

Appendix I: Proposed Conditions of Certification

**STATE OF FLORIDA
DEPARTMENT
OF
ENVIRONMENTAL PROTECTION**



**Proposed
Conditions of Certification**

**Florida Power & Light Company.
West Count Energy Center
Units 1, 2, and 3 Combined Cycle Plant**

PA 05-47SA1

September 15, 2008

CONDITIONS OF CERTIFICATION
FLORIDA POWER & LIGHT COMPANY – WEST COUNTY ENERGY CENTER
PA 05-47SA1
DOAH Case No. 07-5574EPP
OGC Case No. 07-2198

Modified XX/XX/08

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I. CERTIFICATION CONTROL

A. ~~This Certification authorizes an ultimate site capacity for the Florida Power & Light Company's (FPL) West County Energy Center of 3300 MW.~~ Under the control of these Conditions of Certification FPL may construct and operate a ~~2,500~~ 3,800 MW (nominal) facility consisting of ~~two~~ three new units. Each unit will consist of three 250 MW natural gas fired combustion turbines with evaporative inlet cooling systems and with ultra low sulfur light oil as back-up fuel, three supplementary-fired heat recovery steam generators, three 428 MMBTU/hour gas-fired duct burners, three selective catalytic reduction reactors, one 500 MW steam turbine, three 149 feet exhaust stacks, and one 26 cell mechanical draft cooling tower. The ~~two~~ new units will be located on approximately ~~90~~ 170 acres of the approximately 220 acres West County Energy Center site in Palm Beach County, Florida.

B. These Conditions of Certification, unless specifically amended or modified, are binding upon the Licensee and shall apply to the construction and operation of the certified facility. If a conflict should occur between the design criteria of this project and the Conditions of Certification, the Conditions shall prevail unless amended or modified. In the event of conflict between any of these Conditions of Certification, the more specific condition governs. In the event of equal specificity of conflicting Conditions, the more restrictive condition governs.

II. APPLICABLE RULES

The construction and operation of the certified facility shall be in accordance with all applicable provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the following regulations: Chapters 403 and 373, Florida Statutes (F.S.), and Chapters 40E-1, 40E-4, 40E-40, 40E-45, 62-4, 62-17, 62-256, 62-296, 62-297, 62-301, 62-302, 62-531, 62-532, 62-550, 62-555, 62-560, 62-600, 62-601, 62-604, 62-610, 62-620, 62-621, 62-650, 62-699, 62-660, 62-701, 62-762, 62-767, 62-769, and 62-770, Florida Administrative Code (F.A.C.), or their successors as they are renumbered.

III. DEFINITIONS

The meaning of terms used herein shall be governed by the definitions contained in Chapters 373 and 403, Florida Statutes, 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. In addition, the following shall apply:

- A. "DCA" shall mean the Florida Department of Community Affairs.
- B. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.
- C. "DHR" shall mean the Florida Department of State, Division of Historical Resources.

- D. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- E. "FWCC" shall mean the Florida Fish and Wildlife Conservation Commission.
- F. "IWW Permit" shall mean the Florida Industrial Wastewater permit issued by the Department in accordance with the federal Clean Water Act.
- G. "Licensee" shall mean an applicant that has obtained a certification order for the subject electrical power plant.
- H. "NPDES permit" shall mean any federal National Pollutant Discharge Elimination System permit issued in accordance with the federal Clean Water Act.
- I. "NSPS" shall mean new source performance standards as identified in 40 CFR 60.
- J. "Power plant", "facility", or "project" shall mean an electrical power generating plant as defined in Section 403.503(12), F.S. and as described in the Site Certification Application.
- K. "PSD permit" shall mean the federal Prevention of Significant Deterioration air emissions permit issued in accordance with the federal Clean Air Act.
- L. "Title III permit" shall mean any federal permit issued in accordance with Title III of the federal Clean Air Act (Hazardous Air pollutants).
- M. "Title IV permit" shall mean any federal permit issued in accordance with Title IV of the federal Clean Air Act (Acid Rain).
- N. "Title V permit" shall mean any federal permit issued in accordance with Title V of the federal Clean Air Act (Operation).
- O. "SED" shall mean the Department's Southeast District Office.
- P. "SFWMD" shall mean the South Florida Water Management District.
- Q. "UIC permit" shall mean any federal underground injection control permit issued in accordance with the federal Clean Water Act.

IV. FACILITY OPERATION

The Licensee shall at all times properly operate and maintain the West County Energy Center facility and related appurtenances, and systems of treatment and control that are installed and used to achieve compliance with these Conditions of Certification. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with these Conditions of Certification.

Any directly associated linear facilities connecting the collector yard to the switchyard shall be maintained in accordance with the site certification application and any appropriate state and federal regulations concerning use of herbicides. The Licensee shall notify the Southeast District of the Department and the Siting Coordination Office of the type of herbicides to be used at least 60 days prior to their first use.

V. RECORDS MAINTAINED AT THE FACILITY

- A. These Conditions of Certification or a copy thereof shall be kept at the work site of the approved activity.

B. The Licensee shall hold at the facility, or other location designated by this approval, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings or electronic data storage media, for continuous monitoring instrumentation required by this approval, copies of all reports required by this approval, 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. The Licensee shall provide copies of these records to the Department upon request. If the Licensee becomes aware of relevant facts that were not submitted or were incorrect in any report to the Department, such facts or information shall be promptly submitted or corrected.

VI. CHANGE IN DISCHARGES OR EMISSIONS

All discharges or emissions authorized herein shall be consistent with the terms and conditions of these Conditions of Certification. The discharge or emission of any pollutant not identified in the application, or discharged or emitted more frequently than, or at a level in excess of that authorized by these Conditions of Certification, shall constitute a violation of the Certification. Any anticipated facility expansions, production increases, or process modifications which may result in new, different or increased discharge or emission of any pollutant, a change in fuel, or an expansion in steam generating capacity must be reported by submission of an appropriate application for site certification or modification of these Conditions of Certification.

VII. COMPLIANCE

A. The Licensee shall comply with all rules adopted by the Department subsequent to the issuance of this certification, which prescribe new or stricter criteria to the extent that the rules are applicable to electric power plants. Except where express variances have been granted, subsequently adopted rules that prescribe new or stricter criteria, which are applicable to electrical power plants, shall operate as a modification pursuant to Section 403.511(5)(a), F.S.

B. Pursuant to Section 403.511(5)(b), F.S., upon written notification to the Department's Siting Coordination Office, the Licensee may choose to operate 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 this certification, so long as this operation causes no violation of standards or these Conditions of Certification.

C. If, for any reason, the Licensee does not comply with or is unable to comply with any limitation specified in these Conditions of Certification, the Licensee shall notify the Southeast District Office of the Department by telephone during the working day that said noncompliance occurs. After normal business hours, the Licensee shall report any condition that poses a public health threat to the State Warning Point at telephone number (850) 413-9911 or (850) 413-9912. The Licensee shall confirm this situation to

the Southeast DEP District Office in writing within seventy-two (72) hours of becoming aware of such conditions and shall supply the following information:

1. A description of the discharge and cause of noncompliance; and,
2. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and,
3. Steps being taken to reduce, eliminate and prevent recurrence of the non-complying event.

D. The Licensee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying event.

VIII. RIGHT OF ENTRY

The Licensee shall allow authorized agency personnel, including but not limited to representatives of the Florida Department of Environmental Protection, and/or Water Management District, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated:

- A. To enter upon the Licensee's premises where an effluent source is located or in which records are required to be kept under the terms and conditions of this Certification; and
- B. To have access to and to copy any records required to be kept under these Conditions of Certification; and
- C. To inspect the facilities, equipment, practices, or operations regulated or required under these Conditions of Certification; and
- D. To sample or monitor any substances or parameters at any location necessary to assure compliance with these Conditions of Certification.

IX. 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. Any noncompliance with these Conditions of Certification or any condition of a federally delegated or approved permit constitutes a violation of chapter 403, F.S., and is grounds for enforcement action. The Department may initiate enforcement action for any violation of these Conditions of Certification.

B. All records, notes, monitoring data and other information relating to the construction or operation of this certified source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the

certified source arising under the Florida Statutes or Agency rules, except where such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

X. REVOCATION OR SUSPENSION

This certification may be suspended or revoked pursuant to Section 403.512, Florida Statutes, or for violations of any of these Conditions of Certification.

XI. CIVIL AND CRIMINAL LIABILITY

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 Agencies, or any other state statutes or regulations which may apply. As provided in Section 403.511, F.S., the issuance of this Certification does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to human health or welfare, public or private property or any invasion of personal rights. This certification does not allow any infringement of federal, state, or local laws or regulations, nor does it allow the Licensee to cause pollution in contravention of Florida Statutes and Department rules or injury to animal or plant life, unless specifically authorized by an order from the Department or these Conditions of Certification. This Certification is not a waiver of any other Department approval that may be required for other aspects of the total project under federally delegated or approved programs.

XII. PROPERTY RIGHTS

The issuance of this Certification does not convey any property rights in either real or personal property, or any exclusive privileges thereto. The applicant shall obtain title, lease, easement, or right of use from the State of Florida to any sovereign submerged lands utilized by the project.

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 circumstances, is held invalid, the application of such provision to other circumstances and the remainder of the Certification shall not be affected thereby.

XIV. PROCEDURAL RIGHTS

No term or condition of certification shall be interpreted to preclude the post-certification exercise by the Licensee of whatever procedural rights it may have under Chapter 120, F.S.

XV. MODIFICATION OF CONDITIONS OF CERTIFICATION

~~Pursuant to Section 403.516(1), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Secretary of the Department of Environmental Protection to modify these Conditions of Certification:~~

~~A. These Conditions of 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 project. 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. The Secretary of the Department may modify any condition of these Conditions of Certification except those pertaining to a change in fuel.~~
The conditions of this certification may be modified in the following manner:

A. Pursuant to Subsection 403.516(1), Florida Statutes, the Siting Board hereby delegates to the Secretary of the Department of Environmental Protection the authority to modify, after notice and opportunity for hearing, any conditions herein which would not otherwise require approval from the Siting Board.

B. This certification shall be automatically modified to conform to any subsequent amendments, modifications, or renewals made by the Department under a federally delegated or approved program to any separately issued Prevention of Significant Deterioration (PSD) permit, Title V air permit, or National Pollutant Discharge Elimination System (NPDES) permit for the certified facility. The Permittee shall send each party to the original certification proceedings (at the party's last known address as shown in the record of such proceeding) notice of requests for modifications or renewals of the above listed permits if the request involves a new or modified relief mechanism (e.g., mixing zone, variance, etc.) from standards, a relaxation of conditions included in the permit due to state permitting requirements, or the inclusion of less restrictive air emission limitations in the air permits.

C. All other modifications to these conditions shall be made in accordance with Section 403.516, Florida Statutes.

~~D.~~ The Secretary of the Department may modify any condition of these Conditions of Certification if the Secretary finds that an immediate danger to the public health, safety, or welfare requires the issuance of an immediate final order temporarily modifying these Conditions of Certification. If the Secretary elects to exercise this delegated authority, the Secretary shall prepare an immediate final order that recites with particularity the facts underlying the Secretary's finding of an immediate danger to the public health, safety, or welfare. The immediate final order and the modification to the Conditions of Certification shall be effective only for so long as is necessary to address the immediate danger and shall be applicable or enjoined from the date rendered.

~~E.~~ In the event of a prolonged [thirty (30) days or more] equipment malfunction or shutdown of pollution control equipment, the Secretary of the Department may allow facility operation to resume and continue to take place under an immediate final order temporarily modifying these Conditions of Certification, provided that the Licensee

demonstrates that such operation will be in compliance with all applicable ambient air quality standards and PSD increments, water quality standards and rules, solid waste rules, domestic wastewater rules and industrial wastewater rules. During such malfunction or shutdown, the operation of the facility shall comply with all other requirements of these Conditions of Certification and all applicable state and federal emission and effluent standards not affected by the malfunction or shutdown.

XVI. TRANSFER OF CERTIFICATION

This Certification is transferable only upon Department approval in accordance with Section 403.516, F.S., and Rule 62-17.211(3), F.A.C. The Licensee shall be liable for any noncompliance of the approved activity until the transfer is approved by the Department.

XVII. SAFETY

The overall design, layout, and operation of the facilities shall be such as to minimize hazards to humans and the environment. Security control measures shall be utilized to prevent exposure of the public to hazardous conditions. The Federal Occupational Safety and Health Standards shall be complied with during construction and operation.

XVIII. SCREENING

The Licensee shall provide screening of the site to the extent feasible through the use of acceptable structures, vegetated earthen walls, or existing or planted vegetation.

XIX. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS

A. 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 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. Specific criteria are established for such components in Section 62-520.420, F.A.C.

B. 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 telephone report shall be submitted by calling the DEP Southeast 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

makeup (include any Material Safety Data Sheets) 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.

XX. NOISE

Construction and operation noise shall not exceed noise criteria or any applicable requirements of Palm Beach County. The Licensee shall notify area residents in advance of the onset and anticipated duration of the steam blowout of the facility's heat recovery steam generator and steam lines.

XXI. FLOOD CONTROL PROTECTION

The plant and associated facilities shall be protected from flood damage by construction in such a manner as to comply with the appropriate Palm Beach County flood protection requirements or by flood proofing or by raising the elevation of the facilities above the 100-year flood level, whichever is more stringent.

XXII. HISTORICAL OR ARCHAEOLOGICAL FINDS

If historical or archaeological artifacts are discovered at any time within the project site, the Licensee shall notify the DEP Southeast District office and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, Tallahassee, Florida 32399-0250, telephone number (850) 487-2073.

XXIII. ENDANGERED AND THREATENED SPECIES

Prior to start of construction, the Licensee shall survey the certified site for species of animal and plant life listed as endangered or threatened by the federal government or listed as endangered by the state. If these species are found, their presence shall be reported to the Siting Coordination Office, the SED, and the Florida Fish & Wildlife Conservation Commission's Office of Environmental Services. These species shall not be disturbed, if practicable. If avoidance is not practicable, the endangered species shall be treated as recommended by the appropriate agency. Entombment of gopher tortoises shall not be allowed.

XXIV. DISPUTE RESOLUTION

If a dispute situation arises between the Licensee and an Agency exercising its regulatory jurisdiction, the Department will act as mediator to resolve it. If, after mediation, a mutual agreement cannot be reached between the parties, then the matter will be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S.

XXV. LABORATORIES AND QUALITY ASSURANCE

A. The Licensee shall ensure that all laboratory analytical data submitted to the Department, as required by this certification, are from a laboratory which is approved by the Department and meets the requirements of Chapter 62-160, F.A.C.

B. The Licensee shall ensure that all samples required pursuant to this Certification are taken by an appropriately trained technician following EPA and Department approved sampling procedures and chain-of-custody requirements in accordance with Rule 62-160, F.A.C. Records of monitoring information shall follow the guidelines in Rule 62-160.600, F.A.C. All chain-of-custody records shall be retained on-site for at least three (3) years and made available to the Department immediately upon request.

XXVI. POST-CERTIFICATION SUBMITTALS

A. Post-certification Submittals shall be handled pursuant to Rule 62-17.191, F.A.C.

B. Interagency Meetings: Within sixty (60) days of the filing of a complete post-certification submittal, DEP may conduct an interagency meeting with other agencies that received copies of the 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 reasonable assurance of compliance with the conditions of certification has been provided. Failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions of Certification nor to delay the time frames for review established by these Conditions of Certification.

C. Additional Procedures for Post-Certification Submittals (Unit 3 only)

1. The licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due-dates for information required of the licensee are identified. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the Siting Coordination Office and any affected agency or agency subunit to whom the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below or equivalent. (62-17.191, F.A.C.)

<u>Condition Number</u>	<u>Requirement and timeframe</u>	<u>Due Date</u>	<u>Name of Agency or agency subunit to whom the submittal is required to be provided</u>

2. 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 monitoring by the Department of the effects arising from the certified facilities. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with the conditions of certification, without any further agency action.

3. Filings: All post-certification submittals of information by the licensee or copies of applications for separate federal permits which are to be issued by State agencies are to be filed with DEP Siting Office. Copies of each submittal shall also be simultaneously copied to any other agency indicated in the specific conditions requiring the post-certification submittals.

4. Completeness: The DEP shall promptly review each post-certification submittal for completeness. This review shall include consultation with the other agencies receiving the post-certification submittal. For the purposes of this condition, completeness shall mean that the information submitted is both complete and sufficient. If the submittal is found to be incomplete, the licensee shall be so notified. Failure to issue such a notice within forty-five (45) days after filing of the submittal shall constitute a finding of completeness. (62-17.191, F.A.C.)

XXVII. CONSTRUCTION

A. Standards and Review of Plans

1. All construction at the facility shall be pursuant to the design standards presented in the application or amended application and the standards or plans and drawings submitted and signed by an engineer registered in the state of Florida. Specific DEP Southeast District Office acceptance of plans will be required based upon a determination of consistency with approved design concepts, regulations, and these conditions prior to initiation of construction of any: industrial waste treatment facility; domestic waste treatment facility; potable water treatment and supply system; ground water monitoring system, storm water runoff system; solid waste disposal area; and hazardous or toxic handling facility or area. The Licensee shall present specific plans for these facilities for review by the DEP Southeast District Office at least ninety (90) days prior to construction of those portions of the facility for which the plans are then being submitted, unless other time limits are specified in the following conditions herein. Review and approval or disapproval shall be accomplished in accordance with Chapter 120, F.S., or these Conditions of Certification as applicable.

2. The Department must be notified in writing and prior written approval obtained for any material change or revision to be made to the project during construction that is in conflict with these Conditions of Certification. If there is any material change or revision made to a project approved by the Department without this prior written approval, the project will be considered to have been constructed without Departmental approval, the construction will not be cleared for service, and the construction will be considered a violation of these Conditions of Certification.

3. Ninety (90) days prior to the anticipated date of first operation, the Licensee shall provide the Department with an itemized list of any changes made to the facility design and operation plans that would affect a change in discharge, as referenced in Condition VI, subsequent to the time of issuance of this Certification. This preoperational review of the final design and operation shall demonstrate continued compliance with Department rules and standards.

B. Control Measures

1. To control runoff which may reach and thereby pollute waters of the state, necessary measures shall be utilized to settle, filter, treat or absorb silt containing or pollutant laden storm water to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units (NTU) above background in waters of the state or significant degradation of Outstanding Florida Waters in violation of Rule 62-4.242, F.A.C. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5. The Licensee shall comply with the applicable nonprocedural requirements in Rules 40B-4, 40C-42, 40D-4 and/or 40E-4, F.A.C.

2. Any open burning in connection with initial land clearing shall be in accordance with Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum, and any other applicable county regulation. 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., shall be approved by the DEP Southeast District office in conjunction with the Division of Forestry and any other county regulations that may apply. Burning shall not occur if not approved by the appropriate agency or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.

3. Disposal of sanitary wastes from construction toilet facilities shall be in accordance with applicable regulations of the appropriate local health agency.

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

5. The Licensee shall employ proper odor and dust control techniques to minimize odor and fugitive dust emissions. The applicant shall employ control techniques sufficient to prevent nuisance conditions which interfere with enjoyment of residents of adjoining property.

6. The Licensee shall develop the site so as to retain the buffer of natural vegetation as described in the application and in Condition XVIII, Screening.

7. Dewatering operations during construction shall be carried out in accordance with Rule 62-621.300(2), F.A.C.

C. Environmental Control Program

An environmental control program shall be established under the supervision of a Florida registered professional engineer or other qualified person to assure that all construction

activities conform to applicable environmental regulations and the applicable Conditions of Certification. If a violation of standards, harmful effects or irreversible environmental damage not anticipated by the application or the evidence presented at the certification hearing is detected during construction, the Licensee shall notify the DEP District Office as required by Condition VII, Compliance.

D. Reporting

Notice of commencement of construction shall be submitted to the Siting Coordination Office and the DEP Southeast District Office within fifteen (15) days after initiation. Starting three (3) months after construction commences, a quarterly construction status report shall be submitted to the DEP Southeast District Office. The report shall be a short narrative describing the progress of construction.

XXVIII. AIR

A. The terms, conditions, requirements, limitations, and restrictions set forth in Permit PSD-FL-354 (0990646-001-AC) and PSD-FL-396 (0990646-002-AC) which is are attached as Appendix 1 and Appendix 2, and any final issuance, modification, or amendment to such PSD permits, are incorporated by reference herein, and are binding and enforceable Conditions of this Certification. The Licensee is subject to and shall comply with the terms, conditions, requirements, limitations, and restrictions set forth in Appendix 1 and Appendix 2 and any final issuance, modification, or amendment to such PSD permits. A violation of the terms conditions, requirements, limitations, and restrictions in Appendix 1 and Appendix 2 is a violation of these Conditions of Certification.

B. General and Administrative

1. Permitting Authority: All documents related to applications for federally delegated or approved air permits to construct, modify or operate these emissions units shall be submitted to the:

Bureau of Air Regulation (BAR)
Florida Department of Environmental Protection
2600 Blair Stone Road, Tallahassee, Florida 32399-2400

and phone number 850/488-0114. Copies of these documents shall be submitted to the Compliance Authority.

2. Compliance Authority: All documents related to compliance activities for federally delegated or approved air permits such as reports, tests, and notifications shall be submitted to the compliance authority. The compliance authority is the:

Air Quality Division
DEP Southeast District Office
400 North Congress Avenue, Suite 200
West Palm Beach, Florida 33401

3. The owner and operator are subject to, and shall operate under the attached General Conditions listed in Appendix GC of Appendix 1 and any final issuance, modification, or amendment to such PSD permit. General Conditions are binding and enforceable pursuant to Chapter 403 of the Florida Statutes. [Rule 62-4.160, F.A.C.]

4. The proposed new emissions units are:

ID Emission Unit Description

001 Unit 1A – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator

002 Unit 1B – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator

003 Unit 1C – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator

004 Unit 2A – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator

005 Unit 2B – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator

006 Unit 2C – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator

007 - Two nominal 6.3 million distillate fuel oil storage tanks

008 - Two 26 cell mechanical draft cooling towers

009 - Two nominal 85,000 lb/hr (99.8 MMBtu/hr) auxiliary boilers

010 - Two nominal 10 MMBtu/hr gas-fired process heaters

011 - Four nominal 2,250 KW (~ 21 MMBtu/hr) emergency generators

012 - One nominal 300-hp emergency diesel fire pump engine and 500 gallon fuel oil storage tank

013 Unit 3A – one nominal 250 MW CTG with supplementary-fired HRSG

014 Unit 3B – one nominal 250 MW CTG with supplementary-fired HRSG

015 Unit 3C – one nominal 250 MW CTG with supplementary-fired HRSG

016 One 26 cell mechanical draft cooling tower

017 Two nominal 10 MMBtu/hr natural gas-fired process heaters

018 Two nominal 2,250 KW (~ 21 MMBtu/hr) emergency generators

XXIX. INDUSTRIAL AND DOMESTIC WASTEWATER

A. The construction and operation of the West County Energy Center shall be in accordance with all applicable provisions of any required federal permit such as any NPDES permit issued for the West County Energy Center and of any updates or modifications thereto. Upon the issuance of any NPDES permit or any subsequent updates or modifications thereto, these Conditions of Certification will be modified to incorporate the conditions of that permit.

B. The Licensee is hereby authorized to operate wastewater facilities as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof. Domestic

wastewater facilities shall comply with ~~the~~ any applicable provisions of Chapter 64E-6, F.A.C., and Palm Beach County ECR-I. The Licensee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment

C. The construction and operation of the West County Energy Center shall be in accordance with all applicable provisions of ~~any required federal permit such as any~~ UIC permit No. 247895-007-UC (attached as Appendix 3) issued for the West County Energy Center and of any updates or modifications thereto. Upon the issuance of any UIC permit or any subsequent updates or modifications thereto, these Conditions of Certification will be modified to incorporate the conditions of that permit.

XXX. POTABLE WATER

The Licensee is hereby authorized to operate potable water facilities as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof. Non-transient, non-community potable water facilities shall comply with ~~the~~ any applicable provisions of Chapter 62-555, F.A.C., and Palm Beach County ECR-II.

XXXI. SOLID AND HAZARDOUS WASTE

A. The Licensee is hereby authorized to collect any hazardous materials generated on site and to temporarily store them as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof. No hazardous waste is to be permanently stored onsite. Any hazardous waste generated on site shall be contained and transferred for disposal to a properly licensed contractor in accordance with the Department's rules and regulations.

B. The Licensee is hereby authorized to collect any solid waste generated on site and to temporarily store them as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof. No solid waste is to be permanently stored onsite. Any solid waste generated on site shall be contained and transferred for disposal to a properly licensed contractor in accordance with the Department's rules and regulations.

XXXII. WATER MANAGEMENT

A. Administrative

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 Florida

Department of Environmental Protection 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. Reference: Sections 373.044, 373.085, 373.113, 373.223, 373.342, and 373.413, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.101(1), and 40E-6.351, 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. Reference: Sections 373.219, 373.223, 373.229, 373.308, 373.316, 373.413, and 373.416, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.500-531, and 40E6.381, F.A.C.

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), 40E-20 (General Water Use Permits), and 40E-6 (Works or Lands of the District), F.A.C.

d. Off-site Impacts

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. Reference: Sections 373.223 373.309, and 373.413, F.S.; Rules 40E-2.091, 40E-2.381, 40E-3.301(3), 40E-3.301(4), and 40E-6.381, 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. Reference: Sections 373.223 and 373.443, F.S.; Rules 40E-2.091, and 40E2.381, 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. Reference: Sections 373.309, 373.413, and 373.416, F.S.; Rules 40E-3.301 and 40E-6.381, 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. Reference: Sections 373.223, 373.319, and 373.423, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.461, and 40E-6.381, 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, 40E-20, and 40E-6, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder. Reference: Rule 62-17.191, F.A.C.

i. Enforcement

The SFWMD may confer with FDEP to request FDEP 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. Reference: Sections 373.223, 373.319, and 373.603, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.461, and 40E-6.501, F.A.C.; Section 403.514, F.S.

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. Reference: Section 373.413(2), 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, 40E-20, and 40E-6, 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. Reference: Sections 373.413(1) and (2), F.S.

c. Revisions to Site Specific Design Authorizations

The Licensee shall submit, consistent with the provisions of Condition A.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. Reference: Sections 373.085, 373.219, 373.223, 373.313, F.S.; Rules 40E-2.091, 40E-2.301, 40E-3.461, 40E-6.121, and 40E6.221, 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. Reference: Sections 373.044, 373.085, 373.113, 373.129, 373.413 and 373.429, F.S.; Rules 40E-1.601, 40E-4.331, 40E-6.331, and 40E-6.341, 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

The SFWMD and the Licensee may jointly agree to vary the informational requirements. Reference: Sections 373.085 and 373.229, F.S.; Rules 40E2.101(1), 40E-3.101(2), and 40E-6.101(1), F.A.C.

B. 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. Reference: 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 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-3.041, 40E-3.101, 40E-3.411, and 40E-3.500-531, F.A.C.

f. Legal Control Over Project Site

The Licensee must demonstrate the legal right to conduct water use on the project lands, in accordance with Section 2.1.1 of the Basis of Review for Water Use Permits in the SFWMD. Prior to issuance of the Certification Order, the Licensee shall submit copies of

legal documents to the SFWMD that clearly demonstrate ownership or control of the project site, including a sketch map and project acreage, for incorporation into this Certification.

2. Site Specific Design Authorizations

a. Authorized Monthly Withdrawals

This Certification authorizes a maximum monthly withdrawal of 605 MGM from the L-10/L-12 Canal and/or the upper Floridan aquifer for cooling, service, and process water for Units 1 and 2, subject to the limitations set forth in Condition B.2.d below. This authorization includes these sources as a backup water supply for Unit 3, in the event that the reclaimed water supply is temporarily interrupted. This Certification authorizes a maximum monthly withdrawal of 1.09 MGM from the surficial aquifer for potable water for Units 1, 2 and 3. The SFWMD may authorize alternative water supply sources for the project's cooling, service and process water, as set forth in Condition B.2.h below. However, in no instance shall the project's water use exceed a maximum of 605 MGM for its cooling, service and process water demands, except as provided for in Conditions B.2.d(4) and B.2.f below.

b. Authorized Annual Withdrawals

This Certification authorizes an average annual withdrawal of 5,550 MGY from the L-10/L-12 Canal and/or the upper Floridan aquifer for cooling, service, and process water for Units 1 and 2, subject to the limitations set forth in Condition B.2.d below. This authorization includes these sources as a backup water supply for Unit 3, in the event that the reclaimed water supply is temporarily interrupted. This Certification authorizes an average annual withdrawal of 12.78 MGY from the Surficial aquifer for potable water for Units 1, 2 and 3. The SFWMD may authorize alternative water supply sources for the project's cooling, service and process water, as set forth in Condition B.2.h below. However, in no instance shall the project's water use exceed an average of 5,550 MGY for its cooling, service and process water demands, except as provided for in Conditions B.2.d(4) and B.2.f below.

c. Aquifer Performance Test

(1) Authorization to commence withdrawals from the upper Floridan aquifer for the backup water supply for the cooling tower makeup water will not be granted until an Aquifer Performance Test (APT) is completed, evaluated by the SFWMD, and a determination is made by the SFWMD that reasonable assurances have been provided confirming that interference to existing legal users will not occur. The report submitted to the SFWMD on the APT shall include the following and shall be signed and sealed by a Florida Registered Professional Geologist:

- (a) The transmissivity and storage of the proposed pumping zone of the Floridan aquifer;
- (b) An analysis of the potential impacts to existing legal users;
- (c) An impact analysis, if potential impacts to existing legal users are identified.

(2) Upon submittal of the APT report, the SFWMD shall have 30 days to review the report for completeness. If the information is not complete, accurate, or fully documented, the SFWMD shall, within the 30 day time period, request

additional information needed to complete the review of the report. Once the report is deemed complete, the SFWMD shall evaluate the potential for impacts to existing legal users in accordance with the applicable criteria in Rule 40-2, F.A.C., and the Basis of Review for Water Use Permit Applications in the SFWMD.

(3) If the SFWMD determines that the results of the additional site-specific test data confirms the initial conclusion that interference to existing legal users will not occur, then the SFWMD shall provide the Licensee and DEP with written confirmation of this finding within 30 days of submittal of a complete report to the SFWMD on the APT.

(4) If the SFWMD determines that the potential exists for interference with existing legal users as a result of the site-specific test data, then the SFWMD will advise the Licensee and DEP, within 30 days of submittal of a complete report to the SFWMD on the APT, of this conclusion. The SFWMD will review additional submittals of data such as additional modeling, alternative water supplies, and mitigation plans that may be proposed by the Licensee to provide reasonable assurances that interference with existing legal users will not occur. The SFWMD shall have 30 days to review the additional submittals for completeness. Upon completion of the evaluation, the SFWMD will provide the Licensee and DEP with notification of authorization to commence withdrawals from the Floridan aquifer at acceptable rates and will require mitigation, as necessary and appropriate, pursuant to the Basis of Review for Water Use Permits in the SFWMD, to prevent interference with existing legal users. Reference: Sections 373.219 and 373.223, F.S.; Rules 40E-2.091, 40E-2.041, 40E-2.301, and 40E-2.381, F.A.C.

d. Limitations on Authorized Withdrawals

Withdrawals from the L-10/L-12 Canal are authorized, except as indicated below.

(1) Withdrawals from the L-10/L-12 Canal are prohibited when Water Supply Deliveries are being made. Water Supply Deliveries are defined as releases from regional system storage conducted to maintain designated canal stages within the L-10/L-12 Canal that have been depleted by consumptive and non-consumptive uses that occur during dry conditions.

(2) Withdrawals from the L-10/L-12 Canal are prohibited when Regulatory Releases are being made from Lake Okeechobee and water supply demands from existing legal users, authorized prior to May 10, 2006, exceed the capacity of the S-352 structure. Regulatory Releases are defined as releases from Lake Okeechobee that are conducted to pass lake inflows or lower the lake stage for the purpose of current and/or future flood control, pursuant to Lake Okeechobee's Water Supply and Environment (WSE) Regulation Schedule (in effect at the time of withdrawal pursuant to the Water Control Plan for Lake Okeechobee and the Everglades Agricultural Area).

(3) Determination of water availability from the L-10/L12 Canal shall be made by SFWMD Operations Department staff, based on the following criteria:

(a) When the Licensee is withdrawing from the L-10/L-12 Canal, the Licensee shall contact the SFWMD's West Palm Beach Operations Control Center by 8:00 a.m. each Friday for a determination as to whether or not water is available from this source for the following week. In the event that water is unavailable

from the L-10/L-12 Canal for the following week, the Licensee shall have up to 48 hours following the determination of unavailability to cease withdrawals from the L-10/L-12 Canal.

(b) When the Licensee is withdrawing from the Floridan aquifer, the Licensee may (but is not required to) contact the SFWMD's West Palm Beach Operations Control Center by 8:00 a.m. each Friday for a determination as to whether or not water is available from the L-10/L-12 Canal for the following week.

(c) Determination of water availability from the L-10/L-12 Canal shall be made only if water is available for a minimum period of one week. Shorter time-frames will not be authorized by the SFWMD's West Palm Beach Operations Control Center.

(4) If, pursuant to Condition B.2.h, the SFWMD requires or authorizes the Licensee to utilize an alternative water supply source that results in a reduction or increase of the authorized withdrawals set forth in Conditions B.2.a and B.2.b above, the SFWMD shall petition the DEP for a modification to these Conditions of Certification.

e. Authorized Withdrawal Facilities

Prior to commencement of construction of the withdrawal facilities, the Licensee shall submit the details of the proposed withdrawal facilities (number of wells, well diameter, well depth, casing depth) for review and approval by the SFWMD. These Conditions of Certification shall be modified at a future date to reflect the specific withdrawal facilities authorized by the SFWMD.

f. Emergency Withdrawals

Any withdrawals from the L-10/L-12 Canal, the Floridan aquifer, or 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.

g. 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 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.

h. Alternative Water Supplies

(1) Reclaimed Water Supply: Units 1 and 2

(a) Upon written notification from the SFWMD that a reliable source of reclaimed water is available at the project site to provide Units 1 and 2 with cooling water in a quality that meets the reclaimed water user requirements and limitations set forth in Rule 62-610, F.A.C., and would not require significant modifications to the plant's water pre-treatment system, the Licensee shall conduct a feasibility evaluation in accordance with Section 3.2.3.2 of the Basis of Review For Water Use Permit Applications in the SFWMD to determine the environmental, technical, and economic feasibility of utilizing reclaimed water. The evaluation shall include an analysis of potential conflicts with facility permit requirements such as air emission control and wastewater disposal.

(b) In conducting the feasibility evaluation, it shall not be deemed to be economically feasible for the Licensee to use reclaimed water unless the PSC authorizes the recovery of the additional costs associated with reclaimed water use.

(c) If the feasibility evaluation demonstrates that the use of reclaimed water is feasible, the Licensee shall provide the SFWMD with a schedule for reclaimed water use, for the SFWMD's review and approval, within 90 days of such notification. Once the use of reclaimed water has been approved by the SFWMD and established, withdrawals of surface water from the L-10/L-12 Canal, the Floridan aquifer, or any other authorized use of excess storm water shall be reduced in proportion to the volume of reclaimed water to be used by Units 1 and 2.

(2) Reclaimed Water Supply: Unit 3

(a) Reclaimed water shall be the primary cooling, service and process water source for Unit 3, pursuant to the Reclaimed Water Agreement between Palm Beach County and the Licensee, entered into on May 20, 2008, and all the agreements referenced and incorporated therein including amendments thereto.

~~(2)~~ (3) Excess Storm Water

(a) Upon identification of a reliable alternative source of excess storm water available at the project site from the L-8, the L-8 water storage ponds, or other sources to serve Units 1 and 2 in a quantity and quality acceptable to the Licensee, and which does not result in a conflict with permit requirements for the facility, the Licensee shall provide the SFWMD with a schedule for use of the excess storm water for the SFWMD's review and approval.

(b) Once the use of excess storm water has been approved by the SFWMD and established, withdrawals of surface water from the L-10/L-12 Canal and/or ground water from the Floridan aquifer shall be reduced in proportion to the volume of excess storm water to be used by Units 1 and 2.

~~(3)~~ (4) Dual-Purpose Floridan Aquifer Wells

(a) If determined to be mutually beneficial, the Licensee and the SFWMD shall enter into an agreement to share the water made available by, and the costs associated with, the permitting, construction, and operation of dual-purpose aquifer storage and recovery (ASR) wells.

(b) Once withdrawals of ASR water have been approved by the SFWMD and established, the use of surface water from the L-10/L-12 Canal and/or excess storm water authorized under this certification shall be reduced in proportion to the volume of ASR water to be used by Units 1 and 2.

i. 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 62-17.211, 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 62-17.211, F.A.C.

j. 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 nonprocedural 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.

Reference: Sections 373.229 and 373.308, F.S.; Rules 40E-2.091, 40E-2.301, and 40E3.500-531, F.A.C.

k. Reporting Requirements

Prior to the use of any proposed withdrawal facility authorized under this Certification, the Licensee shall equip each 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. In addition, the Licensee shall submit a report of recalibration for the water use accounting system for each water withdrawal facility (existing and proposed) authorized under this Certification 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 Licensee shall specify the water accounting method and means of calibration on each report.

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

l. 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.

Reference: Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.101, 40E-3.411, and 40E-3.500-531, F.A.C.

m. New Well Construction

Prior to construction of any new or replacement 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. Reference: Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.

n. Water Conservation Plan

Prior to the commencement of construction of Units ~~1 and 2~~ 3, the Licensee shall submit a revised 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:

(a) Implementation of a leak detection and repair program;

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

(c) Use of processes to decrease water consumption.

(2) Development and implementation of an employee awareness program concerning water conservation. Reference: Sections 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.

3. Special Conditions

a. General Requirements

(1) Prior to commencement of construction or utilization of the SFWMD's right of way, the Licensee shall contact the SFWMD's field representative at the West Palm Beach Field Station office to schedule a pre-construction meeting.

(2) The Licensee shall comply with any more stringent conditions set forth in other required permits and approvals for the certified facility.

(3) A copy of the Certification application, Certification order, SFWMD post-certification submittals, and the SFWMD's construction authorization letter will be kept at a location to be determined until 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.

(4) The Licensee shall be responsible for the removal of all materials and debris from the SFWMD's canal and 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 the satisfaction of the SFWMD and shall include grading/re-shaping, seeding, re-sodding with bahia, argentine, or other species recognized by the SFWMD as a drought tolerant species.

(5) Should the authorized activities or placement of the authorized facilities or within the SFWMD's right of way or maintenance of same contribute to 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 to the extent of the Licensee's contribution to such shoaling, erosion or wash-out.

(6) 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 or any post-certification approvals.

(7) 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 or any post-certification approvals.

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

b. Inlet Structure

(1) This inlet structure shall be for surface water withdrawals from the West Palm Beach (L-12 Extension) Canal only. The use of this installation as a discharge facility is not authorized.

(2) The top of any rip-rap or other slope protection must match the elevation of the existing ground.

(3) The Licensee shall construct the inlet structure and associated slope protection to preclude erosion.

(4) The Licensee shall obtain prior approval from the SFWMD for any fill pads or other areas needed for temporary or long-term construction staging

within SFWMD right-of-way. Said fill pads or other staging areas shall not encroach the canal section. The Licensee is advised that approvals from the Florida Department of Transportation (FDOT) may be required for such facilities.

c. Temporary Use of SFWMD Right Of Way for Construction

Activities

(1) Work activities within the L-12 Extension Canal are prohibited between May 1st and October 31st. Any work activities initiated before May 1st shall be completed by May 1st. The Licensee may submit a request to the SFWMD to conduct limited construction activities as may be required, to prepare for construction or to complete work already underway. Such request(s) shall be submitted to the SFWMD at least 30 days prior to October 31st in order to commence work prior to October 31, and at least 30 days prior to May 1 in order to continue work after May 1. Approval of any such request shall be at the sole discretion of the SFWMD.

(2) Prior to commencement of construction or utilization of the SFWMD's right of way, the Licensee shall contact the SFWMD's field representative at the West Palm Beach Field Station office to schedule a pre-construction meeting. The Licensee shall prepare and present the following items at the pre-construction meeting.

(a) A list of 24 hour contact personnel. The list shall include the contractor and designer, their titles and telephone numbers for office, mobile, beeper, home or local residences.

(b) A written inventory of the type of vehicles, construction equipment, other machinery and materials which will be located within the SFWMD's right of way.

(c) Written procedures for the clearing of all construction materials, coffer dam, machinery, equipment barges or other floating equipment and vehicles from the canal and the area immediately adjacent to the canal within 24 hours notice from the SFWMD.

(d) A list containing the names and contact numbers of the individuals responsible for the various operations involved in the clearing procedures.

(3) The Licensee is responsible for providing and utilizing acceptable dust control measures throughout the life of project.

(4) 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.

(5) The Licensee shall not stockpile excavated material in the canal. Any temporary stockpiling of excavated material within the canal right of way shall be addressed at the preconstruction meeting and, if approved, shall be at the sole discretion of the SFWMD. The Licensee is responsible for the removal of all excess project related material from the SFWMD's right of way, unless otherwise authorized in this Certification or any post-certification approvals.

(6) Licensee shall certify to SFWMD initially, and in subsequent years as requested by the SFWMD, in the form of an affidavit, that Licensee is self-insured. Licensee shall submit to SFWMD an audited financial statement to

support its affidavit of self-insurance and as evidence of Licensee's financial ability to comply with the conditions stated herein.

d. Storm Event Notifications/Requirements During Construction Activities

(1) 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.

(2) 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 temporary equipment from the canal per the SFWMD's approved contingency plans, including any temporary sheet pile cofferdam. The SFWMD will not require removal of any part of the cofferdam structure that will become part of the permanent inlet structure.

(3) 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.

e. Removal of Exotic/Nuisance Vegetation

(1) The Licensee shall remove all exotic vegetation from within the SFWMD's right of way throughout the limits of the project and keep the right of way free of said exotic vegetation throughout the life of the project.

(2) The Licensee is put on notice that successful removal of the exotic vegetation may require the application of a suitable herbicide on cut stumps, etc. by following manufacturers label instructions.

(3) The Licensee shall take all precautions to not damage or destroy existing native (indigenous) vegetation located within the SFWMD's right of way throughout the project limits.

(4) The Licensee shall not remove, cut, trim or treat with herbicide applications any mangrove or other shoreline vegetation native (indigenous) to the region. (5) The Licensee shall maintain the project area on a regular cycle basis and keep the right of way free of excessive weeds and exotic vegetation. Reference: Sections 373.044, 373.113, 373.085(1), 373.086, 373.103, 373.129, and 373.603, F.S.

D. Everglades Works of the District

Prior to the commencement of construction of the surface water management system or any modifications thereto that involve off-site discharges, the Licensee shall submit the details of the proposed surface water management system design/modifications to the SFWMD for a determination of compliance with the nonprocedural requirements of Chapter 40E-63, F.A.C. All plans, details, and calculations shall be signed and sealed by

a Florida Registered Professional Engineer. Upon review of the submitted plans/calculations, the Licensee may be required to incorporate additional water quality treatment methods, a Best Management Practices Plan, and a Water Quality Monitoring Plan into the project design.

XXXIII. TRANSPORTATION

A. Traffic control shall be maintained during plant construction and operations in compliance with the standards in the Manual on Uniform Traffic Control Devices; Statewide Minimum Level of Service Standards, Rule Chapter 14-94, F.A.C.; Florida Department of Transportation's Roadway and Traffic Design Standards; and Florida Department of Transportation Standard Specifications for Road and Bridge Construction, whichever is more stringent.

B. Operation of overweight or overdimensional vehicles by the applicant on State transportation facilities during the construction and operation of the West County Energy Center shall be subject to safety and permitting requirements of Chapter 316, F.S., and Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Rule Chapter 14-26, F.A.C.

C. Any new access to the State Highway System shall follow the provisions of, State Highway System Connection Permits, Administrative Process, Chapter 14-96, F.A.C. and State Highway Access Management Classification System and Standards, Rule Chapter 14-97, F.A.C.

D. Any use of State of Florida right of way and certain activities on State transportation facilities will be subject to the requirements of the Department of Transportation's Utility Accommodation Manual (Document 710-020-001) and Utilities Installation or Adjustment, Rule Chapter 14-46, F.A.C. and Section 337.403, F.S.

E. Any drainage onto State of Florida right of way and transportation facilities will be subject to the requirements of Drainage Connections, Rule Chapter 14-86, F.A.C.

F. Any structures proposed in the application which exceed 200 feet in height will be subject to an aeronautical study by the Federal Aviation Authority under the provisions of 14 CFR Part 77. The Licensee must obtain any necessary variances. Specifically, for Unit 3 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 of Transportation Airspace Obstruction Permit Application, in accordance with the instructions therein.

G. The Licensee shall encourage transportation demand management by:

1. Placing a bulletin board on site for car pooling advertisements.
2. Requiring that heavy construction vehicles remain on site for the duration of their use during construction to the extent practicable.

H. The Licensee shall be encouraged to install a Soil Tracking Prevention Device in accordance with the Florida Department of Transportation's Roadway and Traffic Design Standards. Index 106 or any other approved suitable alternative technique to minimize offsite tracking of sediment.

I. If the Licensee uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the Licensee shall 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, F.A.C.

J. All infrastructure crossings of State Road 80 shall be subject to the requirements of the Florida Department of Transportation's Utility accommodation Manual (Document 710-020-001) and Rule Chapter 14-46, F.A.C. The placement of the waterline shall take into consideration the possible widening of State Road 80. If future widening of State Road 80 occurs, the cost of relocating the waterline shall be borne by the Licensee unless the terms and conditions of Section 337.403, F.S., are met. State Road 80 has been identified as Florida Intrastate Highway System (FMS) and Strategic Intermodal System's (SIS) facilities. The placement of any new transmission lines or pipelines for Unit 3 should take into consideration the planned widening of these facilities. The cost of relocating or reconstructing the transmission lines or pipelines will be borne by the applicant to the extent required by Section 337.403, Florida Statutes, and Rule Chapter 14-46, Florida Administrative Code.

K. All traffic impacts to State roadway facilities on the FMS or the SIS, or funded by Section 339.2819, Florida Statutes, 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, Florida Administrative Code, in accordance with Section 163.3180(10), Florida Statutes. All traffic impacts resulting from

Unit 3 to State roadway facilities not on the FIHS, the SIS, or funded by Section 339.2819, Florida Statutes, will be subject to adequate level of service standards established by the local governments.

I. Railroad Spur: Any newly proposed railroad crossing must comply with the criteria established in Rule Chapter 14-57, Florida Administrative Code (FAC). The following criteria must be considered in opening a new public highway-rail grade crossing on any state, county, or city roadway:

1. Safety.
2. Necessity for rail and vehicle traffic.
3. Alternate routes.
4. Effect on rail operations and expenses.
5. Closure of one or more public railroad-grade crossings to offset opening a new crossing.
6. Design of the grade crossing and road approaches.
7. Presence of multiple tracks and their effect upon railroad and highway operations.

The installation of a new public highway-rail grade crossing must have as a minimum roadside flashing lights and gates on all roadway approaches to the crossing. The installation of the crossing surface and signals must be in accordance with current Manual of Uniform Traffic Control Devices (MUTCD), Federal Railroad Administration Rules and Regulations, American Association of State Highway and Transportation Officials (AASHTO) Policy, and the Department's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (Florida's Green Book).

Areas of concern to be considered in determining the rail crossing location are as follows:

- Roads crossing the tracks at a skewed angle or where the track is curved or superelevated;
- Impaired sight distance for motorists and rail engineers;
- Highway intersections within 75 feet of the crossing which create a greater potential for accidents and create minimal vehicle storage distance;
- Crossings that are blocked for long periods of time;
- Switching movements or turnouts;
- Different elevations of tracks.

XXXIV. EMERGENCY MANAGEMENT

A. The Licensee shall prepare a West County Energy Center hurricane preparation and recovery plan. The plan shall be submitted to the Department of Community Affairs and the Palm Beach County Office of Emergency Management no later than completion of building construction code compliance review of the West County Energy Center by Palm Beach County.

B. The Licensee shall formally update the plan every five (5) years following commencement of commercial operation of the West County Energy Center and whenever an additional electrical generating unit is brought into service at the West County Energy Center site. The updated plan shall be submitted to the Department of Community Affairs and the Palm Beach County Office of Emergency Management.

C. The Department of Community Affairs will review the plan and any plan update. If the Department of Community Affairs deems the plan or any plan update not to be in compliance with the requirements of these Conditions of Certification, it may petition the Department for enforcement of this condition pursuant to the Florida Electrical Power Plant Siting Act.

XXXV. PALM BEACH COUNTY

The licensee shall comply with the requirements contained within Development Order Resolution Number R-2002-0009, as amended via Resolution Number R-2004-0401 and Resolution Number R-2007-2144.

XXXVI. SPECIAL CONDITIONS

A. Consistent with the intent of Executive Order 07-127 and the recommendations of the Treasure Coast Regional Planning Council, and in recognition of the commitments made by the licensee in the WCEC Unit 3 Site Certification Application regarding renewable generation projects in Florida, the licensee shall (subject to timely receipt of necessary permits, approvals and acceptable cost recovery):

1. Develop, design, construct and operate a wind generation project with a capacity of up to 20 megawatts (MW) at or near the FPL St. Lucie power plant site (or other approved sites in Florida) by December 31, 2010.
2. Develop, design, construct and operate solar generating facilities with a capacity of up to 300 MW in Florida by December 31, 2013 which would include a successful demonstration of the Martin plant solar project.

B. Upon issuance of an affirmative determination of need by the Public Service Commission for the Riviera Plant modernization project, the licensee shall (subject to timely receipt of necessary permits, approvals and acceptable cost recovery):

Take all prudent and commercially reasonable actions to convert the Riviera Power plant to natural-gas combined cycle generating technology by December 31, 2015.

History

Certified	12/26/06
Modified	03/29/07
Certified	xx/xx/08