State of Florida
Department of Environmental Protection
Lee County Solid Waste Energy Recovery Facility
Units 1-3
PA 90-30G

Conditions of Certification **Modified 05/07/07**

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I. CERTIFICATION CONTROL

A. Under the control of these Conditions of Certification Lee County will operate a 60 MW (nominal) facility consisting of three 600 tons per day (nominal), mass burn, municipal solid waste fired recovery units, and ancillary equipment. [Each unit is capable of processing 660 tons per day at a Higher Heating Value of 5,000 Btu per pound on an annual basis.] The facility is known as the Lee County Solid Waste Energy Recovery Facility (SWERF) and is located on a 155 acre site which is located at 10500 Buckingham Rd., Fort Myers, Lee County, 33905. The property is located in the southeast quarter of Section 24 and the northeast quarter of Section 25, Township 44 South, Range 25 East. The UTM coordinates are Zone 17; 424.21 km East; 2945.70 km North. [Replaced with Section A Condition I. Scope, Paragraph A.]

B. These Conditions of Certification, unless specifically amended or modified, are binding upon the Licensee and shall apply to the construction and operation of the certified facility. If a conflict should occur between the design criteria of this project and the Conditions of Certification, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions of Certification, the more specific condition governs. [Replaced with Section A Condition I. Scope, Paragraph B.]

C.

II. CHANGE IN DISCHARGE [Replaced with Section A Condition XII. Enforcement, paragraph A., and Section A, Condition XXI. 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 nominal nameplate capacity of 1,800 TPD, production increases, or process modifications which may result in new, different, or increased discharges of pollutants, change in type of fuel as described in XV.B.3.f. and XV.C.6. or expansion in steam generation capacity shall be reported to the Department and may require the submission of an application for certification, amendment, or modification pursuant to Chapter 403, Florida Statues.

III. NON-COMPLIANCE NOTIFICATION [Replaced with Section A, Condition VIII. Notification]

If, for any reason, the Permittee (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 Permittee shall notify the South District Office of the Department of Environmental Protection by telephone within a working day that said noncompliance occurs and shall confirm this in writing within seventy-two (72) hours of becoming aware of such conditions, and shall supply the following information:

A. A description of the discharge and cause of noncompliance; and

B. The period of noncompliance, including exact dates and times; or if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying event.

IV. FACILITIES OPERATION [Replaced with Section A, Condition XXVIII. Facility Operations; and Section B, Condition I. Department of Environmental Protection, paragraph A. Facilities Operation]

The Permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the Permittee to achieve compliance with the terms and conditions of this certification. In the event of a malfunction of a solid waste energy recovery facility's boiler's pollution control system, that unit's furnace emissions shall be shifted to one or both of the remaining units having a properly functioning pollution control system, or the unit shall be promptly shut down.
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, 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 waste rules and industrial waste rules. During such malfunction or shutdown, the operation of the SWERF shall comply with all other requirements of this certification and all applicable state and federal emission standards not affected by the malfunction or shutdown. Operational stoppages exceeding two hours for air pollution control systems or four hours for other systems or operational malfunctions as defined in the operational contingency plans as specified in Condition XVII are to be reported as specified in Condition III. Identified operational malfunctions which do not stop operation but do compromise the integrity of the operation shall be reported to the South District Office as specified in Condition III.

V. ADVERSE IMPACT [Replaced by Section A, Condition XII. Enforcement.]

The Permittee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

VI. RIGHT OF ENTRY [Replaced with Section A, Condition X. Right of Entry]

The Permittee shall allow during operational or business hours the Secretary of the Florida Department of Environmental Protection and/or authorized representatives, upon the presentation of credentials:

A. To enter upon the Permittee's premises where an effluent source is located or in which records are required to be kept under the terms and conditions of this certification, and:

B. To have access during normal business hours (Mon.-Fri., 9:00 a.m. to 5:00 p.m.) to any records required to be kept under the conditions of this certification for examination and copying, and:

C. To inspect and test any monitoring equipment or monitoring method required in this certification and to sample any discharge or pollutants, and:

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

VII. REVOCATION OR SUSPENSION [Replaced with Section A, Condition XIII. Revocation or Suspension]

This certification may be suspended or revoked for violations of any of its conditions pursuant to Section 403.512, Florida Statutes.

VIII. CIVIL AND CRIMINAL LIABILITY [Replaced with Section A, Condition XV. Civil and Criminal Liability]

This certification does not relieve the Permittee from civil or criminal penalties for noncompliance with any conditions of this certification, applicable rules or regulations of the Department or Chapter 403, Florida Statutes, or regulations thereunder. Subject to Section 403.511, Florida Statutes, this certification shall not preclude the institution of any legal action or relieve the Permittee from any responsibilities or penalties established pursuant to any other applicable State Statues, or regulations.

IX. PROPERTY RIGHTS [Replaced with Section A, Condition XVI. Property Rights]

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.

X. SEVERABILITY [Replaced with Section A, Condition XI. 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.

XI. DEFINITIONS [Replaced with Section A, Condition IV. Definitions]

The meaning of terms used herein shall be governed by the definitions contained in Chapter 403, Florida Statutes and any regulations adopted pursuant thereto. In the event of any dispute over the meaning of a term 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. Words or phrases used herein dealing with conditions of the South Florida Water Management

District (SFWMD) shall be defined by reference to Chapter 373, Florida Statutes, or applicable rules of the SFWMD. The Lee County Solid Waste Energy Recovery Facility (SWERF) may be referred to herein as the SWERF or as the Energy Recovery Facility. The DEP South District may be referred to as DEPSD.

XII. REVIEW OF SITE CERTIFICATION [Replaced with Section A, Condition XXI. Modification of Certification]

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

XIII. MODIFICATION OF CONDITIONS [Replaced with Section A, Condition XXI. Modification of Certifications]

A. Pursuant to 403.516(1), F.S., the Board hereby delegates the authority to the Secretary to modify any condition of this certification dealing with sampling, monitoring, reporting, specification of control equipment, related time schedules, emission limitations, conservation easements, transfer or assignment of the Certification or related federally delegated permits, or any special studies conducted, as necessary to attain the objectives of Chapter 403, Florida Statutes.

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

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

XIV. CONSTRUCTION [Replaced with Section A, Condition VII. Design and Performance; Section A., Condition XIX. Procedures for Post-Certification Submittals; Section A., Condition XX. Post-Certification Amendments; and Section A, Condition XXI. Modification of Certification]

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. The Applicant shall present specific facility plans, as developed, for review by the South District Office at least 90 days prior to construction of those portions of the facility for which the plans are then being submitted. Specific South District Office acceptance of plans will be required based

upon a determination of consistency with approved design concepts, regulations and these Conditions prior to initiating construction of the off-site water and wastewater pipelines; transmission line; stormwater run-off system; and hazardous, toxic or pathological handling facilities or areas. Review and action by the South District Office on said plans shall be accomplished in a timely fashion in accordance with Chapter 120, F.S. from the date of a complete submittal of such plans and any action may be subject to review pursuant to Chapter 120, Florida Statutes.

A. Control Measures

1. Stormwater Run-off [Replaced with Section A, Condition VI. Federal Permits, paragraph B., 1 and 2, and Section A, Condition XXVI. Environmental Resources, A. Stormwater]

To control run-off 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 run-off. The pH of the run-off shall be kept within the range of 6.0 to 8.5. The Permittee shall comply with Florida Administrative Code Chapters 40E-2, and 40E-4. The Permittee shall complete the forms required by 40E-4 and submit those forms and the required information to the SFWMD for any modifications that might occur.

2. Open Burning [Replaced with Section A, Condition IX. Construction Practices, paragraph C]

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., and any other applicable 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 South District Office in conjunction with the Division of Forestry and any County regulations that may apply. Burning shall not occur 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 [Replaced with Section A, Condition IX. Construction Practices, paragraph E]

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

4. Solid Wastes [Replaced with Section A, Condition IX. Construction Practices, paragraph D]

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

5. Noise [Replaced with Section A, Condition XXXIII. Noise]

Construction noise shall not exceed either local noise ordinance specifications or those noise standards imposed by zoning.

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

The Permittee 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 [Replaced by Section A, Condition IX. Construction Practices, paragraph G; and Section B., Condition I. Department of Environmental Protection, paragraph J.]

The directly associated transmission lines from the SWERF electric generators to the existing Florida Power & Light substation shall be cleared, maintained, and prepared without the use of herbicides. Wetland mitigation shall be accomplished in accordance with Chapter 62-312, F.A.C. Wetland mitigation proposals shall be submitted to the Department at least 90 days prior to start of construction.

8. Protection of Vegetation [Moved to Section B, Condition I. Department of Environmental Protection, paragraph D.]

The Permittee shall develop the site so as to retain a buffer of trees or shall plant a buffer of trees sufficient to minimize the aesthetic and noise impacts of the facility. The buffer, as far as practicable, shall be of sufficient height and width suitable for the purpose of mitigating both construction and operational impacts of the facility.

9. Dewatering Operations [deleted. Covered under Section B, Condition II. SFWMD, paragraph B.3.a.]

The dewatering operations during construction shall be carried out in such a manner that all water withdrawn will be retained on site. There shall be no discharge of water off site due to dewatering operations unless approved by the Department and SFWMD.

B. Environmental Control Program [Moved to Section B, Condition I. Department of Environmental Protection, paragraph E.]

An environmental control program shall be established under the supervision of a Florida registered professional engineer 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 Permittee shall notify the South District Office (DEPSD) as required by Condition III.

C. Reporting [Replaced by Section A, Condition XXVI.A.9. and 11]

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

2. Upon or immediately prior to completion of construction of the Energy Recovery Facility or a phase thereof and upon or immediately prior to completion of all necessary preparation for the operation of the off-site landfill, the South District Office will be notified of a date on which a site or facility inspection can be performed in accordance with Condition VI.

XV. OPERATION

A. Air – All Units [Replaced by Section A, Condition VI. Federal Permits, paragraph A]

1. The operation of the Solid Waste Energy Recovery Facility shall be in accordance with all applicable provisions of Chapter 62-204, 62-210, 62-212, 62-213, 62-256, 62-296, 62-297 and 62-702, F.A.C.

2. The Lee County Solid Waste Energy Recovery Facility in Fort Myers, Florida shall consist of three mass-burn Municipal Waste Combustors (MWC) with two units as constructed initially and the third unit to be installed as described in the November 2002 application. These mass-burn units shall be of Stoker Waterwall Combustor design (or equivalent) with a maximum heat input of 275 MMBtu per hour for Units 1 and 2 and 291.5 MMBtu per hour for Unit 3 or a total heat input for the facility of 825 MMBtu per hour based on a municipal solid waste average heating value of 5000 Btu per pound.

3. Each combustor unit is designed to produce a maximum of 152,000 pounds of steam per hour at 865 psig and 830oF. Each combustor shall be equipped with auxiliary burners to be fired by propane gas only. Emissions from each combustor shall be controlled by a slaked lime scrubber followed by a baghouse. NOx emissions shall be controlled by a Selective Non-Catalytic Reduction (SNCR) system. Mercury emissions shall be controlled by injecting activated carbon. This facility shall be allowed to operate continuously (8,760 hrs/yr).

4. The permittee shall submit at least four copies of complete information as to the make and model numbers of Municipal Waste Combustors, all pollution control and continuous emissions monitoring devices, and related equipment to

the Bureau of Air Regulation prior to purchase and installation. The permittee shall also submit detailed stack drawings showing sampling locations, operation and maintenance manuals and calibration procedures at least 90 days prior to commencing operations to the Bureau of Air Regulation.

B. Air - Units 1 and 2 [Replaced by Section A, Condition VI. Federal Permits, paragraph A]

Units 1 and 2 will operate in accordance with Air Operation Permit No. 0710119-004-AV (incorporated as Appendix 1) as well as any subsequent renewals.

C. Air - Unit 3 (Emissions Unit 006) [Replaced by Section A, Condition VI. Federal Permits, paragraph A]

Unit 3 will be constructed in accordance PSD Permit No PSD-FL-151D (incorporated hereto as Appendix 2) and any subsequent revisions, modifications or amendments.

D. Wastewater Disposal [Moved to Section B, Condition I. DEP, paragraph H.1.]

A complete submittal of plans, drawings and specifications for leachate collection systems, pumps, lift stations, sewage collection systems, and wastewater collection systems in accordance with appropriate DEP rules shall be furnished to the South District Office for approval at least 90 days prior to start of construction for the particular of such component. In order to obtain approval, the receiving sewage treatment plant shall indicate its ability and willingness to accept the wastewater. Also plans and specifications for connections to off-site sewage and wastewater transmission systems shall be furnished to the South District Office for approval 90 days prior to start of construction. Review shall be accomplished in accordance with Condition XIV.

E. Water Discharges [Moved to Section B, Condition I. DEP, paragraph H.2.]

1. Surface Water

Any discharges from the site stormwater system via the emergency overflow structure which results from an event LESS than a ten-year, 24-hour storm (as defined by the U.S. Weather Bureau Technical Paper No. 40, or the DOT drainage manual, or similar documents) shall meet applicable State Water Quality Standards, Chapter 62-302, F.A.C., and Chapter 40-E, F.A.C.

2. Groundwaters

All discharges to groundwaters shall be collected and treated as necessary, or otherwise be of high enough quality, to be able to meet the applicable Water Quality Standards of Sections 62-520.400 and 62-520.420, F.A.C., at the

boundary of a zone of discharge approved for each potential pollution source. If monitoring should indicate a violation of the standards, the Permittee shall immediately notify the South District office and SFWMD and institute remedial action.

3. Groundwater Monitoring Program

a) Sampling of the shallow aquifer groundwater quality shall be conducted in at least six well clusters in the site vicinity. At least one of these wells shall be up the hydrologic slope from the facility to provide current background data. Other wells shall be located down the hydrologic slope from the ground water discharge areas. Specific location of any new wells or modifications to the monitoring program may be proposed by the applicant, but shall be approved by the South District Office prior to the construction of the new monitoring wells.

b) The groundwater monitoring plan submitted August 1992, as modified by April 3, 1996, amendment shall be implemented.

c) Upon completion of construction of the groundwater monitoring system, the following information shall be submitted to the South District Office for all ground water monitoring wells and any new well(s) constructed:

Well identification	Driller's log
Latitude/Longitude	Total depth of well
Aquifer monitored	Casing diameter
Screen type & slot size	Casing type and length
Screen length	SFWMD well construction permit numbers
Elevation at top of pipe	Elevation at land surface

d) Upon completion of construction of the groundwater monitoring system, but no less than 12 months before the commencement of operation the Permittee shall sample all ground water monitoring wells for the Primary and Secondary Drinking Water parameters included in Chapter 62-550, F.A.C. The specific parameters to be sampled are listed in Sections 62-550.310, 62-550.320 and 62-550, Part V, F.A.C.

e) The field testing, sample collection and preservation and laboratory testing, including quality control procedures, shall be in accordance with Chapter 62-550, Part V, F.A.C. Approved methods as published by the Department or as published in Standard Methods, A.S.T.M. or EPA methods shall be used. Approved methods for chemical analyses are summarized in the Federal Register, December 1, 1976 (41FR52780) except that turbidity shall be measured by the Nephelometric Method.

f) All required submittals shall be sent to the South District Office within 60 days of installation of the ground water monitoring system. Upon receipt and review of the required data, quarterly sampling reports shall be submitted to the South District Office commencing 12 months prior to the operation of the SWERF.

Any required modifications of the groundwater monitoring system or program shall be modified in accordance with the provisions of Condition XIII. The groundwater monitoring program may be reviewed annually.

F. Solid/Hazardous Waste [Moved to Section B, Condition I. DEP, paragraph H.3.]

1. Incinerator ash, fly ash, spent acid control medias and other forms of solid waste shall be disposed of in a licensed off-site landfill in accordance with all applicable portions of Chapters 62-701 and 62-702, F.A.C., including prohibitions, procedures for closing of the landfill, and final cover requirements, or, as provided in this condition (XV.F.) in its entirety. The plans of the final landfill design shall be provided to the South District Office and the Division of Waste Management for review and approval at least 90 days prior to start of operation of the SWERF. Review shall be performed in accordance with Condition XIV. The final plans for this SWERF shall include provisions for the isolated temporary handling of suspected hazardous, toxic or infectious wastes. The SWERF shall not be operated until a landfill capable of disposing of plant wastes is licensed to operate.

2. No suspected or known hazardous, toxic, or infectious wastes as defined by Federal, State or local statutes, rules, regulations or ordinances shall be burned or landfilled at the site.

3. Rodent and insect control shall be provided as necessary to protect the health and safety of site employees and the public. Pesticides used to control rodents, flies, and other vectors shall be as specified by the Florida Department of Agriculture and Consumer Services.

4. Storage of putrescible waste for processing shall not exceed storage capacity of the refuse bunker or tipping floor as designed on the approved plan.

5. Ash prior to transport to the landfill shall be stored in an enclosed building on an impervious surface. Final disposal of the ash shall be into the lined landfill or other method approved by the South District Office. Any leachate generated within the building shall be collected and disposed of by a method approved by the South District Office. The South District Office shall notify the SFWMD of the plans and specifications regarding the above referenced method.

6. A monthly report shall be prepared detailing the amount and type (putrescible, special wastes, boiler residue, etc.) of materials processed at the site. (see condition XV.F.2. above). These reports shall be furnished to the South District Office quarterly, commencing 120 days after the SWERF becomes operational and is producing residues.

7. Unless approved by the Department with subsequent modification of conditions, this facility shall not accept materials defined by applicable Federal, State or local statutes, rules, regulations or ordinances as “Hazardous Wastes”.

8. There shall be no discharge to waters of the State of polychlorinated biphenyl compounds.

9. The design, operation, and monitoring of disposal or control of any "special wastes" shall be in accordance with F.A.C. 62-701.520, and any other applicable department rules, to protect the public safety, health and welfare. "Special wastes" means those wastes that require extraordinary management. They include but are not limited to abandoned automobiles, white goods, used tires, waste oil, sludges, dead animals, agricultural and industrial wastes, septic tank pumpings, and infections and hazardous wastes. Sludges which may be hazardous due to their chemical composition shall be disposed of in accordance with F.A.C. Chapter 62-730. Disposal of Grade III Domestic Wastewater Treatment Sludge, disposal of domestic septage, and disposal of food service sludge, shall be in accordance with F.A.C. Chapter 62-701.

G. Operational Safeguards [Replaced by Section A, Condition XIV. Safety]

The overall design and layout of the facilities shall be such as to mitigate potential adverse effects 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 and operation.

H. Transmission Lines and Pipe Lines [Replaced by Section A, Condition IX. Construction Practices, paragraph H.; Section A Condition XXVI. Environmental Resources, paragraph B.; and Section B, Condition VI. Florida Fish and Wildlife Conservation Commission]

The Licensee shall demonstrate compliance with Chapter 62-814, F.A.C., at least 90 days prior to start of construction for the directly associated transmission lines from the SWERF electric generators to the Florida Power and Light Company Substation. Transmission and pipeline routes shall be kept cleared without the use of herbicides. Prior to clearing activities within any of the right-of-way associated with the various linear facilities, a survey shall be conducted to identify the presence of any listed wildlife species likely to occur within the right-of-way based on range and habitat. Results of this survey shall be submitted to the Florida Fish and Wildlife Conservation Commission (FFWCC) and the United States Fish and Wildlife Service (USFWS). If it is determined that any of these species will be affected by the construction of any of these linear facilities the Permittee shall consult with the FFWCC and the USFWS to determine the appropriate steps to be taken to avoid, minimize, mitigate, or otherwise appropriately deal with any adverse impacts within each agency's respective jurisdiction.
Prior to any clearing on the project site, the permittee shall arrange a site visit by personnel from the South District Office to verify the wetland jurisdictional areas on the project site and to inspect the proposed fill areas. If additional areas are determined to be within the Department's Wetland Resource jurisdiction or if the site plan is modified to impact additional wetlands, the Permittee shall submit a revised Joint Application for Works in Waters of the State and revised permit drawing package reflecting the

changes. The permittee shall provide mitigation for any habitat loss or degradation resulting from the construction of the project. The mitigation shall meet all the requirements of Rule 62-312.300, Florida Administrative Code.

I. Noise [Replaced by Section A, Condition XXXIII. Noise]

Operational noises shall not exceed local noise ordinance limitations nor those noise standards imposed by zoning.

J. Mercury Control [Replaced by Section A, Condition VI. Federal Permits, paragraph A]

1. The permittee must operate the pollution control equipment at the facility under procedures designed to minimize emissions of mercury and maximize the removal of mercury from the flue gas of the facility. An activated carbon injection system for mercury control approved by the Department in accordance with Condition XV.B. shall be operated continuously whenever MSW is burned at the facility. The emissions of mercury from the facility shall not exceed the standard established in Condition XV.B.(1).a.23

2. The permittee shall determine through Department approved operational testing the feed rate for activated carbon injection which provides the most effective mercury removal over the normal operating regime for the facility while achieving the levels stated hereafter. Following determination of this feed rate, the permittee shall not reduce it without specific written permission from the Department.

XVI. SOUTH FLORIDA WATER MANAGEMENT DISTRICT [This SFWMD Condition XVI moved in its entirety to Section B, Condition II. The word “Permittee” has been changed to “Licensee”.]

A. Legal/Administrative Conditions

1. General

a) Responsible Entity

The Permittee, defined as Lee County or any full-service vendor/contractor under contract to the County, shall be responsible for the implementation of the Certification Conditions. If contractual rights, duties, or obligations are transferred under this Certification, notice of such transfer or assignment shall immediately be submitted to the Florida Department of Environmental Protection and the SFWMD by the previous certification holder (Permittee) and the Assignee. Included in the notice shall be the identification of the entity responsible for compliance with the Certification. Any assignment or transfer shall carry with it the full responsibility for the limitations and conditions of this Certification. Reference: Sections 373.223 and 373.413, F.S.; Rules 40E-2.091(1)(a), 40E-2.301, 40E-2.381(1), 40E-4.091(1)(a), and 40E-4.301, F.A.C.

b) Minimum Standards

This Certification is based on the Permittee's submitted information to the SFWMD which reasonably demonstrates that adverse off-site water resource related impacts will not be caused by the authorized activities. The plans, drawings and design specifications submitted by the Permittee shall be considered the minimum standards for compliance. Reference: Sections 373.219, 373.223, 373.229, 373.308, 373.316, 373.413(1) and 373.416(1), F.S.; Rules 40E-2.091(1)(a), 40E-2.301(1), 40E-2.381, 40E-3.500-531, 40E-4.091(1)(a), 40E-4.301(1), and 40E-4.381, F.A.C.

c) Compliance Requirements

This project must be constructed, operated and maintained in compliance with and meet all non-procedural requirements set forth in Chapter 373, F.S., and Chapters 40E-2 (Consumptive Use), 40E-3 (Water Wells), and 40E-4 (Surface Water Management), F.A.C.

d) Off-site Impacts

It is the responsibility of the Permittee to ensure that adverse off-site water resource related impacts do not occur during the construction, operation, and maintenance of the project. Reference: Sections 373.223 and 373.413(1); Rules 40E-2.091(1)(a), 40E-2.381(d), 40E-2.381(e), 40E-4.091(1)(a), 40E-4.301, and 40E-4.381(2)(k), F.A.C.

e) Liability

The Permittee shall hold and save the SFWMD 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. Reference: Sections 373.223, 373.443, F.S.; Rules 40E-2.091(1)(a), 40E-2.381(2)(i), 40E-4.091(1)(a), and 40E-4.381(2)(j), F.A.C.

f) Construction, Operation and Maintenance Responsibilities

The Permittee shall be responsible for the construction, operation, and maintenance of all facilities installed for the proposed project. Reference: Sections 373.309, 373.413(1) and 373.416(1), F.S., Rules 40E-3.301, 40E-4.091(1)(a), 40E-4.301, and 40E-4.381(2)(h), F.A.C.

g) Access

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

inspections and presents appropriate credentials. Reference: Sections 373.223, 373.319, and 373.423, F.S.; Rules 40E-2.091(1)(a), 40E-2.301, 40E-2.381(2)(f), 40E-3.461, 40E-4.091(1)(a), and 40E-4.301, F.A.C.

h) Post Certification Information Submittals

Information submitted to the SFWMD subsequent to Certification, in compliance with the conditions of this Certification, shall be for the purpose of the SFWMD determining the Permittee's compliance with the Certification conditions and the non-procedural criteria contained in Chapters 40E-2, 40E-3, and 40E-4, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder. Reference: Rule 62-17.191, F.A.C.

i) Post Certification Permit Modifications

Once the final certification for a phase of the project, including the transmission line, has been issued, the SFWMD will require modification of the appropriate permits issued by SFWMD for any affected entities to reflect the activities authorized by the Certification Order. Reference: Sections 373.239 and 373.429, F.S.; Rules 40E-2.331 and 40E-4.331, F.A.C.

j) Post Certification Construction Notifications

At least 30 days prior to the commencement of construction, the Permittee or Project Engineer shall notify the SFWMD Field Engineering Division of the construction start date. Annual construction status reports shall be submitted by the Permittee to the SFWMD Engineering Division beginning with the initial construction start date. Reference: Sections 373.413(1) and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381(2)(h), F.A.C.

k) Operation Authorization

Authorization for the proposed energy recovery facility to begin operating shall not be granted by the Florida Department of Environmental Protection until it has received and approved an executed contract between Lee County and an entity capable or receiving and disposing of the ash residue and other waste products to be generated by the proposed facility. Reference: Sections 373.043 and 403.504, F.S.

(1) Enforcement

The SFWMD may take any and all lawful actions to enforce any condition of this Certification that is based on the rules of the agency. Prior to initiating such actions, the SFWMD shall notify the Secretary of DEP of the proposed actions. The SFWMD may seek modification of this Certification for any change in any activity resulting from the SFWMD's enforcement of this Certification which change will have a duration longer than 60 days. Reference: Sections 373.2223, 373.319, 373.423, and 373.603, F.S.; Rules 40E-2.091(1)(a), 40E-2.301, 40E-2.381(2)(f), 40E-3.461, 40E-4.091(1)(a), and 40E-4.301, F.A.C.

(2) Processing of Informational Requests

(a) At least ninety (90) days prior to the commencement of construction of any portion of the proposed project, the Permittee shall submit to SFWMD staff, for a completeness and sufficiency review, any pertinent additional information required under the SFWMD's site specific standards and the Conditions of Certification for that portion proposed for construction. If SFWMD staff does not issue a written request for additional information within thirty (30) days, the information will be presumed to be complete and sufficient. Reference: Section 373.413(2), F.S.

(b) Within sixty (60) days of the determination by SFWMD staff that the additional information is complete and sufficient, the SFWMD shall determine and notify the Permittee in writing whether the proposed activities conform to SFWMD criteria, as required by Chapters 40E-2, 40E-3, 40E-4, and 40E-6, F.A.C., and the Conditions of Certification. If necessary, the SFWMD shall identify what items remain to be addressed. No construction activities shall begin until the SFWMD has determined either in writing, or by failure to notify the Permittee in writing, that the activities are in compliance with the applicable SFWMD criteria. Reference: Sections 373.413(1) and (2), F.S.

(c) Since this Certification is the only form of permit required from any agency, it is understood that the Permittee and the SFWMD shall strive to resolve disputes by mutual agreement. Reference: Sections 373.413 and 373.429, F.S.; Rules 40E-1.602 and 40E-4.331, F.A.C.

(d) Objections to modifications of the terms and Conditions of Certification shall be resolved through the process established in Sections 403.516, F.S.

(e) Subsequent modifications to the drawings and supporting calculations submitted to the SFWMD which may alter the quantity and/or quality of waters discharged off-site shall be made pursuant to Section 403.516, F.S., and Rule 62-17.211, F.A.C. They shall also be submitted to the SFWMD for a determination that the modifications are in compliance with Chapters 40E-2, 40E-3, and 40E-4, F.A.C., prior to the commencement of construction. Reference: Section 403.516, F.S.

(f) The SFWMD and the Permittee may jointly agree to vary the informational requirements. Reference: Section 373.085, 373.229, and 373.413(2), F.S.; Rules 40E-2.101(1), 40E-4.101(1), and 40E-4.6.101(1), F.A.C.

B. Water Use Conditions

1. General

a) Water Shortage Compliance

In the event of a declared water shortage, the Permittee must comply with any water withdrawal reductions ordered by the SFWMD in accordance with the Water Shortage Plan, Chapter 40E-21, F.A.C. Reference: Section 373.246, F.S., Rule 40E-2.381(2)(c), F.A.C.

b) Impacts on Existing Legal Uses

The Permittee shall mitigate any adverse impacts on existing legal uses caused by the groundwater withdrawals authorized by this Certification. When adverse impacts occur, or are imminent, SFWMD reserves the right to curtail withdrawal rates pursuant to the enforcement provisions of Condition XVI.A.1.l. of these conditions. The adverse impacts can include:

(1) A reduction in well water levels that impairs the ability of an adjacent well, including a domestic well, lawn irrigation well, or public drinking water supply well, to produce by 10% or greater;

(2) A significant reduction in water levels in an adjacent water body such as a lake, pond, wetland, or canal system that impairs the ability to produce water by 10% or greater;

(3) Saline water intrusion or induced movement of pollutants into the water supply of an adjacent water user, resulting in a significant reduction in water quality; and/or

(4) A change in water quality caused by the Permittee that results in significant impairment or loss of use of well or water body.

Reference: Section 373.223, F.S.; Rules 40E-2.091(1)(a), 40E-2.301, and 40E-2.381, F.A.C.

c) Impacts on Existing Off-Site Land Uses

The Permittee shall mitigate any adverse impacts on existing off-site land uses that are a consequence of the groundwater withdrawals authorized by this Certification. If increased withdrawals cause an adverse impact on existing land uses, the SFWMD reserves the right to curtail future withdrawal rates pursuant to the enforcement provisions of condition XVI.A.1.l of these conditions. Adverse impacts can include:

(1) A significant reduction in water levels in an adjacent water body, including impoundments, to the extent that the designated function of the water body is impaired;

(2) Land collapse or subsidence caused by a reduction in water levels; and/or

(3) Damage to crops and other types of vegetation.

Reference: Section 373.223, F.S.; Rules 40E-2.091(1), 40E-2.301, and 40E-2.381, F.A.C.

d) Impacts to Natural Resources

The Permittee shall mitigate any adverse impacts to natural resources as a consequence of the groundwater withdrawals authorized by this Certification. When adverse impacts occur, or are imminent, the SFWMD reserves the right to curtail future withdrawal rates pursuant to the enforcement provisions of Condition XVI.A.1.l of these conditions. Adverse impacts can include:

(1) A reduction in ground water levels that results in significant lateral movement of the fresh water/salt water interface;

(2) A reduction in water levels that adversely impacts the hydroperiod of protected wetland environments;

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

(4) Induced movement or induction of pollutants into the water supply resulting in a significant reduction in water quality; and/or

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

Reference: Sections 373.223, F.S.; Rules 40E-2.091(1), 40E-2.301, and 40E-2.381, F.A.C.

e) Well System Operation

At any time, if there is an indication that the well casing, valves, or controls associated with the on-site backup well system leak or have become inoperative, the Permittee shall be responsible for making the necessary repairs or replacement to restore the well system to an operating condition acceptable to the SFWMD. Failure to make such repairs shall be cause for requiring that the well(s) be filled and abandoned in accordance with the procedures outlined in Chapter 40E-3 (Water Wells), F.A.C. Reference: Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.101, 40E-3.411, and 40E-3.500-531, F.A.C.

2. Site Specific Standards Design Requirements

a) Authorized Daily Withdrawals

This Certification authorizes a maximum daily withdrawal of 1.5 MGD from the Sandstone aquifer for process cooling, ash quenching, and landscape irrigation purposes for a period not to exceed a total of fifteen days within any twelve month period. Withdrawals in excess of fifteen days shall require prior SFWMD

approval. These withdrawals shall only occur during those times when treated effluent is not available from the City of Fort Myers.

b) Authorized Annual Withdrawals

This Certification authorizes a maximum annual withdrawal of 22.5 MG from the Sandstone aquifer for process cooling, ash quenching, landscape irrigation, and maintenance exercising of the on-site wells. Withdrawals in excess of this amount shall require prior SFWMD approval. These withdrawals shall only occur during those times when treated effluent is not available from the City of Fort Myers or the wells are being exercised for maintenance purposes.

c) .Authorized Withdrawal Facilities

A maximum of six (6) - 8" x 150' wells cased to 80' withdrawing from the Sandstone aquifer with a total combined pumping capacity of 1000 gpm per well.

d) Modification of Authorized Withdrawals

Within ten years of Certification and every ten years thereafter, unless extended by mutual agreement between the Permittee and the SFWMD, the Permittee shall submit to the SFWMD a report on the project's consumptive water use which contains the information required by Chapter 40E-2, F.A.C., in effect at that time. Within 90 days after receipt of the completed report, the SFWMD shall evaluate the information contained therein and issue a written notification to the Department and the Permittee as to whether the groundwater withdrawals for consumptive use authorized by this Certification remain in compliance with the provisions of Chapter 373, F.S., and Chapter 40-2, F.A.C., in effect at that time. If the notification indicates that the withdrawals are not in compliance with these provisions, it shall recommend possible alternatives for bringing the withdrawals into compliance or otherwise meeting the minimum consumptive water use needs of the Certified project. If mutual agreement cannot be reached within 90 days after issuance of the written notification on whether the withdrawals of groundwater for consumptive use remain in compliance, then the written notification shall be immediately referred to the Division of Administrative Hearings (DOAH) for resolution in accordance with the procedural provisions of Sections 403.516(1)(c) and 120.569, F.S. (1999).

e) Right to Petition for Modification of Withdrawals

The SFWMD retains the right to request that the Department petition for a modification of the groundwater withdrawals for consumptive use authorized by this Certification, in accordance with the provisions of Section 403.516, F.S. (1999). Any request for an increase in water withdrawals shall be made pursuant to the provisions of Section 403.516, F.S.

Reference: Sections 373.223 and 373.236, F.S.; Rules 40E-2.091(1)(a), 40E-2.301, 40E-2.321(1)(e), and 40E-2.381, F.A.C.

3. Additional Information Requirements

a) Dewatering Operations

Prior to the commencement of construction of those portions of the project which involve dewatering activities, a detailed plan for the proposed dewatering activities must be reviewed by the SFWMD for a determination of compliance with the non-procedural provisions of Chapter 40E-2, 40E-3, and 40E-4, F.A.C. The following information must be submitted:

(1) A detailed site plan which shows the locations(s) for the proposed dewatering area(s);

(2) The method(s) of dewatering operations;

(3) The maximum depth for each dewatering operation;

(4) The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;

(5) The discharge method, route, and location of receiving waters generated by each dewatering operation, including the measures (Best Management Practices) to be taken to prevent water quality problems in the receiving waters;

(6) The duration of each dewatering operation;

(7) An analysis of the impacts of the proposed dewatering operations which indicates that no significant impacts will occur to any existing on-site and/or off-site legal users, wetlands, or any existing plume of groundwater contamination;

(8) The location of any infiltration trench(es); and

(9) All plans must be signed and sealed by a State of Florida registered Professional Engineer and a State of Florida registered Professional Geologist.

Reference: Sections 373.229, 373.308, and 373.413, F.S.., Rules 40E-2.091(1), 40E-2.301, 40E-3.500-531, and 40E-4.381(2)(1), F.A.C.

b) Monthly Reporting Requirements

Groundwater withdrawal quantities shall be submitted to the SFWMD on a monthly basis beginning with the month following construction and

operation of the proposed wells. Reference: Section 373.223, F.S.; Rules 40E-2.091(1), 40E-2.301, and 40E-2.381, F.A.C.

c) Groundwater Monitoring Program

Within six months of issuance of this Certification, the Permittee shall develop and implement a groundwater monitoring program. Within three months of issuance of this Certification, a preliminary proposal shall be submitted to the SFWMD for review for compliance with the non-procedural requirements specified in Chapter 40E-2, F.A.C. In developing the groundwater monitoring program, the Permittee shall consider well locations, depth and method of well construction, types of well screens, and frequency of data collection. Reference: Section 373.223, F.S.; Rules 40E-2.091(1), 40E-2.301, and 40E-2.381, F.A.C.

d) New Well Construction

Prior to the construction of the proposed on-site wells, the Permittee shall submit the drilling plans and other pertinent information required by Rule 40E-3, F.A.C. to the SFWMD for review and approval. If the final well locations are different from those originally proposed in the certification application, the Permittee shall also submit to the SFWMD for review and approval an evaluation of the impacts of the proposed pumpage from the proposed well location(s) on adjacent existing legal users, pollution sources, environmental features, the saline water interface, and water bodies. Reference: Section 373.223. F.S.; Rules 40E-2.091(1)(a), 40E-2.301, and 40E-2.381, F.A.C.

e) Water Conservation Plan

Within two (2) years of issuance of the modified Certification Order, the Permittee shall submit a Water Conservation Plan required by Chapter 40E-2, F.A.C., in effect at that time, for review and approval by SFWMD staff. The plan shall, at a minimum, incorporate the following components:

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

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

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

(c) Use of processes to decrease water consumption.

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

Reference: Sections 373.223, F.S.; Rules 40E-2.091(1), 40E-2.301, and 40E-2.381, F.A.C.

C. Surface Water Management Conditions

1. General

a) Professional Engineer Certificate

The operation of the surface water management system authorized under this Certification shall not become effective until a Florida Registered Professional Engineer certifies, upon completion of each phase, that these facilities have been constructed in accordance with the design approved by the SFWMD. Within 30 days after completion of construction of the surface water management system, the Permittee shall submit the engineer's certification and notify the SFWMD Field Engineering Division that the facilities are ready for inspection and approval. Such notification shall include as-built drawings of the site which shall include elevations, locations, and dimensions of components of the surface water management system. Reference: Sections 373.117 and 373.419, F.S.; Rules 40E-4.091(1)(a), 40E-4.301(2), and 40E-4.381(2)(d), F.A.C.

b) Impacts on Fish, Wildlife, Natural Environment Values and Water Quality

The Permittee shall prosecute the work authorized under this Certification in a manner so as to minimize any adverse impacts of the authorized works on fish, wildlife, natural environment values, and water quality. The Permittee shall institute necessary measures during the construction period, including necessary compaction of any fill materials placed around newly installed structures and/or the use of silt screens, hay bales, seeding and mulching, and/or other similar techniques, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters. Reference: Sections 373.413(1) and 373.416(1) F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381(2)(a), F.A.C.

c) Access Roads

The Permittee shall, whenever available, utilize adjacent existing roads for access to the transmission line and potable water, reclaimed water and wastewater transmission line rights-of-way for construction, operation and/or maintenance purposes. Finger roads connecting the existing roads to the structure pads and access roads which must be constructed in areas where an existing road is not available shall be constructed in a manner which does not impede natural drainage flows and minimizes impacts to on-site and adjacent wetlands. Reference: Sections 373.41391), 373.414, 373.416(l); Rules 40E-4.301, and 40E-4.381, F.A.C.

d) Off-site Discharges

Off-site discharges during construction and development shall be made only through the discharge facilities authorized by this Certification. No roadway or building construction shall commence on-site until completion of the permitted discharge structure and detention areas. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream water stages. Stages may be subject to operating schedules satisfactory to the SFWMD. Reference: Sections 373.413(1) and 373.416(1), F.S.; Rules 40E-091(1)(a), 40E-4.301, and 40E-4.381(2)(g), F.A.C.

e) Discharge Structures

Discharge structures, where appropriate, shall include a baffle, skimmer, or other mechanism suitable for preventing oil, grease, or other floatable materials from discharging to and/or from retention/detention areas. Reference: Sections 373.413(a), and 373.416(a), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

f) Correction of Water Quality Problems

The Permittee shall be responsible for the correction of any sedimentation, turbidity, erosion, shoaling and/or other water quality problems that result from the construction, operation, and/or maintenance of the works authorized under this Certification. Reference: Sections 373.41391) and 373.416(l); Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

g) Additional Water Quality Requirements

The Permittee may be required to incorporate additional water quality treatment methods into the surface water management system if such measures are shown to be necessary. Reference: Section 373.413(1), and 373.416(1); Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

2. Site Specific Design Requirements

a) Allowable Discharge

The surface water management system for the proposed project facilities will be designed such that peak post-development discharges from the project site do not exceed 37 csm for the 25 year/3 day design storm
.

b) Authorized Discharge Facilities

1 - 3.0 ft. wide Weir with a crest at elevation 23.5’ NGVD,
1 - 3.0” diameter Bleeder Orifice with an invert elevation at 20.5’ NGVD,

1 Screw Gate incorporated into the structure for potential restriction of discharge when closed.

Discharge from the system will be through 70 linear feet of 24” diameter RCP Culvert.

c) Authorized Receiving Water

Six Mile Cypress Slough

d) Authorized Control Elevation

21.4 Feet NGVD.

e) Lee County

Should Lee County determine that this project should discharge to the Orange River, it may be necessary to revise these facilities in order to bring them into compliance with the appropriate drainage criteria. Reference: Section 373.413 and 373.414, F.S.; Rules 40E-4.091, 40E-301, and 40E-4.381, F.A.C.

3. Additional Information Requirements

a) Surface Water Management System Construction Plans

Prior to the commencement of construction of any portion of the project which affects the movement of waters, all construction activities for that portion of the proposed project which may obstruct, divert, control, impound or cross waters of the state must be reviewed by the SFWMD for a determination of compliance with the non-procedural requirements of Chapters 40E-2 and 40E-4, F.A.C. All plans, detail sheets and calculations shall be signed and sealed by a Florida Registered professional Engineer. For all construction activities, the following information shall be submitted:

(1) Detailed paving, grading and drainage plans, including on-site water management areas and on-site and perimeter site grades, which clearly indicate how run-off will be routed within and discharged from the site, demonstrate that the design storm will be held on-site, and verify the stage/storage assumptions;

(2) If control elevations are revised for any portion of the proposed surface water management system, revised calculations which demonstrate compliance with the SFWMD’s retention/detention criteria for both quantity and quality purposes;

(3) If control elevations are revised for any portion of the proposed surface water management system, revise soil storage calculations;

(4) Detailed plans of all proposed roads, parking lots and building pads which demonstrate compliance with Lee County and SFWMD flood protection criteria;

(5) Cross-section of all proposed control structures which demonstrate compliance with SFWMD water quality and quantity criteria;

(6) Calculations and any other pertinent documentation which demonstrate that no net encroachment into the flood plain, between the average wet season water table and that encompassed by the 100-year event, which will adversely affect the existing rights of others, will occur. Calculations should follow the Design Example for Flood Plain Storage Compensation found on page D-F-1 of South Florida Water Management District, Permit Information Manual, Volume IV.

Reference: Sections 373.413(1), 373.413(2), and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

b) Transmission Line and Potable Water, Reclaimed Water, and Wastewater - Transmission Lines Construction Plans

Prior to the commencement of construction of any portion of the proposed transmission line or potable water, reclaimed water, and/or wastewater transmission lines, all construction activities for that portion of the transmission line or potable water, reclaimed water, and/or wastewater transmission lines which may obstruct, divert, control, impound or cross waters of the state, either temporarily or permanently, must be reviewed by the SFWMD for a determination of compliance with the non-procedural requirements of Chapters 40E-2 and 40E-4, F.A.C. “Construction activities” in this situation shall include the placement of structure pads, access/maintenance roads, culverts, and/or fill materials, excavation activities, and related activities. All plans, detail sheets and calculations shall be signed and sealed by a Florida Registered Professional Engineer. For all construction activities, the following information shall be submitted:

(1) A centerline profile of existing topographic features along the proposed access/maintenance road(s);

(2) A preliminary design of the proposed access/ maintenance and finger road(s) with elevations marked;

(3) A typical cross-section of the proposed access/ maintenance and finger roads;

(4) Specifications showing the location of each transmission tower, finger and access/maintenance road, culvert, and/or other related structure or facility to be constructed, including all areas to be filled or excavated;

(5) Specifications, including supporting assumptions and calculations, showing the type and size of water control structures (pipe, culvert, equalizer, etc.) to be used, with proposed flowline elevations marked, drainage areas identified and design capacity verified;

(6) A cross-section of all proposed excavation areas showing the proposed depth of excavation;

(7) Calculations and the supporting documentation which demonstrate compliance with all applicable criteria, particularly as they relate to allowable discharge;

(8) Identification of wet season water table elevations for each basin in which facilities will be located;

(9) Calculations and supporting documentation which demonstrate that the proposed construction activities associated with the transmission line or potable water, reclaimed water, and/or wastewater transmission line will not have an adverse water quantity and/or water quality impact on existing and/or permitted surface water management systems; and

(10) If construction of the proposed transmission line or potable water, reclaimed water, and/or wastewater transmission lines contributes to the necessity for future modifications to adjacent/existing roads, water quality treatment of the requested modifications must be addressed in the surface water management system design for the transmission line or potable water, reclaimed water, and/or wastewater transmission lines.

Reference: Sections 373.413(1), 373.413(2), and 373.41691), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

c) Surface Water Quality Monitoring Program

Within three months of issuance of this Certification, the Permittee shall submit for review by the SFWMD a surface water quality monitoring program which monitors all discharges from the surface water management system into the Buckingham Road drainage system.

(1) The SFWMD will evaluate monitoring requirements to determine whether the discharge degrades receiving waters and conforms to State water quality standards as defined in Chapter 62-302, F.A.C. If water quality problems develop, the SFWMD reserves the right to require sampling and analyses in order to provide assurances that the discharges will not cause additional off-site water quality impacts.

(2) After a minimum of two years of sampling, the applicant may request a reduction in monitoring frequencies and parameters. If the

documentation provided in support of the request does not provide sufficient reasonable assurances to support a reduction, the SFWMD reserves the right to require that the original water quality monitoring program be continued.

Reference: Section 373.413(1), 373.413(2), and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

d) Hazardous Materials Management

Prior to the commencement of construction of this project, the Permittee shall submit a copy of the Comprehensive Oil, Hazardous Materials, and Waste Management Plan for the Lee County Energy Recovery Facility to the SFWMD for a determination of compliance with the requirements of Chapter 40E-4, F.A.C. The plan shall provide an adequate level of detail for early warning and detection of hazardous materials within the shallow groundwater. At a minimum, the plan shall include a groundwater monitoring network, including proposed up-gradient and down-gradient locations of monitoring wells, prepared by a hydrogeology consultant. Reference: Section 373.413(1), 373.413(2), and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

D. Environmental Conditions

1. General

a) Wetland Avoidance

The Permittee shall avoid impacting wetlands within the plant site and transmission line and potable water, reclaimed water and wastewater transmission line corridors wherever practicable. Where necessary and feasible the location and span between power poles and the location of the potable water, reclaimed water and wastewater transmission lines within the right-of-way shall be varied to eliminate or reduce wetland impacts. Reference: Sections 373.413(1), 373.414, and 373.416(1) F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

b) Fill Materials

No fill materials shall 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. Reference: Sections 373.413(1), 373.414, and 373.416(1) F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

c) Additional Wetlands Mitigation

The Permittee 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. Reference: Sections 373.413, 373.414, and 373.416, F.S.; and Rules 40E-4.091, 40E-4.301, and 40E-4.381, F.A.C.

2. Additional Information Requirements

a) Wetland Protection

Prior to the commencement of construction of any facilities located adjacent to the wetlands identified for preservation, the Permittee shall stake and rope off the protected wetlands and buffer zones to prevent encroachment during construction. Staking shall remain in place until all adjacent construction activities have been completed. Verification of staked areas of SFWMD staff shall be required prior to commencement and upon completion of any construction activities. Reference: Sections 373.413, 373.414, and 373.416 F.S.; Rules 40E-4.091, 40E-4.301, and 40E-4.381, F.A.C.

b) Enhancement/Mitigation Area Plan

Prior to the commencement of construction of any portion of the enhancement/mitigation areas, final details of the proposed enhancement/mitigation plan shall be submitted to the SFWMD for a determination of compliance with Chapter 40E-2 and 40E-4, F.A.C., including Appendix 7 (Isolated Wetlands Rule) of the Basis of Review for Surface Water Management Permit applications within the SFWMD. The plan shall include the following:

(1) Specific acreage figures and locations of all wetlands to be preserved, created and restored/enhanced;

(2) Identification of all proposed areas of inundation;

(3) Identification of proposed control elevation(s), including documentation which demonstrates that the proposed control elevation(s) are sufficient to hydrologically maintain all the wetlands proposed to be preserved, created, and/or restored/enhanced;

(4) Documentation that the proposed enhancement/ mitigation activities will not adversely impact adjacent land owners;

(5) A discussion of any additional mitigation activities to be undertaken, including the location of all mitigation areas and a description of the manner in which these areas will be created, restored or enhanced;

(6) A timetable for accomplishing the proposed mitigation activities prior to, or concurrent with, the construction of the proposed power plant facilities and any associated wetland impacts, unless documentation for doing otherwise is submitted and approved in writing prior to the commencement of construction;

(7) Documentation that the mitigation areas and preserved wetlands, with buffer zones, have been legally reserved such that they will be managed in a manner consistent with their proposed use as conservation areas;

(8) A detailed monitoring and maintenance program designed to ensure the survival and success of any created, restored, or enhanced wetlands, which is predicated on a guaranteed survival or coverage of 80% of the appropriate vegetation. At a minimum, the monitoring program shall be conducted for a period of five years, with reports submitted to SFWMD staff annually, and all monitoring stations identified on a plan view.

Reference: Sections 373.413(1), 373.413(2), 373.414, 373.416(1), and 373.59, F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

c) Transmission Line and Potable Water, Reclaimed Water, and Wastewater Transmission Lines Mitigation Plans

Prior to the commencement of construction of any portion of the proposed transmission line or potable water, reclaimed water and/or wastewater transmission lines, a mitigation plan to offset any wetland impacts associated with that portion of the transmission line or potable water, reclaimed water and/or wastewater transmission lines must be submitted to the SFWMD for a determination of compliance with Chapters 40E-2 and 40E-4, F.A.C., including Appendix 7 (Isolated Wetlands Rule) of the Basis of Review for Surface Water Management Permit application within the SFWMD. The plan shall include the following:

(1) Specific acreage figures and locations of all wetlands, both within the transmission line and potable water, reclaimed water and wastewater transmission line rights-of-way and adjacent to it, which would be impacted by the construction activities, including an explanation of why no feasible alternative exists;

(2) Identification of any proposed areas of inundation within the transmission line or potable water, reclaimed water and/or wastewater transmission lines rights-of-way;

(3) Identification of proposed control elevations for any drainage facilities to be located within the transmission line or potable water, reclaimed water and/or wastewater transmission line rights-of-way, including documentation which demonstrates that the proposed control elevations are sufficient to hydrologically maintain all wetlands to be preserved, created and/or restored/enhanced within any of the rights-of-way;

(4) Documentation that none of the proposed construction and/or excavation activities will adversely impact off-site wetlands;

(5) A discussion of the proposed mitigation activities to be undertaken, including the location of all mitigation areas and a description of the manner in which these areas will be created, restored or enhanced

(6) If such mitigation shall occur within the mitigation enhancement area designated within the energy recovery plant site, documentation that sufficient wetland mitigation areas within the mitigation/ enhancement area have been legally reserved to compensate for the proposed wetland impacts;

(7) A timetable for accomplishing the proposed mitigation activities concurrently with the construction of the transmission line or potable water, reclaimed water and/or wastewater transmission lines and any associated wetland impacts, unless documentation for doing otherwise is submitted and approved in writing prior to the commencement of construction;

(8) A monitoring and maintenance program to ensure the survival and success of any created, restored, or enhanced wetlands, which is predicated on a guaranteed survival or coverage of 80% of the appropriate wetland vegetation. At a minimum, the monitoring program shall be conducted for a period of five years, with reports submitted to SFWMD staff annually, and all monitoring stations identified on a plan view.

Reference: Sections 373.413(1), 373.413(2), 373.414, and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

XVII. OPERATIONAL CONTINGENCY PLANS [This Condition XVII.A-D moved in its entirety to Section B, Condition I. DEP, paragraph F. The word “Permittee” has been changed to “Licensee”.]

A. Operating Procedures

The permittee shall develop and furnish the South District Office a copy of written operating instructions for all aspects of the operations which are critical to keeping the facility working properly. The instructions shall also include procedures for the handling of suspected hazardous, toxic and infections wastes.

B. Contingency Plans

The Permittee shall develop and furnish the South District Office written contingency plans for the continued operation of the system in event of breakdown. Stoppages which compromise the integrity of the operations must have appropriate contingency plans. Such contingency plans shall identify critical spare parts to be readily available.

C. Current Engineering Plans

The Permittee shall maintain a complete current set of modified engineering plans, equipment data books, catalogs and documents in order to facilitate the smooth acquisition or fabrication of spare parts or mechanical modifications.

D. Application Modifications

The Permittee shall furnish appropriate modifications to drawings and plot plans submitted as part of the application, including operational procedures for isolation and containment of hazardous wastes.

XVIII. TRANSFER AND/OR ASSIGNMENT [Replaced by Section A, Condition XXIV. Transfer of Certification]

If contractual rights, duties or obligations are proposed under this certification, notice of any transfer or assignment of such contractual rights, duties or obligations shall immediately be submitted to the Department and SFWMD by the certification holder (Permittee) and the Assignee. Included within the notice shall be the identification of the entity responsible for compliance with the certification. The Department may approve such transfer or assignment by modification of the certification and by transfer of any federally delegated permits. Any assignment or transfer shall carry with it full responsibility for the limitations and conditions of this certification.

XIX. PROPRIETARY DOCUMENTS OR INFORMATION – CONFIDENTIALITY [This Condition XIX moved in its entirety to Section B, Condition I. DEP, paragraph I. The word “Permittee” has been changed to “Licensee”.]

Proprietary or confidential data, documents or information submitted or disclosed to any agency shall be identified as such by the Permittee and shall be maintained as such pursuant to applicable Florida law.

XX. COOLING TOWER [This Condition XX moved in its entirety Section B, Condition I DEP, paragraph G. The word “Permittee” has been changed to “Licensee”.]

A. The Lee County Solid Waste Energy Recovery Facility may utilize reclaimed water from a domestic wastewater treatment plant or stormwater run-off as a source of cooling water. If the Permittee is forced to use groundwater for cooling due to non-availability of reclaimed water, such use shall be in accordance with Condition XVI.

B. Prior to use in the cooling tower, reclaimed water shall be treated to reduce turbidity to 5 NTU or less and disinfected by use of chlorine or other suitable biocide to achieve a 1.0 mg/l concentration of total chlorine residual after a 15 minute contact time.

XXI. DEPARTMENT OF COMMUNITY AFFAIRS [This DCA Condition XXI moved in its entirety to Section B, Condition III. The word "Permittee" has been changed to "Licensee".]

A. Transmission Line

The Permittee shall make all feasible efforts to avoid impacting wetlands on the site and within the certified corridor. The permittee reports that is has attempted, unsuccessfully, to enter into an agreement with the Florida Power and Light Company (FPL) to allow the placement of its proposed 138-kilovolt transmission line within FPL's existing transmission line easement, which runs along the west boundary of the energy recovery facility site. The facility's transmission line right-of-way would then run generally west from the facility site to the existing easement and then north within the easement to the Buckingham substation and would not impact any wetlands. The Department considers this to be the preferred alignment for the transmission line and recommends that it be certified if an agreement can be reached with FPL.

B. Wildlife Survey

The Permittee shall perform a survey of the project site for endangered and threatened plants and animals according to Florida Game and Fresh Water Fish Commission specifications prior to initiation of construction. If it is determined that any of these species will be adversely affected by the construction, the Permittee shall consult with the Commission to determine the appropriate steps to be taken to minimize or mitigate any adverse impacts.

C. Exotic Plant Removal

All Brazilian pepper, Australian pine, and Melaleuca shall be removed from the site during construction or the trees shall be cut and the stumps treated with an approved herbicide. Removal shall be in a manner that minimizes seed dispersal. Removal of these species shall be a part of the regular maintenance of these areas.

D. Air Pollution Control

1. The County shall add a mercury control device to the project that is guaranteed by its manufacturer to remove at least 70 percent of the mercury in the exhaust gases.

2. The County shall operate a household battery collection program to remove batteries from the waste stream.

3. The Permittee shall undertake and implement any additional processes and procedures to control emissions of regulated pollutants which are determined necessary by the Department of Environmental Protection or the U.S. Environmental Protection Agency (EPA). This shall specifically include any applicable

new EPA emission limitations promulgated under the Clean Air Act Amendments of 1990.

4. The Permittee shall increase the planting of trees on county properties and encourage the planting of trees throughout the county. The objective is to offset the energy recovery facility's release of carbon dioxide from the combustion of fossil-fuel-derived materials.

5. The Permittee shall monitor mercury emissions from the energy recovery facility to ascertain the efficiency of its mercury-control equipment. The results shall be reported to the DEP.

E. Ash Marketing

The Permittee shall endeavor to market the energy recovery facility's ash residue. The Permittee shall file an annual report with the Department of Environmental Protection detailing its progress in marketing the ash.

F. Microbiological Testing

The Permittee shall carry out biweekly tests of facility cooling water for bacteria and viruses during the first 3 months of facility operation. The results shall be sent to the Florida Department of Environmental Protection (DEP). If the DEP determines that the concentrations of bacteria or viruses in the cooling water pose a threat to public health the Permittee shall take all necessary measures to eliminate the threat.

G. Offsite Landfill Approval

The energy recovery facility shall not be approved to begin operation until the designated disposal area receives all necessary permits for its operation.

H. Archaeological Finds

In the event of discovery of any archaeological artifacts during construction of the Lee County Solid Waste Energy Recovery Facility, the Permittee shall stop construction in that area and immediately notify the Division of Historic Resources (DHR) in the Florida Department of State. The Permittee shall consult with the DHR to determine appropriate action. If avoidance is not possible, the impact will be mitigated through archaeological salvage excavation operation or by other methods acceptable to the DHR.

I. Traffic Minimization

1. After the site for the associated landfill/ ashfill site is selected, the Permittee shall carry out a traffic analysis of project traffic to and from the landfill/ashfill to assure that any significant traffic impacts are mitigated. The analysis shall be submitted to the Department of Environmental Protection and the Department of

Community Affairs for review and approval, which shall include a determination of any mitigation that may be needed. The Department of Environmental Protection may modify the certification as necessary to incorporate any conditions needed for the mitigation of traffic impacts.

2. The Permittee shall promote ride sharing by members of the construction and operation work forces.

J. Employment

1. The Permittee shall assist unemployed and economically disadvantaged persons in finding employment during construction and operation of the facility.

2. The Permittee shall provide innovative arrangements such as flexible hours of employment, as appropriate, to increase the access of working parents to employment at the facility.

K. Hurricane Preparation and Recovery Plan

The Permittee shall develop a comprehensive hurricane preparation and recovery plan for the Unit 3 Expansion Project, as part of the Lee County Solid Waste Energy Recovery Facility. The plan shall be submitted to the Department of Community Affairs and the Lee County Office of Emergency Management no later than commencement of construction of the Unit 3 Expansion Project. The Permittee shall formally update the plan every 5 years following commercial operation of the Unit 3 Expansion Project or whenever an additional electrical generating unit is brought into commercial service at the Solid Waste Energy Recovery Facility site and shall submit these updated versions of the plan to the Department of Community Affairs and the Lee County Office of Emergency Management.

XXII. SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL [This SWFRPC Condition XXII moved in its entirety to Section B, Condition IV.] The word "Permittee" has been changed to "Licensee".

A. Waste Management

1. Lee County shall comply with any applicable future requirement for mercury emission controls of the Department or the United States Environmental Protection Agency, whichever is more restrictive.

2. Lee County shall implement a battery recycling program.

3. Lee County shall implement a commercial recycling program. The aim of the program should be to separate recyclable materials from the commercial waste stream.

4. The project will be required to ensure that no objectionable smell will be produced in areas downwind of the facility, or in the adjacent park site.

B. Water Resources

1. All impacted wetlands, whether on-site or off-site, shall be buffered from impacts of construction or operation of the proposed facility. Such buffers may be natural or structural, but should extend between 15 feet and 25 feet from the edge of each impacted wetland to comply with the requirements of the SFWMD and Lee County.

2. The applicant will be required to ensure that the recycled wastewater and circulation systems do not impact surface or groundwater quality, and that the water from the cooling tower blowdown (via the dry scrubber and residue quench tanks) does not discharge to surface or ground waters. The applicant shall provide safeguards to prevent any leakage from these systems form impacting surface water or groundwater.

3. The applicant shall ensure that the moist residue from the residue quench system does not contaminate surface water or groundwater.

4. The construction, operation and maintenance of the Lee County Resource Recovery Facility Surface Water Management System will be the responsibility of Lee County.

5. Retention pond slopes will be constructed according to criteria of the South Florida Water Management District and Lee County. Pond slopes should be planted with appropriate native vegetation, according to District and Lee County criteria.

6. If development of the project contributes to the necessity for future improvements to adjacent existing roadways (SR 82 and Buckingham Road), the water quality treatment for these roadway improvements will be provided by Lee County.

7. If the Surface Water Management System as proposed does not adequately return the water level of onsite wetlands to the proposed control elevations, appropriate modifications to the system shall be required.

8. As the applicant has stated that the project may use reclaimed wastewater for irrigation, the applicant will ensure that the onsite ponds, drainage ways and wetlands are adequately buffered from possible effluent contamination, in accordance with FDER criteria.

9. The project's drainage system will be constructed and operated in such a manner as to be consistent with the County-wide Surface Water Management Master Plan and the Basin Plan for the Six Mile Cypress Watershed, or the Orange River Water Management Plan, whichever is applicable.

C. Natural Systems and Recreational Lands

1. Lee County shall institute a nuisance species control plan for the entire facility site (150 acres approx.). Such a plan should include control and monitoring procedures for the removal of exotic vegetation, replacement of exotic vegetation with appropriate native vegetation, and all steps necessary to ensure survival of native vegetation.

2. Onsite landscaping will utilize native vegetation and xeriscape principles to the extent practicable.

3. The proposed power line road will be unpaved. Stabilization activities will be limited to the minimum amount necessary to ensure road use.

D. Air Quality

Lee County shall monitor the emission of mercury on a monthly basis (or other appropriate basis in which to accurately measure) and ensure that the removal levels are being attained.

E. Hazardous and Nonhazardous Materials and Waste

1. The hazardous waste and recycling programs identified by Lee County within the letter to the SWFRPC, dated Nov. 5, 1990, and the mercury control strategy identified in the March 8, 1991, letter to FDER shall be implemented.

2. The applicant will take steps and precautions to ensure that commercial and industrial wastes accepted at the facility as a fuel source do not contain hazardous materials or wastes, and that such materials and wastes do not enter the processing stream.

F. Transportation

1. The construction phases for the facility have the potential to produce more traffic than the facility when operational. Prior to approval of building permits, an analysis of the traffic produced during construction should be performed.

2. A reanalysis of the traffic impacts of the facility should be performed prior to approval of building permits. The analysis should address the following:

a) Turn lane improvements to accommodate the trucks accessing the facility both on site and at the intersection of Buckingham Road with State Road 82/Immokalee Road and other impacted intersections.

b) Access to the proposed joint Hendry/Lee County landfill in Hendry County.

c) Potential widening of Buckingham Road and State Road 82/Immokalee Road and other impacted roadways to accommodate truck traffic.

d) The trucks accessing the site will be heavily loaded; projections are between 30 and 35 tons apiece. The additional roadway and bridge maintenance or reconstruction costs associated with the weights of the trucks should be reviewed.

3. The traffic analysis assumes that the ash residue will be taken by truck from the resource recovery facility to a disposal site in Hendry County via SR 82. If the route to the disposal site changes in the future, Lee County shall be required to submit a revised analysis of traffic impacts and shall make such traffic safety improvements as are necessary to accommodate the increased truck traffic using the new route.

XXIII. DEPARTMENT OF TRANSPORTATION [This DOT Condition XXIII has been moved in its entirety with no changes to Section B, Condition V.]

A. Access Management to the State Highway System. No new access to the State Highway System is proposed in the siting supplemental application. If new access is later proposed, access permitting as defined in 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 loads by the applicant on State transportation facilities during construction and operation of the utility facility will be subject to safety and permitting requirements of Chapter 316, 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. Any use of State of Florida right of way and certain activities on State transportation facilities will be subject to the requirements of the Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001) and Rule Chapter 14-46, Railroads/Utilities Installation or Adjustment, Florida Administrative Code.

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

E. Use of Air Space. Any structures proposed in the application which exceed 200 feet in height will be subject to an aeronautical study by the Federal Aviation Authority under the provisions of 14 CFR Part 77. If the aeronautical study finds an adverse effect on the safe and efficient use of navigable airspace, the project will require the issuance of a variance by state or local government.

XXIV. FEDERAL ANNUAL OPERATING PERMITS AND FEES [Replaced by Section A, Condition VI. Federal Permits]

A. DEP Responsibilities (Reserved)
B. Lee County Responsibilities

Lee County shall submit the appropriate annual operating permit application information as well as the appropriate annual pollutant emission fees as required by State Regulation and Federal Law to the Department.

XXV. History

Certification of Units 1 and 2 on 06/19/92; signed by Governor Chiles
Modification 04/03/95; signed by Secretary Wetherell
Modification 08/22/96; signed by Secretary Wetherell
Modification 08/21/00; signed by Deputy Secretary Green
Modification 06/15/01; signed by Secretary Struhs
Certification of Expansion Unit on 10/08/03; signed by Governor Bush
Modification 02/27/06; signed by Program Administrator Oven
Modification 11/2706; signed by Siting Administrator Oven
Modification 05/07/07; signed by Siting Administrator Halpin