee shall be solely responsible for the entire cost of cleanup of any Disposal of Pollutants resulting from the activities of the Licensee, its contractors, subcontractors, agents, and/or assigns with respect to the SFWMD's right-of-way. For good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the Licensee shall indemnify, defend and hold harmless the SFWMD, its Governing Board members, employees, contractors, invitees and agents, from and against any and all claims, loss, damage, cost or liability incurred by the SFWMD, its Governing Board members, employees, contractors, invitees and agents, (including but not limited to reasonable attorney's fees and costs) which arises directly, indirectly or proximately as a result of the Disposal of any Pollutants by Licensee, its contractors, subcontractors, agents, and/or assigns which affects the SFWMD's right-of-way or emanates from the SFWMD's right-of-way to adjacent lands. This responsibility shall continue to be in effect for any such Pollutants as are discovered after the date of termination of this Certification. While this paragraph establishes contractual liability for the Licensee regarding pollution of the subject lands as provided herein, it does not alter or diminish any statutory or common law liability of the Licensee for such pollution.

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(19) In the event the use granted hereunder is either abandoned, terminated, or no longer utilized, the rights granted herein shall terminate and the Licensee, at its sole expense, shall comply with federal, state, and local laws and regulations applicable to removal or closure of the pipeline and all appurtenant facilities.

c. Right-Of-Way Access Conditions

(1) The Licensee shall maintain the SFWMD's right-of-way at all times in a good condition acceptable to the SFWMD.

(2) If deemed necessary by the SFWMD, the Licensee shall construct vehicle turn-around/passing areas to meet SFWMD requirements to accommodate unimpeded continuous access by SFWMD vehicles and equipment.

(3) Prior to any proposed post-construction use of the SFWMD's right-of-way for inspection and maintenance of the pipeline, the Licensee shall submit to the SFWMD, for review and approval, a detailed plan identifying the proposed type and number of vehicles to be used and the frequency of such use. All use of SFWMD right-of-way by the Licensee shall be in accordance with the requirements of Chapter 40E-6, F.A.C., unless otherwise authorized in this Certification.

(4) The Licensee shall only use the access points and gates authorized by the SFWMD. Upon payment of applicable key deposit fees and submission of complete key permit applications, the SFWMD agrees to grant the Licensee the necessary key permits allowing temporary access across SFWMD roads to support the construction needs of the Licensee. The Licensee shall not utilize the SFWMD's right-of-way for the general servicing or maintenance of its construction equipment or for the storage of any contaminant, hazardous substance, fuel or other petroleum products. The Licensee shall take all necessary measures to preclude the general public from accessing those portions of the right of way under construction such as posting of designated construction zones.

(5) Temporary access authorization is for the use of the Licensee and the Licensee's contractor(s)/sub-contractor(s) only.

(6) The Licensee is responsible for providing and utilizing reasonable and adequate dust control measures, as necessary.

(7) No vehicular maintenance/repair activities or substances or parts associated with the repair or maintenance of vehicles/equipment will take place, be used, stored or discarded within the right-of-way nor shall the SFWMD's right-of-way be used for storage or parking of equipment, associated machinery or construction trailers.

(8) The Licensee shall not stockpile excavated material in the canal or within the SFWMD's right-of-way except in areas approved by the SFWMD. The Licensee is responsible for the removal of all excess material from the SFWMD's right-of-way, unless otherwise directed by the SFWMD.

(9) The Licensee shall maintain insurance coverage to the amounts and limits specified by the SFWMD throughout the life of the project. The Licensee is responsible for providing the SFWMD with renewed/updated certificates. Insurance coverage will remain in effect until such time as all activities within the SFWMD's right-of-way have

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ceased, the right-of-way is restored to the pre-construction condition documented by the Licensee and approved by the SFWMD prior to commencement of construction, and the Licensee and the SFWMD agree that insurance coverage may be cancelled. To document pre-construction conditions, the Licensee shall perform a visual inspection of the right-of-way at the crossing location documented by photographs.

d. Special Conditions

(1) Prior to commencement of construction or utilization of the SFWMD's right-of-way, the Licensee is required to contact the SFWMD's field representative at the West Palm Beach Field Station office at (561) 791-4100 to schedule a pre-construction meeting. The Licensee shall prepare and present at the pre-construction meeting a list of 24 hour contact personnel that includes the contractor and designer and their titles and telephone numbers for office, mobile, beeper, home or local residences.

(2) If storm, hurricane, or emergency circumstances are developing, the SFWMD will attempt to provide a forty-eight (48) hour notice. The Licensee will be contacted by telephone or a visit to the construction site wherein the Licensee will be informed of the emergency situation. The Licensee is put on notice that the 48-hour notice is a warning that the SFWMD may or may not be able to provide the Licensee.

(3) If storm, hurricane or emergency circumstances have developed, the SFWMD will contact the Licensee by telephone or visit the site to place the Licensee on 24-hour alert. At this time, the Licensee and the Licensee's contractor(s) and sub-contractor(s) must begin securing the project site and removing equipment, silt barriers and other potential hazards from the canal and right of way per the SFWMD's approved contingency plans.

(4) The Licensee is advised that the SFWMD's hurricane, storm event and/or emergency alert may differ from the National Hurricane Center or the local news and weather. The SFWMD takes into consideration the numerous factors concerning construction within the channel and canal rights-of-way. As such, upon the SFWMD's notification to the Licensee of a pending emergency, storm event, or hurricane, the Licensee has twenty-four (24) hours or less to comply with SFWMD orders and the previously submitted SFWMD-approved contingency plan.

(5) In the event of floods or other natural or civil disasters or emergencies affecting the SFWMD or SFWMD right-of-way, the Licensee shall cooperate with the SFWMD to mitigate the impact of such emergencies. The Licensee shall immediately notify the SFWMD and Palm Beach County of any emergency situation occurring upon the SFWMD's right-of-way.

(6) The Licensee is put on notice that, prior to the placement of additional facilities or alterations to existing facilities other than those specified in the Certification, an amendment or modification to the Certification will first be required.

(7) The Licensee shall comply with any more stringent conditions set forth in other required approvals.

(8) A copy of the application for modification of Site Certification, the amended Certification Order, the SFWMD's post-Certification submittals, and the SFWMD's construction authorization letter will be kept at the construction site until

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completion of all phases of construction and acceptance of the constructed facilities and restoration of the right of way by the SFWMD's field representative.

(9) The Licensee shall be responsible for the removal of all materials and debris from the SFWMD's right-of-way; and, for the repair, replacement and restoration of any sections of the SFWMD's right-of-way damaged or disturbed resulting from the authorized activity. Restoration shall be to pre-construction conditions documented by the Licensee and approved by the SFWMD prior to commencement of construction. To document pre-construction conditions, the Licensee shall perform a visual inspection of the right-of-way at the crossing location documented by photographs. Restoration shall include, but not be limited to, grading/re-shaping, the addition of shellrock or other materials acceptable to the SFWMD, seeding, re-sodding with argentine bahia, or other species acceptable to the SFWMD as drought tolerant.

(10) Should the authorized activities or placement of the authorized facilities within the SFWMD's right-of-way or maintenance of same result in shoaling, erosion or wash-outs of the SFWMD's right-of-way, berm or side slope of the canal, it is the Licensee's sole responsibility and expense to, upon notification from the SFWMD, immediately take appropriate steps to restore the right of way to its pre-construction condition to the satisfaction of the SFWMD.

(11) At no time shall the Licensee place permanent or semi-permanent above-ground encroachments or facilities within the 40-foot wide strip of land lying parallel to the canal as measured from the top of the existing canal bank landward, unless otherwise authorized in this Certification.

(12) A portion of the corridor crossing the SFWMD's C-17 Canal right-of-way falls within a SFWMD-designated staging area. At no time shall the Licensee place above ground facilities within the SFWMD's designated 100-foot long equipment staging areas located at all bridges and pile-supported utility crossings, unless otherwise authorized in this Certification.

(13) Immediately upon completion of the authorized work, the Licensee shall contact the SFWMD's field representative at the West Palm Beach Field Station office at (561) 791-4100 to schedule a final inspection.

e. Standard Limiting Conditions

(1) All structures on SFWMD works or lands constructed by the Licensee shall remain the property of the Licensee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. The Licensee is advised that other federal, state and local safety standards may govern the occupancy and use of the SFWMD's lands and works. The SFWMD assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused to others by any such failure.

(2) The Licensee solely acknowledges and accepts the duty and all associated responsibilities to incorporate safety features, which meet applicable engineering practice and accepted industry standards, into the design, construction, operation and continued maintenance of the authorized facilities/use. This duty shall include, but not be limited to, the

SECTION B: SPECIFIC CONDITIONS

Licensee's consideration of the SFWMD's regulation and potential fluctuation, without notice, of water levels in canals and works, as well as the Licensee's consideration of upgrades and modifications to the authorized facilities/use which may be necessary to meet any future changes to applicable engineering practice and accepted industry standards. The Licensee acknowledges that the SFWMD's review of this project and authorization to commence construction, including, but not limited to, any field inspections performed by the SFWMD, does not in any way consider or ensure that the authorized use/facilities are planned, designed, engineered, constructed, or will be operated, maintained or modified so as to meet applicable engineering practice and accepted industry standards, and provide all safety protections as required by law. The Licensee further acknowledges that any inquiries, discussions, or representations, whether verbal or written, by or with any SFWMD staff or representative during the Certification review process, including, but not limited to, any field inspections, shall not in any way be relied upon by Licensee as the SFWMD's assumption of any duty to incorporate safety features, as set forth above, and shall also not be relied upon by Licensee in order to meet Licensee's duty to incorporate safety features, as set forth above.

(3) The Licensee agrees to abide by all of the terms and conditions of this Certification, including any representations made in the application for modification and related documents. The Licensee agrees to pay all removal and restoration costs, investigative costs, court costs and reasonable attorney's fees, including appeals, resulting from any action taken by the SFWMD to obtain compliance with the Conditions of Certification. In the event the SFWMD brings suit, including appeals, to enforce any of the provisions hereof, the SFWMD shall be entitled to recover from the Licensee all reasonable attorney's fees, and costs, (including but not limited to the fair market value of the SFWMD's in house attorneys' fees based upon private attorneys' fees/rates, as well as costs recoverable under the Statewide Uniform Guidelines for Taxation of Costs in Civil Actions, other provisions of the Florida Statutes and Florida Administrative Code, and any and all costs associated with litigation that are not taxable costs under the cited authorities at all levels of litigation incurred by the SFWMD.

(4) This Certification does not convey any property rights nor any rights or privileges other than those specified herein and this Certification shall not, in any way, be construed as abandonment or any other such impairment or disposition of the SFWMD's property rights. The SFWMD approves the use/facilities authorized in this Certification only to the extent of its interest in the works of the SFWMD. Licensee shall obtain all other necessary federal, state, local, special district and private authorizations prior to the start of any construction or alteration authorized by this Certification. The Licensee shall comply with any more stringent conditions or provisions which may be set forth in other required certifications or other authorizations. The SFWMD, however, assumes no duty to ensure that any such authorizations have been obtained or to protect the legal rights of the underlying fee owner, in those instances where the SFWMD owns less than fee.

(5) Unless specifically prohibited or limited by statute, the Licensee shall indemnify, defend and save and hold harmless the SFWMD (which used herein includes the SFWMD and its past, present and future employees, agents, representatives, officers and Governing Board members and any of their successors and assigns) from and against any and all lawsuits, actions, claims, demands, losses, injuries, expenses, costs, judgments, liabilities, attorneys fees and costs (including but not limited to the fair market value of the SFWMD's in

SECTION B: SPECIFIC CONDITIONS

house attorneys' fees based upon private attorneys' fees/rates, as well as costs recoverable under the Statewide Uniform Guidelines for Taxation of Costs in Civil Actions, other provisions of the Florida Statutes and Florida Administrative Code, and any and all costs associated with litigation that are not taxable costs under the cited authorities at all levels of litigation), which arise from or may be related to the ownership, construction, maintenance or operation of the authorized use or the possession, utilization, maintenance, occupancy, activities conducted upon, and/or ingress and egress of the SFWMD's right-of-way which arise directly, indirectly or proximately and/or are caused in whole or in part by the acts, omissions or negligence of the Licensee, its agents, employees, contractors, subcontractors and/or agents, the SFWMD or of third parties. The Licensee agrees to provide legal counsel acceptable to the SFWMD if requested for the defense of any such claims.

(6) The SFWMD does not waive sovereign immunity in any respect.

(7) The Licensee shall not engage in any activity regarding the authorized use which interferes with the construction, alteration, maintenance or operation of the works of the SFWMD including, but not limited to:

- (i) discharge of debris or aquatic weeds into the works of the SFWMD;
- (ii) causing erosion or shoaling within the works of the SFWMD;
- (iii) planting trees or shrubs or erecting structures which limit or prohibit access by SFWMD equipment and vehicles, except as may be authorized by this Certification;
- (iv) leaving construction or other debris on the SFWMD's right-of-way or waterway;
- (v) damaging SFWMD bank slopes, berms and levees;
- (vi) removal of SFWMD owned spoil material;
- (vii) removal of or damage to SFWMD locks, gates and fencing; and
- (viii) opening of SFWMD rights-of-way to unauthorized vehicular access.

The Licensee shall be responsible for any costs incurred by the SFWMD resulting from any such interference, as set forth in (i) through (viii), above.

(8) The SFWMD is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the SFWMD's canal or any activities which may include use or contact with water from the SFWMD's canal, since the SFWMD periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

(9) The Licensee shall allow the SFWMD to inspect the authorized use at any reasonable time.

SECTION B: SPECIFIC CONDITIONS

(10) The Licensee shall not interfere with any other existing or future certified uses or facilities authorized by the SFWMD.

(11) The SFWMD has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the SFWMD in accordance with criteria established by the, SFWMD, or the U. S. Army Corps of Engineers for the works of the SFWMD.

(12) The Licensee shall be responsible for the repair or replacement of any existing facilities located within the SFWMD's right-of-way which are damaged as a result of the installation or maintenance of the authorized facilities.

(13) It is the responsibility of the Licensee to make prospective bidders aware of the terms and conditions of this Certification. It shall be the responsibility of the Licensee's contractors to understand the terms and conditions of this Certification and govern themselves accordingly.

VII. CITY OF RIVIERA BEACH

A. The site plan and approved use shall be vested for development upon the receipt of a Final Order granting certification pursuant to the Florida Electric Power Plant Siting Act (PPSA). FPL shall record a copy of the Final Site Plan approved by the Siting Board in the public records of the City of Riviera Beach prior to commencement of development.

B. FPL shall comply with the Florida Building Code for the construction of the administration portion of the administration/warehouse/control building.

C. At least thirty (30) days prior to recording the Final Site Plan, FPL shall submit a construction coordination plan to the City to address issues such as fire coordination, demolition coordination, traffic coordination and inspections.

D. FPL shall complete the landscaping on the site plan within ninety (90) days of the commercial operation date of the Riviera Beach Clean Energy Center.

E. All future advertising must state that the development is in the City of Riviera Beach.

[Resolution 124-08]

VIII. CITY OF WEST PALM BEACH

A. Any contractor who will perform demolition or construction activity on property included within the Riviera Beach Energy Center Site Certification that is within the corporate limits of the City of West Palm Beach shall be registered to work in the City of West Palm Beach prior to commencing the demolition or construction activity.

[Sections 18-3 and 22-101 of the City of West Palm Beach Code of Ordinances]

B. Any contractor or sub-contractor who will utilize the Construction Support Area shall register to work within the City of West Palm Beach prior to utilizing the Construction Support Area.

[Sections 18-3 and 22-101 of the City of West Palm Beach Code of Ordinances]

SECTION B: SPECIFIC CONDITIONS

C. The demolition, construction and operation of the Riviera Beach Energy Center, the Construction Support Area and the Manatee Viewing Center shall not create direct or indirect light exceeding 0.5 foot candles when measured in a residential district.

[Section 94-3 10(d) of the City of West Palm Beach Code of Ordinances]

D. Florida Power & Light (FPL) shall provide a Construction Traffic Management Plan (Plan) to the City of West Palm Beach that addresses the impact of the construction traffic no later than 90 days prior to the commencement of site preparation work for the Construction Support Area on North Flagler Drive. The Construction Traffic Management Plan shall address the items listed in 1 through 6 below and shall provide for mitigation of the impacts of the construction traffic. The Plan will be reviewed by the City's Traffic Engineer and the Planning and Zoning Department Staff to ensure that the mitigation measures listed in the Plan are appropriate. If the City identifies additional mitigation measures or modifies the proposed measures, these shall be incorporated into the Plan by FPL.

[Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances]

1. Provide specifics on how the Construction Support Area and the Riviera Beach site and staging area will be accessed, to include hours, types and numbers of vehicles, access route, etc.
2. Provide information on who will park at the Construction Support Area and the plan to regulate the use of the parking.
3. Provide information on how FPL will prevent construction traffic from parking on the City of West Palm Beach local street network.
4. Provide information on how FPL will prevent construction trucks and equipment from driving on the local street network to access the construction support area or the south portion of the plant (Gate 9).
5. Provide an updated traffic study showing the impact/distribution of the vehicles using the Construction Support Area.
6. Provide the specification on the re-striped left turn lane on Broadway Avenue north of 59th Street and the specifics of how the new turn lane will function.

E. The Construction Support Area may not be used to support demolition activities at the Riviera Beach site.

F. No construction traffic, to include workers, deliveries, or construction vehicles, shall park on the City's local street network (North Flagler Drive, 58th and 59th Streets).

[City of West Palm Beach Comprehensive Plan Transportation Element Map 7 "Future (201 8) Roadway Functional Classification"; Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances]

G. No construction vehicles, including deliveries of fuel and materials, shall utilize the City's local street network (North Flagler Drive 58th and 59th Streets). In the event that circumstances require the temporary use of the local street network, FPL shall submit a written request to the City Administrator at least one week prior to the proposed use for approval by the City Administrator or designee.

SECTION B: SPECIFIC CONDITIONS

*[City of West Palm Beach Comprehensive Plan Transportation Element Map 7
"Future (2018) Roadway Functional Classification; Chapters 78 and 86 of the City of West Palm
Beach Code of Ordinances]*

H. No removal of demolition debris shall occur on the City's local street network (North Flagler Drive, 58th and 59th Streets).

*[City of West Palm Beach Comprehensive Plan Transportation Element Map 7
"Future (2018) Roadway Functional Classification; Chapters 78 and 86 of the City of West Palm
Beach Code of Ordinances]*

I. No storage of construction vehicles or outdoor storage of building materials or debris is permitted on the Construction Support Area property.

[Section 94-273(d)(74) of the City of West Palm Beach Code of Ordinances]

J. FPL shall install "Do not block intersection" signs at the intersection of Broadway Avenue and 59th Street at locations as approved by the Florida Department of Transportation in conjunction with the re-striping of Broadway Avenue or thirty (30) days prior to the use of the Construction Parking and Laydown Area, whichever first occurs.

[Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances]

K. The layout of the Construction Support Area, including trailer location, parking, drive aisles, buffering, ADA compliance, etc., shall conform to all City Codes and be submitted for review and approval as a Level I Site Plan (Informal Site Plan Review) at least 120 days prior to beginning site preparation work for the Construction Support Area.

*[City of West Palm Beach Comprehensive Plan Coastal Management Element Policy
1.1.1 ; Section 94-35 of the City of West Palm Beach Code of Ordinances]*

L. A landscape buffer, including a hedge, shall be installed on the perimeter of any fence used to secure the Construction Support Area within five (5) days of the installation of the fence.

[Section 94-443 of the City of West Palm Beach Code of Ordinances]

M. During active use of the Construction Support Area FPL shall provide a six (6) foot high perimeter fence, and 24 hour security monitoring, with lighting to illuminate the site, the fence perimeter and the parking area.

*[City of West Palm Beach Comprehensive Plan Future Land Use Element Objective
2.3 and Policy 2.3.2]*

N. At least sixty (60) days prior to beginning site preparation work for the Construction Support Area, FPL shall submit a Construction Site Security and Management Plan which shall include, but is not limited to, temporary lighting, security personnel, vehicle barriers, construction/visitor pass, reduce/minimize entry/exit points, encourage subcontractors to secure machinery, tools at end of work day, fencing with screening and or any other measure deemed appropriate to provide a safe and secure working environment for approval by the City of West Palm Beach Police Department CPTED official.

SECTION B: SPECIFIC CONDITIONS

[City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2]

O. After site clearing and placement of construction trailers, FPL shall immediately institute the security measures outlined in the Construction Site Security and Management Plan and maintain the measures throughout until the construction is complete.

[City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2]

P. After site clearing and placement of construction trailers, FPL shall immediately post "No Trespassing" signs every 500 feet around the Construction Support Area.

[City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2]

Q. No burning may be used to remove the vegetation.

[Section 38-44 of the City of West Palm Beach Code of Ordinances]

R. The large trees on the Construction Support Area shall be preserved in place so that they may be designed into the Manatee Viewing Center. The Tree Alteration Calculations are required for any non-invasive trees removed, and the mitigation plan for any lost canopy shall be provided at least 180 days prior to beginning site preparation work for the Construction Support Area. All non-native and invasive non-native vegetation shall be removed.

[City of West Palm Beach Comprehensive Plan Coastal Management Element Policies 1.1.1 and 1.1.4; Sections 94-41 and 94-448 of the City of West Palm Beach Code of Ordinances]

S. FPL shall provide a Stormwater Pollution Prevention Plan for the set up and use of the Construction Support Area and construction of the manatee viewing area. The Stormwater Pollution Prevention Plan shall include the paving of the parking area, including all drive aisles and the access point, and a 20 foot sodded area surrounding all paved areas and structures, including the construction trailers. The parking area shall be paved as necessary to provide sufficient erosion and sediment control. The Stormwater Pollution Prevention Plan shall be submitted at least 180 days prior to beginning site preparation work for the Construction Support Area for review and approval by the City's Engineering Services.

[City of West Palm Beach Comprehensive Plan Utilities Element, Stormwater Management Sub-element Policy 1.1.1 ; Sections 90-201 to 90-207 and Section 94-450 of the City of West Palm Beach Code of Ordinances; Ordinance No. 4098-07)]

T. FPL shall comply with the substantive requirements of Section 94-450(f) 30 days prior to the site preparation work for the Construction Support Area.

[Section 94-450 of the City of West Palm Beach Code of Ordinance]

U. At least 90 days prior to beginning site preparation work for the Manatee Viewing Area, FPL shall assist the City in correcting the location of the drainage easement that exists on the property at the northeast corner of the intersection of 59th Street and Flagler Drive.

SECTION B: SPECIFIC CONDITIONS

V. At least 180 days prior to beginning site preparation work for the Construction Support Area, FPL shall coordinate with the City regarding what may be constructed over the stormwater pipe located within the drainage easement.

W. No later than 60 days prior to the commencement of construction of the new facility, FPL and the City of West Palm Beach will agree on a drawdown schedule for the removal of the construction support trailers and other construction related items and structures that relate to the RBEC facility and restoration of the Construction Support Area. In any case, all construction support trailers that relate to the RBEC facility will be removed and the Construction Support Area restored no later than one year following the date upon which FPL provides written notice to the City that the RBEC is placed into commercial operations for purposes of regulatory recovery.

[Section 94-273(d)(74) of the City of West Palm Beach Code of Ordinances, Section 94-450(e)(l)(f) of the City's Zoning and Land Development Regulations]

X. The layout of the Manatee Viewing Center parcel, including the building location, parking, drive aisles, landscape, ADA compliance, lighting levels, provision of overflow parking, bus access, preservation of on-site trees, signage, etc., shall conform to all City Code requirements and be submitted for review and approval as a Level I Site Plan (Informal Site Plan Review) at least 180 days prior to the start of construction of the Manatee Viewing Center parcel improvements. At least 30 days prior to the submittal of the Level I Site Plan for the Manatee Viewing Center to the City's Planning and Zoning Department, FPL shall present the proposed plan to the Northwood Harbor Neighborhood Association for neighborhood comment. The Planning and Zoning Department shall be notified at least seven (7) days prior to the meeting.

[City of West Palm Beach Comprehensive Plan Coastal Management Element Policy 1.1.1 ; Section 94-35 of the City of West Palm Beach Code of Ordinances]

Y. Subject to timely receipt of necessary approvals, FPL shall begin construction of the Manatee Viewing Center parcel improvements as proposed by FPL in the Riviera Beach Energy Center Site Certification Application within one (1) year from the issuance of the commencement of commercial operations at the Riviera Beach Energy Center. FPL may request extensions of such commencement of construction date from the City's Planning Director provided that such extensions shall not exceed two (2) years from the commencement of operations at the Riviera Beach Energy Center also subject to timely receipt of necessary approvals.

[City of West Palm Beach Comprehensive Plan Coastal Management Element Policy 1.1.19]

Z. FPL shall get its potable water and wastewater service for all properties within the City of West Palm Beach's municipal boundary (59th Street landscape buffer and the North Flagler property) from the City of West Palm Beach.

[Section 90-1 of the City of West Palm Beach Code of Ordinances]

AA. After construction on the Riviera Beach Energy Center is complete, fuel trucks shall not access the new oil tank from 59th Street or North Flagler Drive. In the event that circumstances require temporary access for fuel trucks from 59th Street or North Flagler Drive,

SECTION B: SPECIFIC CONDITIONS

FPL shall submit a written request to the City Administrator at least one week prior to the proposed access for approval by the City Administrator or designee.

[Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances]

BB. After construction on the Riviera Beach Energy Center is complete only passenger vehicles may enter the site through Gate 9. In the event that circumstances require temporary access through Gate 9 for commercial vehicles, FPL shall submit a written request to the City Administrator at least one week prior to the proposed access for approval by the City Administrator or designee.

[Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances]

CC. After construction on the Riviera Beach Energy Center is complete, no FPL generated traffic, except passenger and security vehicles, may use 59th Street or North Flagler Drive. In the event that circumstances require temporary access for such vehicles from 59th Street or North Flagler Drive, FPL shall submit a written request to the City Administrator at least one week prior to the proposed use for approval by the City Administrator or designee.

[Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances]

DD. FPL shall maintain an opaque wall at least six (6) feet high at the northern boundary of the 59th Street landscape buffer area.

[Section 94-443 of the City of West Palm Beach Code of Ordinances]

EE. FPL shall maintain the existing landscape in the 59th Street buffer in accordance with the material shown on the "Boundary and Topographic Survey, Riviera Plant Landscape Buffer Area: created by Avirom & Associates, Inc. and dated January 21, 2009. Any missing material shall be replaced within 14 calendar days of becoming evident or if notified by the City of West Palm Beach.

[Section 94-448 of the City of West Palm Beach Code of Ordinances]

FF. Palm Beach County's use of the North Flagler property as a staging area for the County's Artificial Reef Program shall be discontinued and all equipment and material removed from the property by September 1, 2011; provided, however, that FPL may continue to provide access to the water to the County for the Reef Program until June 1, 2014

[Section 94-272(d) of the City of West Palm Beach Code of Ordinances]

GG. Unless the existing dock on the site is integrated into the Manatee Viewing Center, it shall be removed by the time the Construction Support Area is vacated.

[Section 94-304(a) of the City of West Palm Beach Code of Ordinances]

HH. At least 60 days prior to beginning site preparation work for the Construction Support Area, FPL shall submit to the City of West Palm Beach, for its review and approval, applicable construction documents which comply with the City's substantive non-procedural requirements demonstrating that the Construction Support Area structures and improvements that do not directly involve the generation, transmission or distribution of electricity, conform with all provisions of the City of West Palm Beach Code of Ordinances, to include Construction Services, Fire, Engineering and Land Development.

SECTION B: SPECIFIC CONDITIONS

[Section 18-32 of the City of West Palm Beach Code of Ordinances]

II. At least 60 days prior to beginning site preparation work for the Manatee Viewing Center parcel improvements that do not directly involve the generation, transmission or distribution of electricity, FPL shall submit to the City of West Palm Beach, for its review and approval, applicable construction documents which comply with the City's substantive non-procedural requirements demonstrating that the Manatee Viewing Center parcel improvements conform with all provisions of the City of West Palm Beach Code of Ordinances, to include Construction Services, Fire, Engineering and Land Development.

[Section 18-32 of the City of West Palm Beach Code of Ordinances]

JJ. FPL shall request inspections in accordance with the requirements of the building permits issued for any structures or improvements that do not directly involve the generation, transmission or distribution of electricity for the property included within the Riviera Beach Energy Center Site Certification that is within the corporate limits of the City of West Palm Beach.

[Section 18-32 of the City of West Palm Beach Code of Ordinances]

KK. All activity, to include construction related activity, on property included within the Riviera Beach Energy Center Site Application that is within the corporate limits of the City of West Palm Beach shall adhere to the City of West Palm Beach Code of Ordinances.

[Chapters 18, 22,34,38,78,86,90 and 94 of the City of West Palm Beach Code of Ordinances]

LL. Prior to construction of the Manatee Viewing Center, FPL shall submit to the City of West Palm Beach all of the necessary information to ensure compliance with the substantive requirements of a Class B Special Use Permit.

IX. PORT OF PALM BEACH

A. Easements:

1. FPL shall provide a copy of the easement associated with FPL's underground water intake at its current location (Attachment G) to the DEP Siting Coordination Office prior to commencing commercial operation of the RBEC. This condition shall not be construed to affect the validity of existing easements.

2. FPL shall provide a copy of any easement obtained (Attachment H) for the installation, operation, monitoring, inspection, maintenance, repair, and improvement of FPL's underground fuel pipelines and appurtenant equipment to the DEP Siting Coordination Office prior to commencing commercial operation of the RBEC. This condition shall not be construed to suggest that FPL is required to obtain any such easement, unless required for the construction, operation or maintenance of the certified site.

3. Surveys of as-built acquired easements, certified to the Port, shall be provided by FPL within six months of commercial operation of the RBEC.

SECTION B: SPECIFIC CONDITIONS

B. Dismantlement:

No less than 30 days prior to finalizing the details of any dismantlement plan, FPL shall submit a proposed dismantlement plan to the Port Director for review and comment, in order to ensure that the dismantlement minimizes interference and/or interruption with port operations.

C. Steam Blows:

Steam cleaning techniques shall be carried out such that impacts on Port operations are limited. No less than 5 business days prior to the commencement of steam blows, FPL shall notify the Port Director of the planned techniques and timeframes for review.

D. Staging:

Unless otherwise approved by the Port, Port property shall not be used as a staging area for materials or equipment, nor shall any other use of Port property be made by the Licensee for the project without proper Port authorization.

X. PALM BEACH COUNTY

No less than ninety (90) days prior to construction, Licensee shall submit all information necessary for a complete right-of-way permit application including construction plans to the Palm Beach County Land Development Division in accordance with the non-procedural requirements of the Palm Beach County Right-of-Way Construction Permitting Ordinance.

Within thirty (30) days the county will notify the Licensee if any of the information submitted is complete or if further information is necessary. No construction shall occur in the county right of way until the Palm Beach County Land Development Division has reviewed and approved all right of way information.

[Chapter 23, Article III of the Palm Beach County Code – Ordinance 2008-006]

HISTORY

Certification of Riviera Plant (Unit 5) 11/24/2009; signed by Deputy Secretary Drew
Modification 03/15/11; signed by Siting Program Administrator Halpin