---STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
GULF POWER COMPANY
SMITH UNIT 3
PA 99-40A

CONDITIONS OF CERTIFICATION **Modified 06/17/05**

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List of Appendices & Attachments

I. ~~GENERAL~~ **[replaced by Section A. Condition I. Scope]**

~~The following general and specific conditions shall apply to the construction and operation of the Lansing Smith Plant Unit 3.~~

A. *~~Definitions~~* **[replaced by Section A. Condition IV. Definitions]**

~~The meaning of the terms used herein shall be governed by the definitions contained in Chapters 403, 378, 373, 372, and 253, Florida Statutes (F.S.), and any regulation adopted pursuant thereto and the statutes and regulations of any agency. 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:~~

~~1. "Application" shall mean the Site Certification Application (SCA) for the Gulf Power Company Smith Unit 3, as supplemented.~~

~~2. "DEP" or Department shall mean the Florida Department of Environmental Protection.~~

~~3. "DHR" shall mean the Florida Department of State, Division of Historical Resources.~~

~~4. "Emergency conditions" shall mean urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity, and necessitating new or replacement gas pipeline, transmission lines, or access facilities.~~

~~5. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.~~

~~6. "FFWCC" shall mean the Florida Fish and Wildlife Conservation Commission.~~

~~7. " Licensee" shall mean the Gulf Power Company (Gulf).~~

~~8. "Power plant" shall mean the electric power generating plant and appurtenances to be modified or constructed on the Smith Station site in Bay County, as generally depicted in the Application.~~

~~9. "Project" shall mean the Smith Unit 3 and all associated facilities, including but not limited to: the combined cycle unit, fuel and water storage tanks, natural gas delivery metering station and onsite appurtenances, air pollution control equipment, storm water control facilities, the cooling tower and related facilities.~~

~~10. "NWFWMD" shall mean the Northwest Florida Water Management District.~~

B. *~~Applicable Rules~~* **[replaced by Section A. Condition II. Applicable Rules]**

~~The construction and operation of the Smith Unit 3 shall be in accordance with all applicable provisions of at least the following regulations of DEP: Chapters 62-4, 62-17, 62-814, 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, 62-770, and 62-25, Florida Administrative Code (F.A.C.), or their successors as they are renumbered.~~

II. ~~CHANGE IN DISCHARGE~~ [replaced by Section A. Condition XIV. Enforcement, paragraph A. and Section A. Condition XXIV. Modification of Certification, paragraph B.]

~~All discharges or emissions authorized herein shall be consistent with the terms and conditions of this certification. The discharge of any regulated pollutant not identified in the application, or more frequent than, or at a level in excess of that authorized herein, shall constitute a violation of the certification. Any anticipated facility expansions beyond the certified initial generating capacities of the existing units or Unit 3, production increases, or process modifications which may result in new, different, or increased discharges of pollutants, or expansion in steam generation capacity shall be reported by submission of an application for modification pursuant to Chapter 403, F.S.~~

III. GENERAL CONDITIONS

~~A. Facilities Operation~~

~~1. Gulf shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by Gulf to achieve compliance with the conditions of this certification, and are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the approval and when required by Department rules.~~ **[replaced by Section A. XXXII. Facility Operation]**

~~2. In the event of a prolonged [thirty (30) days or more] equipment malfunction or shutdown of air pollution control equipment, operation may be allowed to resume and continue to take place under an appropriate Department order, provided that the Permittee demonstrates that such operation will be in compliance with all applicable ambient air quality standards and PSD increments, solid waste rules, domestic wastewater rules and industrial wastewater rules. During such malfunction or shutdown, the operation of the Smith Station shall comply with all other requirements of this certification and all applicable state and federal emission and effluent standards not affected by the malfunction or shutdown which is the subject of the Department's order.~~
[replaced by Section A. Condition VI. Federal Permits]

~~*3.* Gulf shall comply with the terms and conditions contained in Industrial Wastewater Facility Permit FL0002267 and Permit No. PSD-FL-269 and, any revisions, modifications or reissuances thereof.~~ **[replaced by Section A. Condition VI. Federal Permits]**

B. *~~Non-Compliance Notification~~* **[replaced by Section A. Condition VIII. Notification and Condition XXXIV. Water Discharges.B.]**

~~If, for any reason, the Licensee (defined as the applicant or its successors and or assigns) does not comply with or will be unable to comply with any limitation specified in this certification, the Licensee shall notify the Northwest District Office of the DEP by telephone at (850) 444-8300 or the Northwest District Branch Office at (850)~~

~~872-4375. After normal business hours, report any condition that poses a public health threat to the State Warning Point under telephone number (850) 413-9911 or (850) 413-9912. Gulf shall confirm this non-compliance in writing at 160 Government Center, Suite 308, Pensacola, Florida 32501-5794 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 non-compliance, including exact dates and times; or if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying event.~~

~~3. Spill Notification~~

~~Gulf shall report all critical (having potential to significantly pollute surface or ground waters) spills of liquid or liquid-solid materials, not confined to a building or similar containment structure, to the Department by telephone immediately after discovery and submit a written report within forty-eight hours, excluding weekends, from the original notification. The telephonic report shall be submitted by calling the Northwest District Industrial Wastewater Compliance/Enforcement Section under telephone number (850) 444-8300. After normal business hours, 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) 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 areal size 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.~~

C. ~~Safety~~

~~1. 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 will be complied with during construction. The Safety Standards specified under Section 442.20, F.S., by the Division of Safety of the Florida Department of Labor and Employment Security shall also be complied with.~~ ***[replaced by Section A. Condition XVI. Regulatory Compliance]***

~~2. 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 Section 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.~~ **[replaced by Section A. Condition XXXIV. Water Discharges.A.]**

D. Enforcement **[replaced by Section A. Condition XIV. Enforcement.A]**

~~The Department may take any and all lawful actions as it deems appropriate to enforce any condition of this certification.~~

E. Design and Performance Criteria **[replaced by Section A. Condition VII. Design and Performance Criteria]**

~~The power plant may be operated at up to the maximum electrical output projected from design information without the need for modifying these conditions. Treatment or control facilities or systems installed or used to achieve compliance with the terms and conditions of this certification are not to be bypassed without prior DEP approval. Moreover, the Licensee shall take all reasonable steps to minimize any adverse impacts resulting from noncompliance with any limitation specified in this certification, including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.~~

F. Certification - General Conditions

~~1. The terms, conditions, requirements, limitations and restrictions set forth in these conditions of certification are the same as "Permit Conditions" and 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 a condition of certification or condition of a federally delegated or approved permit constitutes a violation of chapter 403, F.S., and is rounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. Gulf is placed on notice that the Department will review this approval periodically and may initiate enforcement action for any violation of these conditions.~~ **[replaced by Section A. Condition XIV. Enforcement, A]**

~~2. This approval is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved draw ings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department.~~ **[replaced by Section A. Condition XV. Revocation or Suspension]**

~~3. As provided in Subsections 403.087(6), 403.511, and 403.722(5), F.S., the issuance of this approval 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 approval is not a waiver of or approval of any other Department approval that may be required for other aspects of the total project under federally delegated programs which are not addressed in this certification.~~ **[replaced by Section A. Condition XVI. Regulatory Compliance]**

~~4. This certification does not relieve Gulf Power from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this approved source, or from penalties therefore; nor does it allow Gulf to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The Licensee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of these Conditions which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a Licensee in an enforcement action that it would have been~~

~~necessary to halt or reduce the permitted activity in order to maintain compliance with these Conditions.~~ **[replaced by Section A. Condition XVI. Regulatory Compliance]**

~~5. In accepting this certification, Gulf Power Company understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this approved source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the approved source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.~~ **[replaced by Section A. Condition XIV. Enforcement B.]**

~~6. This certification is transferable only upon Department approval in accordance with Section 403.516, F.S., Rules 62-4.120 and 62-730.300, F.A.C., as applicable. Gulf shall be liable for any noncompliance of the approved activity until the transfer is approved by the Department.~~ **[replaced by Section A. Condition XXVIII. Transfer of Certification]**

~~7. These conditions of certification or a copy thereof shall be kept at the work site of the approved activity.~~ **[replaced by Section A. Condition XXXIII. Records Maintained at the Facility]**

8. ~~Gulf shall comply with the following:~~ **[replaced by Section A. Condition XXXIII. Records Maintained at the Facility]**

~~a. Upon request, Gulf 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.~~

~~b. Gulf 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 for continuous monitoring instrumentation) required by the 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. Data utilized to prepare the application may be maintained at the following locations:~~

~~Gulf Power~~

~~Smith Facility:~~
~~4300 CR 2300~~
~~Southport, Florida 32409~~

~~Pensacola:~~
~~One Energy Place*~~
~~Pensacola, Florida 32520-0328~~

~~c. Records of monitoring information shall include:~~

~~(1) the date, exact place, and time of sampling or measurements;~~

~~(2) the person responsible for performing the sampling or measurements;~~

~~(3) the dates analyses were performed;~~

~~(4) the person responsible for performing the analyses;~~

~~(5) the analytical techniques or methods used;~~

~~(6) the results of such analyses.~~

~~9. These Conditions may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Licensee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.~~ **[replaced by Section A. Condition XV. Revocation or Suspension]**

~~10. The Licensee, by accepting these Conditions, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, 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, to~~ **[replaced by Section A. Condition XI. Right of Entry]**

~~a. Enter upon the Licensee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under these Conditions;~~

~~b. Have access to and copy any records that shall be kept under the conditions of these Conditions;~~

~~c. Inspect the facilities, equipment, practices, or operations regulated or required under these Conditions; and~~

~~d. Sample or monitor any substances or parameters at any location necessary to assure compliance with these Conditions or Department rules.~~

~~11. In accepting these Conditions, the Licensee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by section 403.111, Florida Statutes, or Rule 62-620.302, Florida Administrative Code. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules.~~ **[replaced by Section A. Condition XIV. Enforcement]**

~~12. When requested by the Department, the Licensee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating these Conditions, or to determine compliance with the permit. The Licensee shall also provide to the Department upon request copies of records required by these Conditions to be kept. If the Licensee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department.~~ **[replaced by Section A. Condition XI. Right of Entry and Condition XV. Revocation or Suspension]**

~~13. Unless specifically stated otherwise in Department rules, the Licensee, in accepting these Conditions, agrees to comply with changes in Department~~

~~rules and Florida Statutes after a reasonable time for compliance; provided, however, the Licensee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.~~ [replaced by Section A Condition III. Revisions to Department Statutes and Rules]

~~14. The Licensee, in accepting these Conditions, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C.~~ [deleted – applicable to NPDES permit (federal)]

15. 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. [moved to Section B Condition I. Department of Environmental Protection, A]

~~16. The permittee shall apply for a revision to any Department issued PSD, Title V, or Industrial Wastewater permit in accordance with Department Rules in Chapter 62, Florida Administrative Code, at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with applicable rules for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in the applicable portions of Chapter 62, F.A.C.~~ [replaced by Section A. Condition VI. Federal Permits – “”]

~~17. The Licensee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The Licensee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of these Conditions. The notice shall include the following information:~~ [replaced by Section A. Condition VIII. Notification]

~~a. A description of the anticipated noncompliance;~~

~~b. The period of the anticipated noncompliance, including dates and times; and~~

~~c. Steps being taken to prevent future occurrence of the noncompliance.~~

~~18. Water quality sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate.~~ [replaced by Section A. Condition XXVIII. Laboratories and Quality Assurance]

~~a. Monitoring results shall be reported at the intervals specified elsewhere in these Conditions and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10).~~

~~b. If the Licensee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.~~

~~c. Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in these Conditions.~~

~~d. Under chapter 62-160, F.A.C., sample collection shall be performed by following the protocols outlined in "DER Standard Operating Procedures for Laboratory Operations and Sample Collection Activities" (DEP-QA-001/92). Alternatively, sample collection may be performed by an organization who has an approved Comprehensive Quality Assurance Plan (CompQAP) on file with the Department. This CompQAP shall be approved for collection of samples from the required matrices and for the required tests.~~

~~19. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in these Conditions shall be submitted no later than 14 days following each schedule date.~~

~~When requested by the Department, Gulf shall within a reasonable time furnish any information required by law which is needed to determine compliance with the certification. If Gulf becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.~~[Replaced by Section A. Condition XI. Right of Entry. B.]

G. Laboratories and Quality Assurance **[replaced by Section A. Condition XXVIII. Laboratories and Quality Assurance]**

~~1. The Licensee shall ensure that all laboratory analytical data submitted to the Department, as required by this certification, must be from a laboratory which has a currently valid and Department approved Comprehensive Quality Assurance Plan (CompQAP) [or a CompQAP pending approval] for all parameters being reported, as required by Chapter 62-160, F.A.C.~~

~~2. When a contract laboratory is used to analyze samples required pursuant to this certification, the Licensee is required to have the samples taken by qualified personnel following EPA and Department approved sampling procedures and chain-of-custody requirements in accordance with Rule 62-160, F.A.C.~~

~~3. When an in-house laboratory is used to analyze samples required pursuant to this permit, the Licensee is required to have the samples taken by a qualified technician following EPA and Department approved sampling procedures and chain-of-custody requirements. All chain-of-custody records must be retained on-site for at least three (3) years and made available to the Department immediately upon request.~~

H. Procedures for Post-Certification Submittals **[replaced by Condition XXII. Procedures for Post-Certification Submittals]**

~~1. Purpose of Submittals~~

~~Conditions of certification which provide for the post-certification submittal of information to DEP by Gulf are for the purpose of facilitating DEP's monitoring of the effects arising from plant construction, the mitigation of wetlands lost or impacted due to project construction, or changes in plant design after site certification. 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.~~

~~2. Filings~~

~~All post-certification submittals of information by Gulf are to be filed with DEP. Copies of each submittal shall be simultaneously submitted to any other agency indicated in the specific conditions requiring the post-certification submittals.~~

~~3. 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 found to be incomplete, Gulf 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.~~

~~4. Interagency Meetings~~

~~Within sixty (60) days of the filing of a complete post-certification submittal, DEP may conduct an interagency meeting with other agencies which 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 nor to delay the time frames for review established by these conditions.~~

~~5. Reasonable Assurance of Compliance~~

~~Within ninety (90) days of the filing of a complete post-certification submittal, or 45 days after a submittal is made by the applicant, or unless another date is specified herein, DEP shall give written notification to Gulf and the agencies to which the post-certification information was submitted of its determination whether there is reasonable assurance of compliance with the conditions of certification. If it is determined that reasonable assurance has not been provided, Gulf shall be notified with particularity and possible corrective measures suggested. Failure to notify Gulf in writing within ninety (90) days of receipt of a complete post-certification submittal shall constitute a compliance determination.~~

~~6. Commencement of Construction~~

~~If DEP does not object within the time period specified in Condition III.H.5. above, Gulf may begin construction pursuant to the terms of the conditions of certification and the subsequently submitted construction details.~~

IV. ADVERSE IMPACT [replaced by Section A. Condition XIV. Enforcement and moved to Section B. Condition I. Department of Environmental Protection. E.]

~~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 to determine the nature and impact of the noncomplying discharge.~~

V. RIGHT OF ENTRY [replaced by Section A. Condition XI. Right of Entry]

~~The Licensee shall allow during normal business hours the Secretary of the Florida Department of Environmental Protection and/or authorized representatives, including representatives of the NWFWMD upon the presentation of credentials:~~

~~1. To enter upon the Licensee's premises where an emission or effluent source is located or in which records are required to be kept under the terms and conditions of this certification;~~

~~2. To have access during normal business hours (Monday-Friday, 7:00 a.m. to 3:30 p.m.) to any records required to be kept under the conditions of this certification for examination and copying;~~

~~3. To inspect and test any monitoring equipment or monitoring method required in this certification and to sample any discharge or pollutants, or monitor any substances or parameters at any location reasonably necessary to assure compliance with this certification or Department rules; and,~~

~~4. To assess any damage to the environment or violation of ambient standards.~~

VI. REVOCATION OR SUSPENSION [replaced by Section A. Condition XV. Revocation or Suspension]

~~This certification may be suspended or revoked for violations of any of its conditions pursuant to Section 403.512, F.S.~~

VII. CIVIL AND CRIMINAL LIABILITY [replaced by Section A. Condition XVIII. 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 Department or Chapter 403, F.S., or regulations thereunder.~~

~~Subject to Section 403.511, F.S., this certification shall not preclude the institution of any legal action or relieve the Licensee from any responsibilities or penalties established pursuant to any other applicable state statutes or regulations.~~

VIII. PROPERTY RIGHTS [Replaced with Condition XIX. Use of State Lands]

~~The issuance of this certification does not convey any property rights in either real or personal property, nor any exclusive privileges, nor 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 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.~~

IX. SEVERABILITY [replaced by Section A. Condition 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 provisions to other circumstances and the remainder of the certification shall not be affected thereby.~~

X. REVIEW OF SITE CERTIFICATION [replaced by Section A. Condition XXIV. Modification of Certification]

~~The certification shall be final unless revised, revoked, or suspended pursuant to law. At least every five (5) years from the date of issuance of certification the Department may review these conditions of certification and propose any needed changes.~~

XI. MODIFICATION OF CONDITIONS [replaced by Section A. Condition XXIV. Modification of Certification]

~~A. Pursuant to Subsection 403.516(1), F.S., the Siting Board hereby delegates the authority to the Secretary to modify any condition of this certification.~~

~~B. Subject to the notice requirements of 403.516(1), F.S., the certification shall be automatically 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, or Industrial Wastewater permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES) permit program for the project and the conditions of such permits shall be controlling over these Conditions of Certification.~~

XII. CONSTRUCTION

A. Standards and Review of Plans [replaced by Section A. Condition VII. Design and Performance Criteria, Condition XXX. Environmental Resources, paragraph A., Condition XXXIV Water Discharges, Condition XXXV. Solid and Hazardous Waste, and Section B. Condition I.B.]

~~1. The facility shall be constructed pursuant to the design standards presented in the application and the standards or plans and drawings submitted and signed by an engineer registered in the state of Florida. Specific Northwest 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 facilities; domestic waste treatment facilities; potable water treatment and supply systems; ground water monitoring systems and storm water runoff systems; solid waste disposal areas; and hazardous or toxic handling facilities or areas. The Applicant shall present specific facility plans for these facilities for review by the Northwest 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 changes, modification, or revision to be made to the project during construction which is in conflict with these conditions of certification. If there are any changes, modification, 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 the conditions of certification.~~

~~3. Ninety (90) days prior to the anticipated date of first operation, Gulf 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 II since the time of the approval of these conditions. This pre-operational review of the final design and operation shall demonstrate continued compliance with Department rules and standards.~~

B. Control Measures

1. Storm Water Runoff [Replaced with Section A. Condition VI. Federal Permits, paragraph B., 1 and 2 and by Section A. XXX. Environmental Resources, paragraph B.]

~~To control runoff during construction 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 above background in waters of the state. 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 Chapter 62-25, F.A.C.~~

2. Open Burning [replaced by Condition X. Section A. Construction Practices, paragraph B]

~~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 Northwest District Office in conjunction with the Division of Forestry and any other county regulations that may apply. Burning shall not occur unless 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. Sanitary Wastes [Deleted]

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

4. Solid Wastes [moved to Section A. Condition X, Construction Practices, paragraph C]

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

5. Noise [moved to Section B. Condition VII. Bay County]

Construction noise shall not exceed noise requirements of the Bay County Land Development Code where applicable.

6. Dust and Odors [Moved to Section B. Condition I. Department of Environmental Protection, paragraph I]

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 on adjoining property.

7. Transmission Lines [Moved to Section B. Condition I. Department of Environmental Protection, paragraph J]

The directly associated transmission lines from the Smith Station electric switchyard to the existing Gulf Power Company transmission lines shall be maintained in accordance with the application and the appropriate state and federal regulations concerning use of herbicides. Gulf shall notify the Department of the type of herbicides to be used at least 60 days prior to its first use.

8. Protection of Vegetation [replaced by Section A. Condition XXX. Environmental Resources, paragraph C.]

~~The Licensee shall develop the site so as to protect by buffering or transplanting any rare, endangered or threatened species of vegetation as identified in the wetlands mitigation plan.~~

9. Dewatering Operations [replaced by Section A. Condition XXX. Environmental Resources, paragraph B.5.]

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

10. Historical or Archaeological Finds [replaced by Section B. Condition V. Department of State – Division of Historical Resources]

~~If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the project site, the Licensee shall notify the DEP Northwest 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.~~

C. Environmental Control Program [moved to Section B. Condition I. Department of Environmental Protection, paragraph D]

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 are detected during construction, the Licensee shall notify the Northwest District Office as required by Condition III.B.

D. Reporting [replaced by Section A, Condition XXX, paragraph B.6. and 8]

~~Notice of commencement of construction shall be submitted to the Siting Coordination Office and the Northwest District Office within fifteen (15) days of initiation.~~

~~Starting three (3) months after construction commences, a quarterly construction status report shall be submitted to the Northwest District Office. The report shall be a short narrative describing the progress of construction.~~

XIII. AIR [replaced by Section A. Condition VI. Federal Permits, paragraph A.]

A. ~~Unit 3 General and Administrative Requirements~~

~~1. Regulating Agencies: All documents related to applications for permits to construct, operate or modify an emissions unit should be submitted to the Bureau of Air Regulation (BAR), Florida Department of Environmental Protection (FDEP), at 2600 Blair Stone Road, Mail Station 5505, Tallahassee, Florida 32399-2400 and telephone number (850) 488-0114. All documents related to reports, tests, and notifications should be submitted to the DEP Northwest District Office, 160 Governmental Center, Pensacola, Florida 32501-5794.~~

~~2. The terms, conditions, requirements, limitations, and restrictions set forth in Permit PSD-FL-269, which is attached as Appendix E, and those portions of Title V Final Permit No. 0050014-0108-AV, which is attached as Appendix D, that pertain to Unit 3 (Emissions Units 4-9) , to these Conditions, and any final issuance, modification, or amendment to such PSD permit and/or Title V Permit, 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 Appendices D and E. A violation of the terms conditions, requirements, limitations, and restrictions in Appendices D and E is a violation of these Conditions of Certification.~~

~~3. The Department is delegated the authority to modify these Conditions of Certification to conform them to any subsequently issued amendment or modification to Permit No. PSD-FL-269 and/or Title V Permit No. 0050014-0108-AV (which pertain to Emissions Units 4-9) pursuant to Conditions XI. A and B, above.~~

~~4. The provisions set forth below in Conditions XIII.B,C, and D are excerpted from PSD Permit no. PSD- FL-269 and Title V Permit No. 0050014-0108-AV.~~

~~B. Unit 3 Emission Limits and Standards~~

~~The following table is a summary of the BACT determination. Values are corrected to 15% O_2 on a dry basis.~~

~~Emission Unit~~	~~NO_X (1)~~	~~CO BACT~~	~~SO_2/SAM BACT~~	~~VOC BACT~~	~~PM/Visibility (% Opacity)~~	~~Technology and Comments~~
~~C.T.'s: With Duct Burners~~	~~82.9 lb/hr~~	~~16 ppm @ 15% O_2~~	~~2 gr/100 scf natural gas (3)~~	~~4 ppm @ 15% O_2~~	~~10 - gas~~	~~Dry Low NO_X Combustors Natural Gas, Good Combustion~~
~~Steam power Augmen-tation~~	~~113.3 lb/hr~~	~~23 ppm @ 15% O_2~~	~~2 gr/100 scf natural gas (3)~~	~~6 ppm @ 15% O_2~~	~~10 - gas~~	~~Unit limited to 1000 hours per year of operation~~
~~Cooling Tower~~					~~18.2 lb/hr (2)~~	~~Drift Eliminators~~

~~(1) NO_X limits not determined by BACT.~~
~~(2) Listed for informational purposes only.~~

~~(3) See Fuel Monitoring Schedule in Title V Permit Specific Condition~~

~~1. Emissions Units 004 and 005:~~

~~a. *Description*: Each unit is a combined-cycle combustion turbine with electrical generator set and is capable of a maximum of approximately 574 megawatts in combined cycle operation with power augmentation and evaporative cooling at 95 degrees F.~~

~~b. *Fuels and Capacity*: Only pipeline natural gas shall be fired in these units.~~

~~(1) Combustion Turbine Capacity: The maximum heat input rate, based on the lower heating value (LHV) of the fuel at ambient conditions of 65°F temperature, 100% load, and 14.7 psi pressure shall not exceed 1,927 million Btu per hour (MMBtu/hr) for each combustion turbine when firing natural gas. The maximum heat input rates will vary depending upon ambient conditions and the combustion turbine characteristics. Manufacturer's curves corrected for site conditions or equations for correction to other ambient conditions shall be provided to the Department of Environmental Protection (DEP) within 45 days of completing annual compliance testing.~~

~~(2) Heat Recovery Steam Generator equipped with Duct Burner: The maximum heat input rate of each natural gas fired duct burner shall not exceed 303 MMBtu/hour (LHV).~~

~~c. *Controls*: Dry Low NO_X (DLN) combustors shall be maintained on the stationary combustion turbine and Low NO_X burners shall be maintained in the duct burner arrangement to comply with the NO_X emissions limits listed in Title V Specific Conditions DLN systems shall each be maintained as per manufacturer's recommendation. Drift eliminators shall be maintained on the cooling tower to reduce PM/PM_{10} emissions.~~

~~2. *Emissions Unit 006*: Cooling Tower is a regulated emission unit. The Cooling Tower is not subject to a NESHAP because Chromium-based chemical treatment is not used.~~

~~3. *Emissions Unit 007:* Material handling of coal and ash.~~

~~4. *Emissions Unit 008:* Fugitive PM emissions generated by haul trucks and other on-site vehicles.~~

~~5. *Emissions Unit 009:* General Purpose Internal Combustion Engines. Located for use at this source are miscellaneous internal combustion engines used to operate the following: welders, compressors, generators, water pumps, sweepers, and other auxiliary equipment.~~

~~6. *Continuous Monitors:* The permittee shall maintain and operate a continuous emission monitor in the stack to measure and record the nitrogen oxides emissions from these units. Periods when NO_X emissions are above the standards, listed in Title V Permit Specific Conditions, shall be reported to the DEP Northwest District Office within one working day (verbally) followed up by a written explanation postmarked not later than three (3) working days (alternatively by facsimile within one working day).~~

~~*C. Unit 3 Compliance Determination*~~:

~~1. Continuous compliance with the NOx emission limits:~~

~~Continuous compliance with the NOx emission limits shall be demonstrated with the CEM system based on the applicable averaging time of 30 day rolling average (DLN). Based on CEMS data, a separate compliance determination is conducted at the end of each operating day and a new average emission rate is calculated from the arithmetic average of all valid hourly emission rates from the previous operating day. A valid hourly emission rate shall be calculated for each hour in which at least two NOx concentrations are obtained at least 15 minutes apart. A valid operating day shall consist of at least one valid operating hour. These excess emissions periods shall be reported as required in Condition 41. Continuous compliance with the 0.1 lb/MMBtu limit for the duct burners will be demonstrated through continuous compliance with the combined duct burner and CT emission limits (see Title V Specific Condition 46). [Rule 62-4.070 and 62-204.800(7), F.A.C.~~

~~2. Compliance with the SO_2 and PM/PM_{10} emission limits:~~

~~Not withstanding the requirements of Rule 62-297.340, F.A.C., the use of pipeline natural gas is the method for determining compliance for SO_2 and PM_{10}. For the purposes of demonstrating compliance with the 40 CFR 60.333 SO_2 standard, ASTM methods D4084-82 or D3246-81 (or equivalent) for sulfur content of gaseous fuel shall be utilized in accordance with the EPA-approved custom fuel monitoring schedule or natural gas supplier data may be submitted or the natural gas sulfur content referenced in 40 CFR 75 Appendix D may be utilized. However, the applicant is responsible for ensuring that the procedures in 40 CFR 60.335 or 40 CFR 75 are used when determination of fuel sulfur content is made. Analysis may be performed by the owner or operator, a service contractor retained by the owner or operator, the fuel vendor, or any other qualified agency pursuant to 40 CFR 60.335(e) (1998 version). A certification following installation (and prior to startup) shall be submitted that the drift eliminators were installed and that the installation is capable of meeting 0.001 gallons/100 gallons recirculation water flowrate.~~

~~3. Compliance with CO emission limit:~~

~~An initial test for CO, concurrent with the initial NOx test, is required. The initial NOx and CO test results shall be the average of three valid one-hour runs. Annual compliance testing for CO may be conducted at less than capacity when compliance testing is conducted concurrent with the annual RATA testing for the NOx CEMS required pursuant to 40 CFR 75. Alternatively to annual testing in a given year, periodic tuning data may be provided to demonstrate compliance in the year the tuning is conducted.~~

~~4. Compliance with the VOC emission limit~~:

~~An initial test is required to demonstrate compliance with the VOC emission limit. Thereafter, the CO emission limit and periodic tuning data will be employed as surrogate and no annual testing is required.~~

XIV. STORMWATER DISCHARGE [replaced by Section A. Condition VI. Federal Permits, paragraph B. 3 and 4 and Condition XXX. Environmental Resources, paragraph B.]

~~A. New construction on the Smith site must meet the requirements of Chapter 62-25 of the Florida Administrative Code, as well as the design requirements presented in the Site Certification Application (SCA). Stormwater discharges from the Unit 3 facilities shall be in compliance with Permit No. FLR05F710. Gulf Power is required to continue to update the Smith Station's Storm Water Pollution Prevention Plan (SWPPP) annually, as required and to implement the annual revisions to the SWPPP.~~

~~B. This certification is predicated on the Gulf Power's submitted information to FDEP which reasonably demonstrates that adverse off-site water resource related impacts will not be caused by the authorized activities.~~

~~C. FDEP representatives shall be allowed reasonable escorted access to the power plant site to inspect and observe any activities associated with the Smith Unit 3 Project construction and/or the operation and/or maintenance of the surface water management system in order to determine compliance with the conditions of this certification. The Gulf Power shall not refuse immediate entry or access, upon reasonable notice, to any FDEP representative who requests entry for the above noted inspection and presents appropriate credentials.~~ [replaced by Section A. Condition XI. Right of Entry]

~~D. The Gulf Power shall hold and save FDEP harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, operation, maintenance and/or use of any facility authorized by this certification, to the extent allowed under Florida law.~~[deleted]

XV. DOMESTIC WASTEWATER [moved to Section B. Condition I. Department of Environmental Protection. Paragraph E.]

Gulf is authorized to dispose of domestic wastewater from Unit 3 in the existing Lansing Smith sewage treatment system. Any future request for expansion in onsite treatment capacity may require approval to construct and operate any such new facility and would be subject to the non-procedural provisions of Chapter 403, F.S., and F.A.C. Chapter 62-4, and pertinent chapters within the 62-300, 62-500 and 62-600 Series.

XVI. DRINKING WATER FACILITIES [moved to Section B. Condition I. Department of Environmental Protection, paragraph G.]

A. Use of Existing Facilities

The approval to operate and expand the distribution system for the existing potable water distribution system is subject to the non-procedural provisions of Chapter 403, F.S., and pertinent Chapters within the F.A.C. Rules in Chapter 62-500 Series and Chapter 62-699. Gulf is approved to continue to operate the existing, permitted potable water system as shown on any previously-submitted and approved drawings, plans, and other documents attached thereto or on file with the DEP or Department of Health and made a part thereof. Gulf will submit a copy of any revisions to current plans to the DEP NW District Office.

Pursuant to Rule 62-555.540, F.A.C., any proposed extension of the potable water system to serve the expanded plant facilities may be undertaken following the filing with the DEP a completed copy of DEP Form 62-555.910(1), F.A.C. Such form shall be submitted no later than 90 days prior to beginning work on the extension of the distribution system to serve the new connections. This activity shall be subject to the requirements of Rule 62-555.540, F.A.C.

The conditions set forth on conditions XV.B. and C. below shall apply to any future construction or expansion of any potable water system on the site.

B. Prior Approval

1. No portion of a new potable water supply system or any portion of a water system that will be or is intended to be converted to potable water use at a later date may be constructed without prior written approval from the Department. Construction of any portion of a new potable water supply system without the prior written approval of the Department will be considered a violation of the conditions of certification.

2. In order to obtain approval to construct a new onsite water supply system where the potable water is to be supplied by an off-site water supply system, the following information must be submitted to the Department no earlier than eighteen (18) months prior to nor later than six months prior to the date that the water supply system is proposed for construction:

a. A completed and fully executed application form which complies with the nonprocedural requirements of the rules and regulations of the Department in effect as of the date that the request for approval to construct the system is made to the Department; however, the Department will not accept "An Intent to Use a General Permit" for such a project. Reference: F.A.C. Rules 62-4.050, 62-555.500, .520, and .530.

b. Complete specifications for the material and workmanship covering the entire new potable water supply system for which the request for approval to construct is being made. The specification must be signed and sealed by an engineer registered in the state of Florida and must provide documentation that the material and workmanship will comply with all applicable nonprocedural rules of the Department in effect as of the date that the request for approval to construct is made to the Department. Reference: F.A.C. Rules 62-4.050, Rules 62-2.555.520, 62-555.530, and 21H-23.

c. Complete engineering drawings of the entire proposed potable water supply system for which approval to construct is being made. The drawings must demonstrate full compliance with all applicable nonprocedural rules and regulations of the Department in effect as of date that the request for approval to construct is made to the Department. The drawing must be signed and sealed by an engineer registered in the state of Florida. Reference: F.A.C. Rules 62 and 4.050, 62-555.520, 62-555.530, and 21H-23.

d. Signed and sealed comprehensive engineering report on the new potable water supply system which fully describes that project and basis of design. The report must include design data and such pertinent data to give an accurate understanding of the work to be undertaken and must provide supporting documentation that the new potable water system as proposed will comply with all applicable nonprocedural rules and regulations of the Department in effect as of the date that the request for approval to construct the water supply system is made to the Department. Reference: F.A.C. Rules 62-4.050, 62-555.520, 62-555.530, and 21H-23.

e. Documentation that the public water supply system supplying the water has the capacity in its water treatment system to serve the project and that the existing water transmission line from that system's water treatment plant to the point of connection with water supply system Gulf is proposing to construct has been designed and sized to provide sufficient water to meet the demand of Gulf project. Reference: F.A.C. Rules 62-4.050, 62-555.350, 62-555.520, and 62-555.530.

3. Should Gulf request approval to construct a potable water treatment system which produces a waste stream (e.g., softening, electrodialysis, reverse osmosis, etc.) other than as described in the original SCA, Gulf must submit as part of its request for approval to construct that water supply system documentation that the disposal of that waste stream has been approved by the appropriate agency or section of the Department.

C. Construction

1. Gulf must retain the services of a project engineer registered in the state of Florida to observe that the construction of any changes in the water supply system is in accordance with the plans and specifications approved by the Department. The project engineer will be responsible for certifying to the Department that he/she observed the construction and that the construction conformed to the plans and specifications approved by the Department.

2. The approval to construct a new or modify the existing potable water supply system will be in effect for two (2) years from the date of issuance. All construction of the potable water supply system must be completed within this two (2) year period unless a written request for an extension of this date is made to the Department at least sixty (60) days prior to the expiration of the construction approval, and written approval for an extension of the expiration date is issued by the Department. The expiration date of the construction approval may be extended on a year-by-year basis. The maximum length of time that the approval or each subsequent approval for the construction of the potable water system may be in effect is five (5) years from the date of the original approval or for subsequent approvals from the date of issuance of each approval. Should the construction of the water supply system not be completed within that five (5) year period, should Gulf have failed to request a timely extension of the approval expiration date, or should any water quality analysis submitted with the request for an extension of the expiration date demonstrate the presence of a contaminant for which the water treatment plant was not originally designed to handle, or as additional wells are installed on-site and proposed for connection to the potable water system, Gulf will have to make a new request to the Department for approval to construct the potable water system. That request must meet the submittal and approval requirements of the rules of the Department in effect as of the date that the request for approval is submitted and will be subject to the same review schedule as the original request.

3. No future, modified portion of the potable water supply system may be placed into service without the prior written approval of the Department except as authorized herein for extension of the potable water distribution system. Placing any

portion of a modified potable water supply system into service prior to receipt of this written approval will be considered as a violation of the conditions of certification.

4. The Department will not issue approval to place the modified or new potable water supply system or any portion of that system into service unless the construction of the system or portion thereof had been approved for construction by the Department prior to the commencement of that construction.

5. In order to obtain approval to place a new portion of the potable water supply system into service, Gulf must make a written request for clearance to the Department. The request must be in the form and/or manner stipulated in the letter authorizing construction of the potable water supply system and must include all information stipulated in that letter as being required to be submitted with the request for clearance, as well as any information required for clearance of a potable water supply system contained in applicable rules and regulations of the Department in effect as of the date that the request for clearance is made.

6. The Department will issue a letter of clearance to place the new or modified potable water supply system into service within thirty (30) days of receipt of a written request for clearance, provided that the request is accompanied by all necessary supporting documentation and meets the criteria for clearance contained in the applicable rules and regulations of the Department in effect as of the date that the request for clearance was made.

XVII. INDUSTRIAL WASTES (NPDES) [replaced by Section A Condition VI. Federal Permits, paragraph B.]

~~This Condition of Certification is issued under the provisions of Chapter 403, Florida Statutes, and applicable rules of the Florida Administrative Code and constitutes authorization to discharge to waters of the state under the National Pollutant Discharge Elimination System. Gulf Power is hereby authorized to operate the facilities shown in the Smith Unit 3 Site Certification Application and other documents on file with the Department and made a part hereof and as specifically described in Industrial Wastewater Facility Permit No. FL 0002267 or as subsequently revised. *(Appendix B)*~~

XVIII. GROUNDWATER [deleted – not relevant]

~~When required by Florida Administrative Code Chapter 62-701, Gulf shall file or amend the Ground Water Monitoring plan within 180 days of being advised by the Department for review and approval by the Northwest District of the DEP.~~

XIX. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS [replaced by Section A Condition XXXIV Water Discharges and XXXV. Solid and Hazardous Waste]

~~*A. Spills*~~

~~The spill of any toxic, deleterious, or hazardous materials shall be reported in the manner specified by Condition III.B., Noncompliance Notification.~~

~~*B. Handling and Testing of Potentially Hazardous Material*~~

~~Gulf shall continue to implement its current plan for handling and disposing of hazardous wastes.~~

XX. BY-PRODUCT AND SOLID WASTE STORAGE [replaced by Section A Condition XXXV. Solid and Hazardous Waste]

~~*A. Solid Waste General*~~

~~1. Any solid waste produced by the operation of the facility shall be disposed of in an approved disposal facility. By-products that are to be sold for reuse are not considered solid waste~~.

B. By-Product & Solid Waste Site Specific Standards moved to Section B Condition I. Department of Environmental Protection, paragraph C

1. Any future by-product storage areas shall be designed, constructed, operated, maintained, closed and monitored in accordance with acceptable waste disposal practices providing environmental protection equivalent to those described in F.A.C. Chapter 62-701, or Chapter 62-673, as appropriate, and these conditions of Certification. The prohibitions of F.A.C. Chapter 62-701 shall not be violated.

2. All engineering plans, reports, and related information shall be provided by the engineer of record with professional certification and shall be approved by the NWSSWD of the DEP prior to construction. A construction certification report signed and sealed by a professional engineer, and record drawings showing all modifications to construction plans, shall be submitted to the NWSSWD of the DEP prior to operation of each by-product or solid waste storage and disposal area.

XXI. FEDERAL OPERATING PERMITS AND FEES [replaced by Section A Condition VI. Federal Permits]

~~*A. DEP Responsibilities*~~

~~The Department of Environmental Protection shall implement the provisions of Title V of the 1990 Clean Air Act and the NPDES program for the Smith Generating Station developing conditions of certification requiring submission of annual operating permit information and annual pollutant emission fees in accordance with federal law and federal regulations and sections 403.0885, 403.0872, 403.5055, 403.509, and 403.511, F.S.~~

~~*B. Gulf Power Responsibilities*~~

~~Gulf shall submit the appropriate annual operating information as well as the appropriate annual pollutant emission and NPDES fees as required by federal law to the Department.~~

XXII. WETLANDS MITIGATION

A. General [replaced by Section A Condition XXX. Environmental Resources]

~~1. Wetland Avoidance. The Licensee shall avoid impacting wetlands within the power plant site wherever practicable. Where necessary and feasible the location of plant facilities shall be varied to eliminate or reduce wetland impacts.~~

~~2. Fill Materials. Except as authorized by this Certification and other permits issued for this project, no fill materials may be obtained from excavated wetlands within the project site, unless in accordance with a mitigation plan submitted in compliance with the conditions of this Certification.~~

~~3. Additional Wetlands Mitigation. The Licensee may be required to provide additional mitigation and/or other measures if wetland monitoring and/or other information demonstrates that adverse impacts to protected, restored and/or mitigated wetlands have occurred as a result of project-related activities.~~

B. Additional Information Requirements [Moved to Section B. Condition I. Dept of Environmental Protection. Paragraph F.]

1. Expansion Area Wetlands Protection. Prior to the commencement of construction of any facilities located adjacent to the wetlands identified for preservation Gulf shall stake and rope off the protected wetland areas to prevent encroachment during construction. Staking shall remain in place until all adjacent construction activities are completed. Verification by DEP staff shall be required prior to commencement and upon completion of any construction activities.

2. The Licensee shall provide mitigation / compensation (M/C) for any of the 15.2 acres of wetland or open water habitat within the jurisdiction of the DEP which is degraded or destroyed as a result of the construction of any portion of the power plant facilities. M/C may include the creation of new wetland or open water habitat, the restoration of degraded habitat, the enhancement of functions and values provided by existing wetland or open water habitats, removal of exotics, or other activities found by the relevant agencies and appropriate local government to be in compliance with their applicable regulations. Any elimination or degradation of any such wetland or open water habitat shall be in accordance with an approved mitigation plan to be attached to and incorporated into this document as Appendix A. The Mitigation Plan and any subsequent amendments to the plan shall be submitted for approval to the DEP's Northwest District Office. Gulf Power shall submit the final Mitigation Plan within 90 days of certification. Submission of such plans shall be for the purpose of determining compliance with the Conditions of Certification. The mitigation plan or subsequent amendments shall, at a minimum, include the following:

a. Specific acreage figures and locations of all wetlands which would be impacted by the construction activities and other aspects of the project.

b. Modifications to the project which would reduce or eliminate the adverse environmental impacts of the project, including an explanation of why such alternatives were not undertaken or are not feasible.

c. Documentation that none of the proposed construction activities will adversely affect off site wetlands.

d. The specific acreages and locations of waters of the state to be created, enhanced, preserved, or protected as a result of the mitigation activity. The mitigation plan shall include the type and nature of these waters, species present or to be planted, plant density, anticipated source of plants, soils, proposed hydrologic regime, proposed elevations of the site, methods of construction or enhancement of the mitigation site, and a set of plan and cross sectional view drawings of the proposed mitigation site and activities.

e. A timetable of accomplishing the proposed mitigation activities.

f. A proposed conservation easement for the mitigation wetlands, if applicable.

g. A detailed maintenance and monitoring program designed to ensure the success of the mitigation plan proposed by the Licensee. Maintenance of the mitigation site shall include replanting of wetland vegetation; removal of exotic, invasive, or nuisance vegetation; additional construction to achieve the necessary hydrology; or any other activity necessary to secure success of the mitigation plan. Monitoring of the mitigation site shall be for the purpose of making a measured assessment of the mitigation plan's progress toward achieving a functioning wetland with a stable hydrologic regime; development or improvement of hydric soils; and natural, beneficial changes in vegetation composition, health, diversity, growth rates, and canopy characteristics. For any restored or enhanced wetland, the measure of success shall be survival of at least 80% of the appropriate wetland vegetation or coverage of at least 80% of the mitigation area by such vegetation. Monitoring of the mitigation site shall be conducted for not less than 5 years, with reports submitted annually to the DEP Northwest District Office. All monitoring stations shall be identified on a plan view of the mitigation site. This monitoring may be continued past the 5 year deadline on a year to year basis, depending on the extent to which the program has successfully achieved its objectives. However, DEP may at any time determine that such monitoring may be discontinued upon success of the program being demonstrated by the Licensee.

3. Prior to clearing activities within any of the on-site wetlands, an ecological survey shall be conducted to identify the presence of threatened or endangered species (plants and animals) as defined in the Application, likely to occur on the site based on range and habitat. This survey shall also identify the location of any wading bird colonies. Results of this survey shall be submitted to DEP and the Florida Fish and Wildlife Conservation Commission (FFWCC) and the United States Fish and Wildlife Service (USFWS). If it is determined that any of those species will be affected by the construction of any of the linear facilities, the Licensee shall consult with DEP and FFWCC to determine the appropriate steps to be taken to avoid, minimize, mitigate or otherwise appropriately deal with, any adverse impacts to resources within each agency's respective jurisdiction.

4. M/C plans must be found to fully compensate for the functions and values provided by wetlands that will be degraded or eliminated. DEP will work with the Licensee in the development of acceptable mitigation plans. The mitigation plans proposed by the Licensee shall be submitted for review and compliance monitoring to DEP and such review shall be subject to the time constraints set forth in specific Conditions XXII.11. or 15. below and IV.A.2 above, as appropriate.

5. DEP shall promptly review the submittal for completeness and sufficiency and process the information in accordance with Condition III.H.

6. If DEP does not object within the time period specified, Licensee may begin construction pursuant to the terms of the conditions of certification and the subsequently submitted construction details and DEP shall provide to the Corps of Engineers a letter indicating that the full requirements of this condition have been met and the water quality certification for the purposes of 33 USC Section 1341 is thereby conveyed.

7. Licensee, at its option, may submit information for different wetlands modification activities at different time intervals. Each submittal shall be processed by DEP separately.

~~*C. Specific Conditions*~~

~~1. If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the project site the applicant shall immediately notify the District Office and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250~~. *[replaced by Section B. Condition V. Department of State-Division of Historical Resources]*

2. At least 48 hours prior to commencement of work in wetlands approved by this certification authorization, Gulf Power Company shall notify the Department of Environmental Protection, Submerged Lands & Environmental Resources Program, Compliance and Enforcement Section, Suite 202, Northwest District Office, 160 Governmental Center, Pensacola, Florida 32501-5794, in writing. The Department telephone number for reporting problems, malfunctions or exceedances under this authorization is (850) 595-8300 during normal working hours.

3. If the approved authorization drawings conflict with the specific conditions, then the specific conditions shall prevail.

4. Grass seed or mulch or sod shall be installed and maintained on all exposed slopes and disturbed soil areas within 48 hours of completing final grade, and at any other time as necessary to prevent erosion, sedimentation or turbid discharges into waters of the state and/or adjacent wetlands. A vegetative cover that stabilizes and prevents erosion of the fill material shall be established within 60 days of sodding or seeding. Upon establishment of a substantial vegetative cover, all turbidity barriers/erosion control devices shall be removed.

5. Best management practices for erosion control shall be implemented and maintained all times during construction to prevent siltation and turbid discharges in excess of state water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but are not limited to use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and the installation of turbidity screens around the immediate project site.

The applicant shall be responsible for ensuring that erosion control devices/procedures are inspected and maintained daily during all phases of construction authorized by this certification until all areas that were disturbed during construction are sufficiently stabilized to prevent erosion, siltation, and turbid discharges.

The following measures shall be taken immediately by the applicant whenever turbidity levels within waters of the state surrounding the project site exceed 29 NTUs above background:

a. Immediately cease all work contributing to the water quality violation.

b. Stabilize all exposed soils contributing to the violation. Modify the work procedures that were responsible for the violation and install more turbidity containment devices and repair any non-functioning turbidity containment devices.

c. Notify the District Office within 24 hours of the time the violation is first detected.

6. There shall be no stockpiling or storage of tools, materials (i.e., lumber, pilings, debris) within wetlands areas not authorized by this authorization. All cleared vegetation, excess lumber, scrap wood, trash, garbage and any other type of debris shall be removed from wetlands/waters of the state within 7 days of completion of the work authorized for impacts.

7. Prior to construction, the limits of the proposed fill areas shall be clearly flagged and staked by the agent and/or contractor. All construction personnel shall be shown the location(s) of all wetland areas outside of the construction area to prevent encroachment from heavy equipment into these areas.

8. Mitigation shall commence within the first growing season (spring/summer) after initiation of project construction in wetlands.

9. Trees planted as part of the mitigation shall be staggered, rather than planted in a straight row, to result in a more natural spatial distribution. The specific location for planting should be determined in the field by a qualified mitigation planting professional, based on an assessment of the variation in topography and hydrology.

10. Planted mitigation shall be successful when all of the following criteria have been continuously met for a period of at least one growing season, without intervention in the form of irrigation, dewatering, removal of undesirable vegetation, or replanting of desirable vegetation.

a. All of the mitigation area is determined by the Department to be jurisdictional pursuant to Section 373.421, F.S.;

b. The desirable vegetation species cover exceeds 80% of the mitigation area, and the plants are reproducing naturally;

c. Nuisance species shall not exceed 5% of the total cover;

d. Planted trees have achieved a minimum 80% long term survival rate, as compared to the initial number planted, by the end of the first two years after planting;

e. The hydrology of the site is sufficient to maintain the site as proposed in the mitigation plan.

11. The mitigation shall be determined to be successful when the requirements of Specific Condition #10 have been met. The procedures for requesting a success determination and guidelines for the Department’s response are provided herein.

a. The applicant may notify the Department whenever the applicant believes the mitigation is successful, but in no event earlier than two years after the mitigation is implemented. This notice shall be sent by certified mail addressed to the District Office.

b. The notice shall include a copy of the most recent Progress Report and a narrative describing how the reported data support the contention that each of the mitigation criteria have been met. The applicant shall afford Department personnel the opportunity to schedule and conduct enough on-site inspections of the mitigation site to determine whether the criteria are met.

c. Within one hundred twenty (120) days of receipt of this notice, the Department shall notify the Applicant by certified mail that the Department determined one of the following:

(1) That the mitigation has been successfully completed; or

(2) That the mitigation is not successful, identifying specifically those elements of the mitigation that do not meet the success criteria; or

(3) That the mitigation cannot be determined to be successful at this time, identifying specifically those elements of the mitigation that prevent it from determining whether the mitigation is successful.

d. When the Department notifies the Applicant that the mitigation is successful, or if the Department fails to notify the Applicant within the time period prescribed by this condition, then the Applicant's mitigation obligation under the terms of the authorization shall be deemed satisfied for that particular authorization area.

12. In the event that the applicant becomes aware that the mitigation is not meeting the success criteria and probably will not meet them (based on site observation or review of monitoring reports), then the applicant, no later than six months before the end of the fifth year of monitoring shall:

a. Submit an alternative mitigation plan to the Department for review and approval;

(1) Contents of the alternative mitigation plan - The plan shall analyze why a particular mitigation site is not clearly trending towards success and propose actions which will ensure success. The Applicant is on notice that the failure to meet a single criterion will prevent the mitigation site from meeting the success criteria of this authorization.

(2) Implementation schedule - As part of the alternative mitigation plan, the Applicant shall propose a schedule for implementation and completion of all of the provisions of the alternative mitigation plan. Upon approval, the Applicant shall implement the contingency plan pursuant to the approved schedule.

b. Submit a long term obligation agreement; and

c. Submit a $500 mitigation fee, pursuant to FAC Rule 62-312.320(3).

The Applicant shall implement the approved plan within 60 days of Department approval of the alternative mitigation plan, unless otherwise specified in the approved plan. The approved plan shall be made a part of this certification.

13. As part of an ongoing mitigation management plan, the Applicant shall do the following:

a. Remove nuisance species from the mitigation site at least quarterly for the first year and semi-annually thereafter.

b. Replant wetland vegetation if the percent coverage does not meet success criteria or if plants are not biologically viable.

14. Narrative progress reports shall be submitted every 6 months to the Bureau of Submerged Lands, Compliance and Enforcement Section, 160 Governmental Center, Pensacola, Florida 32501, indicating the status of the project. The cover page shall indicate the authorization number, project name, and the applicant name. The first report shall be submitted six months from the date of authorization issuance, and reports shall continue to be submitted until all work authorized by the authorization, including mitigation, has been completed. The report shall include the following information:

a. Date authorized activity was begun; if work has not begun on-site, please so indicate.

b. Brief description of extent of work (i.e., dredging, filling, monitoring, mitigation, management, maintenance) completed since the previous report or since the authorization was issued. Show on copies of the authorization drawings those areas where work has been completed.

c. A map of the mitigation site depicting the proposed sampling stations, fixed photographic stations and the locations of the plants planted.

d. The progress of authorized mitigation, including photographs taken from permanent stations, a description of problems encountered and solutions undertaken, and anticipated work for the next six months.

e. The report shall include on the first page, just below the title, the certification of the following statement by the individual who supervised preparation of the report: "This report represents a true and accurate description of the activities conducted during the six month period covered by this report."

f. Wildlife observations, especially for fauna that depend on the target community type.

15. Prior to the start of construction, the mitigation area shall be preserved through a perpetual conservation easement to the Department. No later than 120 days prior to start of construction a proposed conservation easement shall be submitted to the Department for approval. The approved conservation easement shall be attached to these conditions and included herein as Appendix C. The language in the conservation easement shall not be changed. Within 30 days of issuance of the final order of certification, the conservation easement shall be signed by the appropriate party, notarized and returned to the District Office, along with a legal description and sketch of the preservation area, which have been certified by a registered land surveyor. The Department will then review the document to ensure it complies with the authorization requirements. Within 30 days of receiving DEP approval of the conservation easement and legal description and sketch, the applicant shall have the easement, legal description and sketch recorded with Bay County and a clerk-of-court certified copy of the recorded document shall be submitted to the District Office.

16. The conservation easement submitted to the Department for review and approval prior to recording shall include the following information:

a. Title Information

(1) Proof of ownership as a deed or updated title certificate.

(2) Affidavit of lien status.

(3) If liens on the property exist, subordination/release/joinder agreement.

b. Boundary Information

(1) Legal description of the proposed conservation easement.

(2) A survey sketch of the proposed conservation easement.

(NOTE: Both documents need to be certified by a registered land surveyor and should reference each other if on separate pages).

17. The boundaries of the conservation easement with existing access shall be posted on 150 foot intervals with signs identifying it as a conservation area for the Department of Environmental Protection, and referencing the Department's authorization number.

XXIII. NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT [Moved to Section B. Condition IV. Northwest Florida Water Management District]

A. The Licensee, by January 31, April 30, July 31, and October 31, of each year, shall report the following information as specified below:

1. Water quality results from tests conducted on each production well of the system during the first two weeks of the months January, April, July, and October as appropriate to the reporting period. The water quality analysis shall test for the following chemical concentrations: chloride, sodium, sulfate, bicarbonate, carbonate, calcium, magnesium, potassium, and total dissolved solids. Prior to sampling, the Licensee shall purge approximately three to five well volumes from each well, and shall report with each set of test results, the duration of purging, purge volume, and purge rates used.

2. Static water level data for each production well as recorded during the first two weeks of January, April, July, and October as appropriate to the reporting period. The Licensee shall contact the NWFWMD for assistance in designing the method and specifics of data collection. The water level data shall be referenced to mean sea level.

B The NWFWMD retains the discretion to decide whether to require monthly water quality in the future based on resource concerns.

C The use of the permitted water withdrawal is restricted to the use described in the Site Certification Application. Any change in the use of said water shall require a modification of the Site Certification.

D. The District's staff, upon proper identification, will have permission to enter, inspect and observe permitted and related facilities in order to determine compliance with the approved plans, specifications, and conditions of this permit.

E. The District's staff, upon providing prior notice and proper identification, may request permission to collect water samples for analysis, measure static and/or pumping water levels and collect any other information deemed necessary to protect the water resources of the area.

F. Gulf Power shall mitigate any significant adverse impact caused by withdrawals permitted herein on the resource and legal water withdrawals and uses, and on adjacent land use, which existed at the time of filing of the SCA. The District reserves the right to curtail permitted withdrawal rates if withdrawals cause significant adverse impacts on the resource and legal water withdrawals and uses, and on adjacent land use, which existed at the time of Site Certification.

G. Gulf Power shall not cause significant saline water intrusion or increased chloride levels. The District reserves the right to curtail permitted withdrawal rates if withdrawals cause significant saline water intrusion or increased chloride levels.

H. The District, pursuant to Section 373.042, F.S., at a future date, may establish minimum and/or management water levels in the aquifer, aquifers, or surface water hydrologically associated with the permitted withdrawals; these water levels may require the Gulf Power to limit withdrawal from these water sources to comply with the established levels.

I. Nothing in this Site Certification shall be construed to limit the authority of the Northwest Florida Water Management District to declare water shortages and issue orders pursuant to Section 373.175, F.S., or to formulate and implement a plan during periods of water shortage pursuant to Section 373.246, F.S., or to declare Water Resource Caution Areas pursuant to Chapters 40A-2.801, and 62-40.41 F.A.C.

1. In the event of a declared water shortage, water withdrawal reductions shall be made as ordered by the District.

2. In the event of a declared water shortage or an area as a Water Resource Caution Area, the District may alter, modify or inactivate all or parts of this section of the Conditions of Certification.

J. Gulf Power shall, by January 31 of each year, submit for ground water withdrawals, a completed Water Use Summary Reporting Form (NWFWMD A2-I) for each month of the previous year. Water use amounts for each well may be calculated using flow meter readings at the plant divided by the pump rate of each well. The calculations must be provided with each submittal. The first report is due by January 31, 2003, and a final report shall be submitted when the wells are removed from service.

K. The District reserves the right, at a future date, to require the Gulf Power to submit actual pumpage records for withdrawals not otherwise required by this Certification.

L. Gulf Power shall reference the power plant's wells by their Florida Unique Identification Number when corresponding with the District (pumping reports, etc.).

M. Gulf Power shall properly plug and abandon any well determined unsuitable for its intended use, not properly operated and maintained, or removed from service. The well(s) shall be plugged and abandoned to District Standards in accordance with Section 40A-3.531, F.A.C. Gulf shall also notify the District within 30 days of removing any well associated with the facility from service.

N. Gulf Power shall provide for the efficient and non-wasteful use of water, and shall implement water conservation measures designed to enhance water use efficiency and reduce water demand and losses.

XXIV. DEPARTMENT OF COMMUNITY AFFAIRS [Moved to Section B. Condition III. Department of Economic Opportunity]

A. Wind Loading

Prior to the commencement of construction of Smith Unit 3, Gulf Power Company (Gulf) shall provide the Department of Community Affairs certification by a licensed engineer that the Smith Unit 3 structures and any associated liquid storage tanks will comply with the wind loading provisions of ASCE 7-95, "Minimum Design Loads for Buildings and other Structures."

B. Hurricane Preparation, Evacuation and Recovery Plan

Gulf shall develop a comprehensive hurricane preparation, evacuation and recovery plan (the "Plan") for the Lansing Smith Generating Station Unit 3 ("Smith Unit 3"). The Plan shall include the following elements:

1. Annual pre-season hurricane preparation activities.

2. Process for hurricane preparation to be undertaken prior to expected arrival at Smith Unit 3 of tropical storm-force winds (sustained winds greater than 39 mph), including (as appropriate to the expected force of storm):

a. Securing and/or removing any hazardous materials at Smith Unit 3.

b. Minimum levels necessary for stability of any liquid storage tanks.

c. Processes and criteria for staffing, securing and evacuation of Smith Unit 3 including:

(1) Determination of essential staffing

(2) Criteria for release of non-essential staff

(3) Process for preparing Smith Unit 3 for essential staff to remain on site

(4) Criteria for determining whether evacuation of essential staff is required

(5) Process for preparing Smith Unit 3 and conducting an evacuation of all staff, including provisions for securing fuel supplies

3. Communications plan for:

a. Notification of storm-specific decisions by and between Gulf and the Bay County Emergency Management Office

b. Coordination of post-storm Smith Unit 3 recovery efforts with Gulf and the Bay County Emergency Management Office

c. Coordination of changes in the Plan with the Bay County Emergency Management Office

4. General recovery estimates:

a. Types of damage which could be sustained at Smith Unit 3 from flooding at the following elevations:

(1) 14.2 feet above National Geodetic Vertical Datum at mean high tide

(2) 14.2 feet to 17.7 feet above National Geodetic Vertical Datum at mean high tide

b. For each elevation category identified above:

(1) Procedures for re-entry to Smith Unit 3 for recovery purposes

(2) Processes for achieving recovery

(3) Ranges of estimated time periods required for recovery

5. Gulf shall submit the Plan to the Department of Community Affairs (two copies), Florida Department of Environmental Protection, and the Bay County Emergency Management Office no later than the commencement of construction of Smith Unit 3. All receiving agencies shall provide their comments on the Plan to the Department of Community Affairs and Gulf within 30 days of receipt. The Department of Community Affairs and Gulf shall confer about the comments within the next 30 days. Within 30 days after such conferral, the Department of Community Affairs shall consolidate and provide to Gulf such comments as it deems appropriate. Gulf shall finalize the Plan within 60 days thereafter and provide copies to the Department of Environmental Protection, the Department of Community Affairs, and Bay County

Emergency Management Office. The Plan shall be formally updated, using the same process, no less frequently than every 5 years following commercial operation of Smith Unit 3.

If the Department of Community Affairs deems the Plan or any of its periodic updates not to be in compliance with the requirements of this Condition, it may petition for enforcement of this condition pursuant to the Florida Electrical Power Plant Siting Act (ss. 403-501-403.518, Florida Statutes)

C. Noise Condition

Gulf shall notify area residents in advance of the onset of the steam cleaning noise phase of construction.

XXV. DEPARTMENT OF TRANSPORTATION [Moved to Section B. Condition II. Department of Transportation]

A. Access Management to the State Highway System:

No new access to the State Highway System is proposed in the site certification application. If new access or modification of current access to the State Highway System is proposed at a later date, such as related to the borrow pit sites when they are identified, access will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, Administrative Process, and 14-97, State Highway System Access Management Classification System and Standards, Florida Administrative Code, will be required.

B. Overweight or Overdimensional Loads:

Operation of overweight or overdimensional vehicles by the applicant on the State transportation facilities will be subject to the safety and permitting requirements of Chapter 3 16, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

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

If any use of State of Florida right of way or transportation facilities is later proposed, such usage will be subject to the requirements of the Department of Transportation's Utility Accommodation Manual and Rule Chapter 14-46, Railroads/Utilities Installation or Adjustment, Florida Administrative Code. Depending upon the corridor or route used, any new or additional interconnections between the power plant and off site facilities may require the applicant to meet the requirements of the Utility Accommodation Manual if the construction or installation of these interconnections fall within State of Florida right of way or a State transportation facility.

D. Traffic Control:

Traffic control will be maintained on the State Highway System during plant construction and maintenance, particularly as related to the borrow pits when they are identified, in compliance with the standards contained in the Manual of Uniform Traffic Control Devices; Statewide Minimum Level of Service Standards, Rule Chapter 14-94, Florida Administrative Code; Florida Department of Transportation's Roadway and Traffic Design Standards and the Florida Department of Transportation's Standard Specifications for Road and Bridge Construction, whichever is more stringent.

History [Remained as History]

Certification issued 07/25/00; signed by Governor Bush
Modification approved 06/17/05; signed by Program Administrator Oven

APPENDIX A - MITIGATION PLAN SPECIFICATIONS

LANSING SMITH UNIT 3
BAY COUNTY, FLORIDA

INTRODUCTION

The construction of Smith Unit 3 in Bay County, Florida will result in the unavoidable loss of 15.2 acres of Florida Department of Environmental Protection (FDEP) wetlands and 15.3 acres of U.S. Army Corps of Engineers (USACE) wetlands (i.e., 6.4 acres of cypress-titi swamp, 0.2 acre of ditch, and 8.7 acres of wet pine plantation). To provide compensation for the loss of the 15.3 acres of FDEP/USACE wetlands, Gulf Power will enhance 130 acres of wet pine plantation within a 232-acre parcel of land located along the southeastern comer of Jackson's Titi Swamp about 1-mile north of Smith Unit 3 by removing the existing pines and planting native hardwood and cypress trees (Figure 1 [NOTE: SEE PAGE 55]). The 130 acres of mitigation is based upon a 12:1 ratio of wetland enhancement to wetland loss for impacts to cypress-titi swamp (i.e., 6.4 acres x 12 = 77 acres) and a 6:1 ratio of wetland enhancement to wetland loss for impacts to wet pine plantation and the ditch (i.e., 8.9 acres x 6 = 53 acres). The 232-acre parcel of land borders existing cypress-titi swamp on the north and west, an existing transmission line to the east, and County Road 2300 on the south (Figure 2 [NOTE: SEE PAGE 56]). The existing transmission line corridor along the eastern boundary of the parcel of land provides access to the mitigation site. After success, the 130-acre parcel of land will be preserved in perpetuity either through a conservation easement or, if preferred, transferred in fee title to FDEP, another resource agency or a third party. More specific details concerning the property transfer will be provided after further discussion with USACE and FDEP.

TREE SPECIES AND DENSITY

Bottomland hardwood and cypress tree plantings will result in an average density of surviving trees of at least 400 trees per acre after each growing season for five years following initial planting, as determined by annual monitoring. The overall tree species composition of bottomland hardwood and cypress seedlings will be:

- Twenty percent bald cypress (*Taxodium distichium*);
- Twenty percent red maple (*Acer rubrum*);
- Twenty percent dahoon holly (*Ilex cassine*);
- Twenty percent elm (*Ulmus americana*); and
- Twenty percent laurel oak (*Quercus laurifolia*).

The above species occur naturally in hardwood/cypress swamps in the immediate vicinity.

Substitutions of species based on commercial availability will be at the approval of the project biologist. Species substitutions will only include those species that occur naturally in swampland in the region. Examples of possible species substitutions could include, but not be limited to, sweet bay (*Magnolia virginiana*), myrtle holly (*Ilex cassine var. myrtifolia*), swamp red bay (*Persea palustris*), popash (*Fraxinus caroliniana*), and swamp tupelo (*Nyssa sylvatica subsp. biflora*). The placement and species composition within each grouping of tree seedlings at the parcel of land will be finalized by the onsite project biologist prior to planting. A cross section view of the planting scheme is provided in Figure 3 [NOTE: SEE PAGE 57].

TREE MATERIAL

The tree material will be first-class grade, true to name and consist of 3-gallon or larger container size seedlings. All plants will be nursery grown and originate within a 200-mile distance from the parcel of land. Trees having any of the following defects will be rejected:

1. Undue abrasions of the bark;
2. Dried root systems;
3. Dried top wood of deciduous plants or dried foliage of evergreens;
4. Prematurely opened buds or with buds stripped off,
5. Diseased or insect-infected trees; and
6. Trees in containers that are overgrown or rootbound.

TREE DELIVERY

No shipment of plant material will be accepted or planted by the contractor until such material has been inspected and accepted by the project biologist onsite. Plants will not be delivered to the project until ordered in writing by the owner and when so ordered, the owner/engineer and project biologist shall be notified of a proposed delivery of plant material at least 24 hours prior to its arrival at the project. Each shipment will be accompanied by an invoice showing the number, size, and name of each of the several kinds of plant material included, with each kind of plant adequately identified by tags.

The entire plant will be properly protected from sun and air damage from the time of purchase from the supplier until planting on the project. Plants will be kept moist until planted.

Upon arrival, the project biologist will make an immediate inspection and will accept for planting all plants complying with these specifications and any plants rejected under the same will be immediately removed from the project.

The contractor should provide a warranty on work for a resultant average survival density of 400 trees per acre following each growing season for five years, as determined by the annual monitoring program. The warranty should continence on the date of final completion. If the average survival rates are not achieved after each growing season, additional trees will be installed according to these specifications to meet the minimum survival rate on a yearly basis.

Warranty should include coverage of plants from death or unhealthy conditions.

SITE PREPARATION

Prior to planting, all of the existing pines within a 130-acre area of the referenced parcel will be removed by a timber contractor by cutting. After the removal of pines and before planting, fallow or weedy/grassy areas of the planting areas may be mowed and/or disked to reduce competition for the tree seedlings.

TREE PLANTING

Planting holes may be dug by hand or by mechanical means. Trimming of the sides or bottoms of the hole to uniform shape will not be required. Planting holes will have a minimum horizontal dimension of two times the specified diameter of the root ball.

Bottomland hardwoods and cypress will be planted in the 130-acre treeless area of the mitigation parcel. Trees will be planted on approximate 10-ft centers at a maximum. An approximate even mix of target species will be accomplished over the planting area, but species selection for any given zone will be based on hydrology (i.e., obligate species in wetter areas). Specific boundaries of the planting area and the location of tree species will be identified by the project biologist prior to the planting activity.

When planting commences within the identified planting areas, plants initially will be placed for review and orientation under the supervision of the onsite project biologist.

At the time of planting, all non-biodegradable root containers will be removed. Container plants will be installed in a vertical position. Backfill soil will be placed in 6-inch layers. Plant materials will be maintained in a vertical position during backfilling. If needed, the soil will be saturated with water when the pit or bed is half full of topsoil and again when full.

PLANTING SCHEDULE

The planting of the parcel of land will be initiated during the first winter/early spring season following the start of power plant construction based upon the availability of planting stock. Replanting will occur as necessary during the first five years to achieve the required stocking rate.

FERTILIZER

A slow-release granular fertilizer with a 12-6-6 NPK ratio will be applied to each planting hole according to label directions at initial planting.

INITIAL PLANT WATERING

All plants will be watered with 5-gallons per tree if soils are not wet enough at the time of planting.

MAINTENANCE PROGRAM

No exotic/invasive plant species were observed during prior inspections of the parcel of land. However, prior to the planting effort, a survey will be conducted across the entire parcel of land for exotic/invasive plant species. Any exotic/invasive plant species found during the survey will be removed from the site. Surveys will be conducted for exotic/invasive plant species on an annual basis to repeat the maintenance effort as necessary.

If weedy herbs, shrubs, and/or vines threaten the growth and/or vigor of planted hardwood seedlings, these plants will be removed within a suitable radius from affected seedlings by hand or more effective methods such as mowing, weed whacking, machete, etc. If deemed necessary, watering of tree seedlings will also be conducted after the initial planting effort should drought conditions prevail.

PLANTING DOCUMENTATION

The planting process will be documented and records will be retained at the Smith Unit 3 facility. A written report of the planting effort, including onsite photographs and as-built drawings of the planting areas will be provided to Gulf Power by the project biologist within 30 days of completion of the plantings. Gulf Power will forward copies of the report to the FDEP and USACE within 30 days of receipt of the report from the project biologist.

FOLLOW-UP MONITORING PROGRAM

Annual monitoring will be conducted at the parcel of land over a five-year period. Annual monitoring will include quantitative sampling across the planted area to determine numbers of healthy, dead, and reduced-vigor trees and the percent cover of herbaceous and shrubby (non-canopy woody species) vegetation. Planted trees will -be sampled using the quadrat sampling technique (Oosting, 1956; Mueller-Dombois and Ellenberg, 1974) along permanently marked transacts. Trees will be sampled within quadrats spaced at 25-ft intervals along the transacts. The beginning and end points and two equidistant points of each transect will be permanently marked with 10-ft lengths of aluminum pipe. In addition, a 10-ft length of one-half inch polyvinyl chloride (PVC) pipe will be located at the corner of each quadrat along the transacts. Both the aluminum and PVC pipes will be partially painted at the top with a biodegradable fluorescent orange or red paint for easy identification in the field. The starting and end points of each transect will be so identified on the pipes together with transect number/codes.

The tree quadrats will consist of 5-meter by 10-meter rectangle plots oriented with the 10-meter dimension perpendicular to the transect. The sides of the tree plots will be measured and then flagged with surveyor's flagging to mark the boundaries in the field for easy identification during the sampling effort. Proceeding from the starting point to the end, the tree plots will be situated on the left side of each transect.

All planted, live trees located within the quadrats will be identified to species and measured for height and crown covers. Each tree will be identified in the field with aluminum tags labeled with a distinct code. The code-uses the first two letters of the genus and species followed by a consecutive number. The numbers identify the individual trees measured consecutively from the beginning to the end of each transect (e.g. AR-1, TD-2, TD-3, and AR-4 indicate that *Acer rubrum*, *Taxodium distichum*, *Taxodium distichum*, and *Acer rubrum* were the first four trees sampled in the transect). The percent cover of recruited and/or existing shrub species (i.e., non-canopy woody species) will also be recorded within the 5 x 10 square meter (m^2) tree quadrats along all of the vegetation transacts.

The herbaceous plant cover within the ground layer will also be visually estimated for all of the vegetation transacts. Herbaceous cover will be estimated within $1m^2$ quadrats situated at approximately 25-ft intervals along each transect (i.e., each 1-m^2 quadrat will be nested at the comer of each tree/shrub plot). Aerial cover of each species will be recorded as a percent of the quadrat area. In addition, the percent cover of unvegetated surface area will also be recorded for each quadrat (e.g. open water, bare ground, litter, detritus, etc.).

Hydrological data will be collected from staff gauges located near each, transect. Relative water level depths will also be recorded at each 25-ft interval along the transacts during the collection of vegetation data. The number of quadrats/transects will be adequate to achieve a statistically valid sample of tree survival and vegetation cover.

In addition to the quantitative sampling, the parcel of land will be qualitatively inspected during the annual monitoring efforts to develop a complete listing of all plant species. Also, qualitative monitoring utilizing random pedestrian transacts will be conducted across the parcel of land to compare the analysis of data obtained during the quantitative sampling and to evaluate overall planting and 'maintenance success. Qualitative information will include the following:

1. Visual estimates of percent coverages by wetland planted/recruited trees as well as desirable herbaceous and shrubby species, nuisance/exotic species, upland species, and bare ground/open water;
2. Visual determination of overall hydrological conditions;
3. Assessment of jurisdictional status pursuant to FDEP and USACE criteria; and
4. Incidental wildlife sightings or indications of wildlife usage.

Color panoramic photographs will be taken at permanent photo documentation stations located at the ends of each transect. The transect, photo station, and staff gauge locations will be depicted on the as-built drawings of the planting areas.

DATA ANALYSIS

Aerial coverage values will be summed for all transacts and quadrats for each species. Individual tress crown covers will be calculated for the parcel of land using the following formula:

$[(D_1 + D_2) / 4]^2 \times \text{pi} =$ *Area of Crown Cover*

where D_1 = Diameter of crown on the longest axis.

and D_2 = Diameter of crown on the shortest axis.

The percent cover/dominance for each planted tree species will be calculated by dividing the sum of the crown covers over the area sampled. The sum of the covers for each species of shrub and herb will be divided by the total number of quadrats of each respective layer to obtain the percent cover/dominance for a species. The relative dominance will be estimated by summing the dominance for a species and dividing by the total dominance for all species.

Frequency will be calculated by dividing the numbers of quadrats in which a species occurs by the total number of quadrats sampled. The relative frequency will be estimated by summing the frequency for a species and dividing by the total frequency for all species.

The number of trees per acre will also be calculated for all tree species measured. The average tree heights will be calculated for the planted species of trees. Tree density Will be calculated by determining the number of individuals of a species over the area sampled. The relative density will be calculated as the density for a species divided by the total density for all species.

Importance values will be calculated as either the sum of the relative frequency, relative density, and relative dominance (trees) or the sum of the relative frequency and relative dominance (shrub and herb layers). Combining these relative values into a single importance value reflects the different measures of the importance of each species in a community.

The formulas for the values identified above are provided as follows:

Percent Cover/Dominance	Crown covers or cover values of each species / Total area sampled or total number of plots sampled
Density	Individuals of a species / Area sampled
Frequency	Number of plots in which a species occurs / Total number of plots sampled
Relative Dominance	Dominance for a species x 100 / Total dominance for all species
Relative Density	Density for a species x 100 / Total density for all species
Relative Frequency	Frequency for a species x 100 / Total frequency for all species
Importance Value	Relative dominance + relative density + relative frequency

The jurisdictional status of the parcel of land will be determined by a separate estimate of the percent cover of wetland species. Wetland species are those plants listed in Chapter 62-340.450, Florida Administrative Code (F.A.C.)., as aquatic (AQUA), facultative (FAC), facultative wet (FACW), or obligate (OBL) (Florida Wetlands Delineation Manual, 1995). Any plants not listed in the referenced vegetative index are considered to be upland plants (UP). Plants listed as vines (VINE) in the vegetative index will also not be considered to be wetlands vegetation. Finally, in estimates of desirable/jurisdictional wetland vegetation cover, the covers for exotic or undesirable (nuisance) species will be calculated separately. The identification of exotic and nuisance species will be made using the 1999 List of Florida's Most Invasive Species (Florida Exotic Pest Plant Council, 2000) provided in Attachment A, but also include climbing hemp vine (*Mikania scandens*), cattail (*Typha sp.*), and primrose willow (*Ludwigia peruviana*). Finally, hydrological data will be tabulated and shown in graphical form in order to depict overall hydrological conditions.

MONITORING INTERVAL

Upon completion of the initial planting phase of the project, the parcel of land will be, monitored for a period of five years to determine if replanting is required. Vegetation monitoring will be conducted during the summer season (June to August) by a qualified biologist (i.e., the project biologist).

REPORTING

Written compliance update reports with photographs will be submitted to Gulf Power by the project biologist following each annual monitoring session. The written reports will outline compliance with the FDEP and USACE wetland permits and this mitigation plan. Copies of the reports will be forwarded to FDEP/USACE no later than 60 days after completion of each annual monitoring session.

PROJECT BIOLOGIST

Gulf Power will contract the services of a qualified project biologist to conduct all of the above-referenced tasks associated with the mitigation effort.

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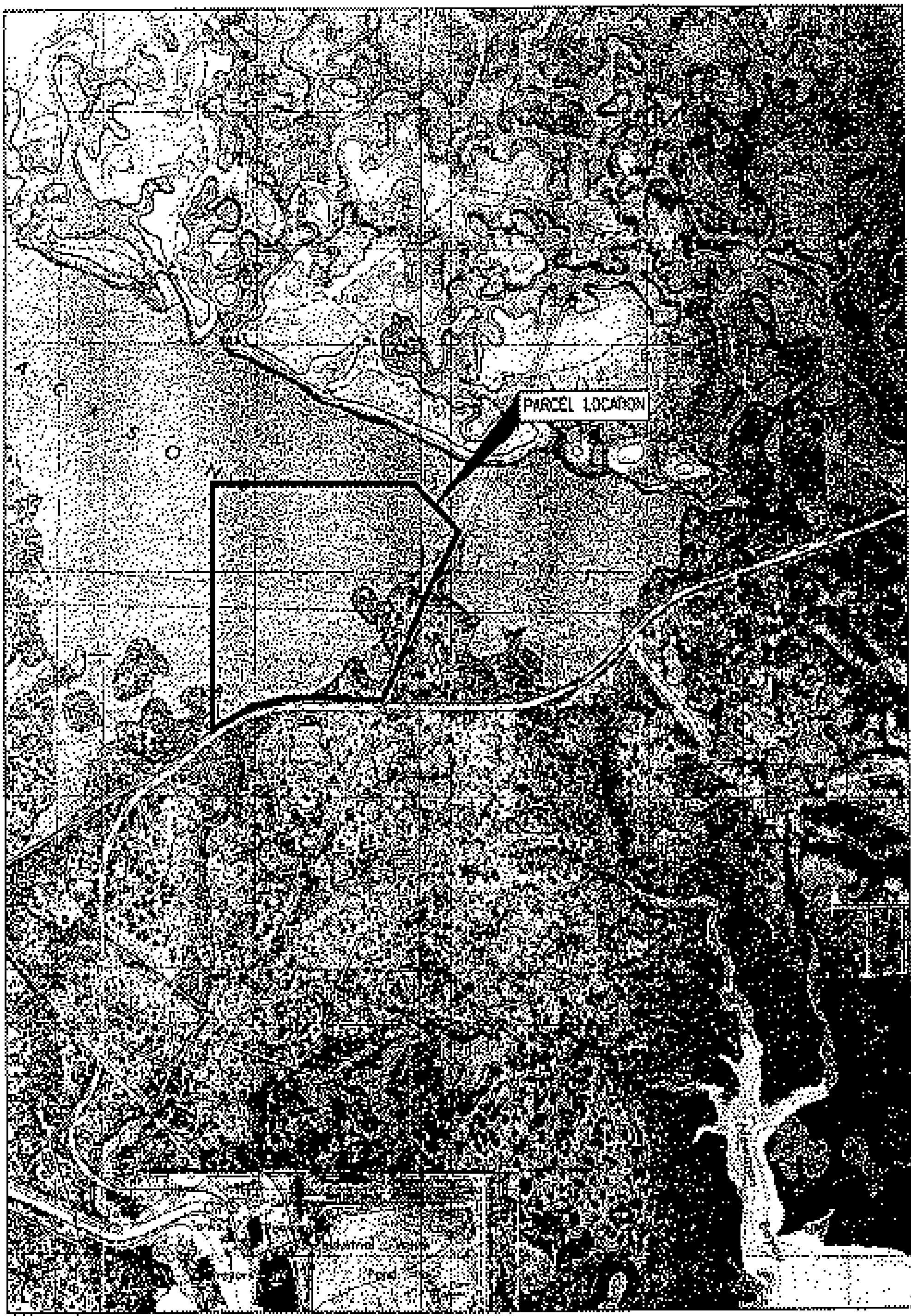

FIGURE 1.
TOPOGRAPHIC MAP OF PARCEL CONTAINING THE
PROPOSED MITIGATION SITE
GULF POWER
SMITH UNIT 3
Sources: USGS Quad Map of Southport, FL; ECT, 2000. 2

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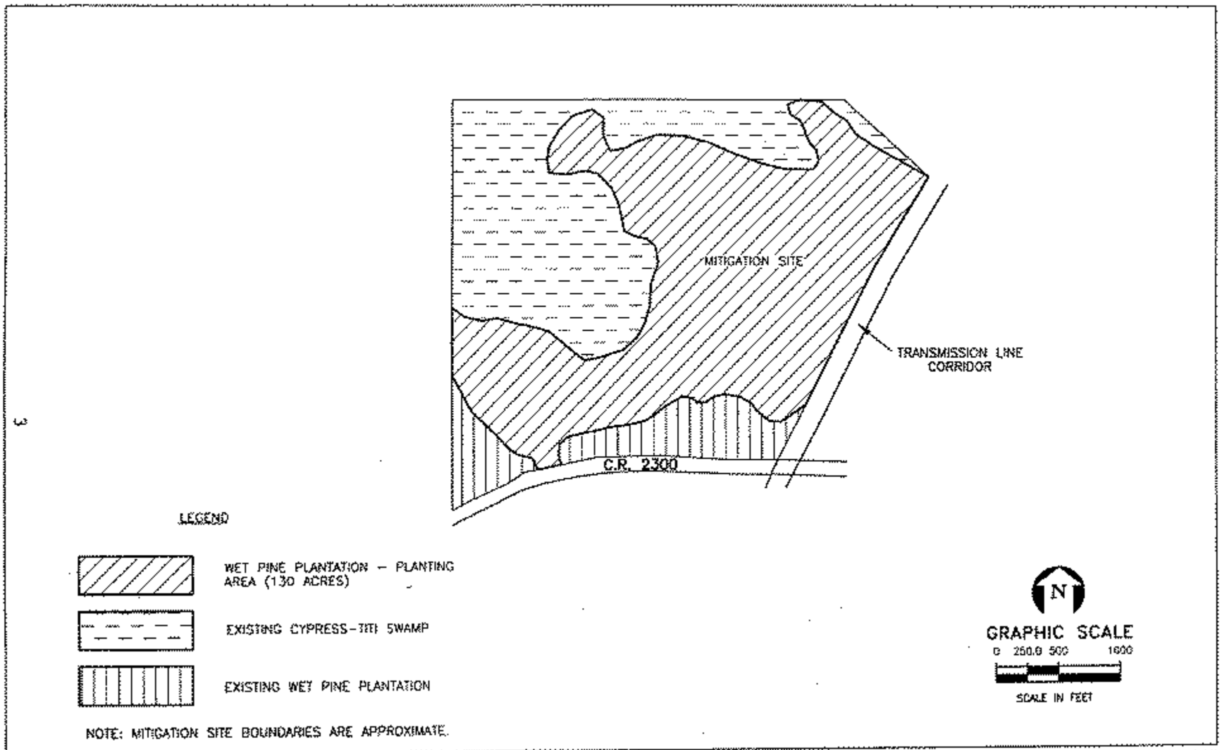

FIGURE 2.
MITIGATION PARCEL MAP
GULF POWER
SMITH UNIT 3

Source: ECT, 2000.

Environmental Consulting & Technology, Inc.

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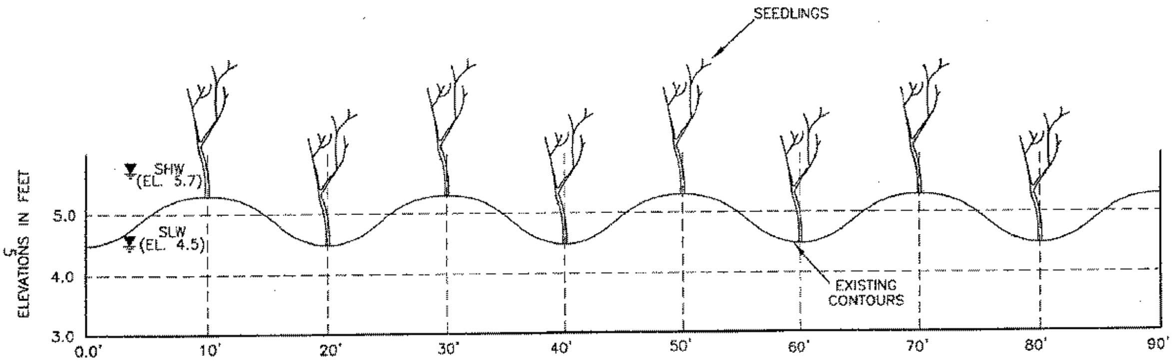

NOTES:

SEEDLINGS WILL BE PLANTED AT ROUGHLY 10-FOOT INTERVALS ALONG THE TOP AND BOTTOM OF THE EXISTING FURROWS.

SEEDLINGS WILL BE PLANTED ALONG STAGGERED ROWS.

THE DISTANCES BETWEEN THE TOPS AND BOTTOMS OF FURROWS VARIES. THE 10-FOOT SPACING INDICATED ON THIS DRAWING IS FOR ILLUSTRATIVE PURPOSES ONLY.

FIGURE 3.
TYPICAL CROSS-SECTION OF MITIGATION
GULF POWER
SMITH UNIT 3

Source: ECT, 2000.

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Attachment A

See http://www.fleppc.org/99list.htm