STATE OF FLORIDA

DEPARTMENT

OF

ENVIRONMENTAL PROTECTION

Conditions of Certification

Lee County

Solid Waste Energy Recovery Facility

PA90-30H

March 22, 2010

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SECTION A. GENERAL CONDITIONS

I. SCOPE

A. Pursuant to Sections 403.501-518, Florida Statutes (F.S.), the Florida Electrical Power Plant Siting Act (PPSA), this certification is issued to Lee County as owner of Lee County Solid Waste Energy Recovery Facility and Licensee. Subject to the requirements contained in these Conditions of Certification (Conditions) Lee County will operate a 1,800 ton/day (nominal nameplate capacity) facility consisting of three mass burn waterwall combustion systems (nominally 20 MW each). These units are located on a 155 acre site which is located in Lee County, Florida. UTM coordinates are: Zone 17; 424.21 km East; 2945.70 km North.

B. These Conditions of Certification, unless specifically amended or modified, are binding upon Licensee and shall apply to the construction, operation and maintenance of the Certified Facility. If a conflict should occur between the design criteria of this certified facility and the Conditions 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.

C. Within 60 days after completion of construction of the initial certified facility/ies, the Licensee shall provide: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the site, and an aerial photograph delineating the boundaries of the site. The survey and aerial photograph shall be attached hereto as Attachment A. The Licensee shall notify the Department of any change to the site boundary. The notification shall be accompanied by an updated land survey (or legal description) and aerial photograph delineating the new boundaries of the site. Absent the above description/delineation of the site, the Department will consider the perimeter fence line of the property on which the plant is located to be the boundaries of the site.

D. If the boundaries of the initial Certified Area are different than the boundaries of the Site, the Licensee shall comply with the requirements in this paragraph. Within 60 days after completion of construction of the Certified Facility/ies, the Licensee shall provide a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the certified area; and an aerial photograph delineating the boundaries of the certified. The survey and the aerial photograph shall be attached hereto as Attachment B. Any proposed project requiring a change to the boundaries of the certified area shall be accompanied by an updated survey map or legal description and aerial photograph.

E. The Certified Facility includes the following major associated facilities:

Ash Handling, Processing, and Storage Facility

Municipal Solid Waste Transfer Facility

Water Treatment Facility

Tire Processing Facility

Vegetative Waste Processing Facility

Construction Debris Recycling Facility (CDRF)

Recovered Material Processing Facility (RMMPF)

Vehicle Maintenance Facility (VMF)

Scale House

[Section 403.511, 403.531, 403.9416, F.S.; 62-4.160(8), F.A.C.]

II. APPLICABLE RULES

A. The construction and operation of the Certified Facility shall be in accordance with all applicable non-procedural provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the non-procedural portions of the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification or in a subsequent modification to the Conditions: Chapter 403 (Environmental Control), Florida Statutes (F.S.), and Chapters 18-20 (Aquatic Preserves), 40E-2 through 4 (Consumptive Use of Water, Regulation of Wells, Individual Environmental Resource Permits), 40D-8 (Water Levels and Rates of Flow), 40E-9 (District Land Use Rules), 40E-20 (General Water Use Permits), 40-E21 (Water Shortage Plan), 40-E40 (General Environmental Resource Permits), 62-4 (Permits), 62-17 (Electrical Power Plant Siting), 62-25 (Regulation of Stormwater Discharge), 62-256 (Open Burning), 62-296 (Stationary Sources-Emission Standards), 62-297 (Stationary Sources-Emission Monitoring), 62-301 (Surface Waters of the State), 62-302 (Surface Water Quality Standards), 62-303 (Identification of Impaired Surface Waters), 62-304 (Total Maximum Daily Loads), 62-312 (Dredge and Fill Activities), 62-330 (Environmental Resource Permitting), 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters), 62-345 (Uniform Mitigation Assessment Method), 62-520 (Groundwater Classes and Standards), 62-522 (Groundwater Permitting and Monitoring), 62-531 (Water Well Contractor Licensing Requirements), 62-532 (Water Well Permitting and Construction Requirements), 62-621 (Generic Permits), 62-650 (Water Quality Based Effluent Limitations), 62-660 (Industrial Wastewater Facilities), 62-701 (Solid Waste Management Facilities),62-730 (Hazardous Waste), 62-762 (Aboveground Storage Tank Systems), 62-770 (Petroleum Contamination Site Clean-Up Criteria), 62-780 (Contaminated Site Clean-Up Criteria), and 62-814 (Electric and Magnetic Fields), Florida Administrative Code (F.A.C.).

III. REVISIONS TO DEPARTMENT STATUTES AND RULES

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

B. Upon written notification to the department, any holder of a certification issued pursuant to the PPSA may choose to operate the certified electrical power plant/transmission line/natural gas pipeline in compliance with any rule subsequently adopted by the department which prescribes criteria more lenient than the criteria required by the terms and conditions in the certification which are not site-specific.

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

IV. DEFINITIONS

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

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

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

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

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

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

F. “DHR” means the Florida Department of State, Division of Historical Resources.

G. “DOT” means the Florida Department of Transportation.

H. “Emergency conditions” or “Emergency reporting” means urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity.

I. “Feasible” means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.

J. “FWC” means the Florida Fish and Wildlife Conservation Commission.

K. “Licensee” means an applicant that has obtained a certification order for the subject project.

L. “NPDES permit” means a federal National Pollutant Discharge Permit System permit issued in accordance with the federal Clean Water Act.

M. "PSD permit" means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.

N. "ARPC", "CFRPC", "ECFRPC", "NCFRPC", "NEFRPC", "SFRPC", "SWFRPC", "TBRPC", "TCRPC", "WFRPC", or "WRPC" means the Apalachee, Central Florida, East Central Florida, North Central Florida, Northeast Florida, South Florida, Southwest Florida, Tampa Bay, Treasure Coast, West Florida or Withlacoochee Regional Planning Council, respectively.

O. "ROW" means right-of-way.

P. "Site" means any proposed location within which will be located an electrical power plant's generating facility and onsite support facilities, or an alteration or addition of electrical generating facilities and onsite support facilities resulting in an increase in generating capacity, including offshore sites within state jurisdiction.

Q. "NWF, SR, SJR, SWF, or SF WMD" means the Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida Water Management District, respectively.

R. "Title V permit" means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.

V. TRANSFERABILITY OF DEFINITIONS

Definitions in other Chapters of the Department's rules may be used to clarify the meaning of terms used in these Conditions unless the terms are defined in Section 62-4.020, F.A.C., or unless transfer of such definition would defeat the purpose or alter the intended effect of the provisions of these Conditions.

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

VI. FEDERAL PERMITS

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

A. Air

The provisions of the following paragraphs shall be conditions of this certification. The Licensee shall comply with the substantive provisions and limitations set forth in both Air Construction Permits No.PSD-FL-151 and PSD-FL-151D, and Title V Air Operation Permit Number 0710119-006-AV as part of these Conditions of Certification, and as those provisions may be modified, amended, or renewed in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification. Any violation of such provisions shall be a violation of these Conditions of Certification.

1. Air Construction Permit(s)

Air Construction permits PSD-FL-151 and PSD-FL-151D are incorporated by reference herein as part of this Certification and attached as Appendix A.

[Rule 62-212, F.A.C]

2. Title V Permit

Title V Air Operation Permit 0710119-006-AV is incorporated by reference herein as part of this Certification and attached as Appendix B.

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

B. Water

1. CGP NOI

Prior to start of construction of projects that will discharge stormwater to waters of the state, the Licensee shall prepare a Storm Water Pollution Prevention Plan and submit a copy of the National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) to use a Construction Generic Permit (CGP) For Stormwater Discharges From Large and Small Construction Activities (as applicable) to the DEP NPDES Stormwater Notices Center.

[Rule 62-621.300(4)(a), F.A.C.]

2. Multi-Sector Generic Permits

Any storm water discharges associated with industrial activity shall be in accordance with all applicable provisions of Rule 62-621.300(5)(a), F.A.C.

[Rule-62-621.300(5)(a), F.A.C.]

C. Other

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

VII. DESIGN AND PERFORMANCE CRITERIA

Certification, including these Conditions of Certification, is predicated upon preliminary designs, concepts, and performance criteria. Final engineering design will be consistent and in substantial compliance with the preliminary information described in the Application and explained at the certification hearing (if any). Conformance to those criteria, unless specifically modified in accordance with Section 403.516, F.S., and Rule 62-17.211, F.A.C., is binding upon the Licensee in the design, construction, operation and maintenance of the Certified Facility. In any instance where a conflict occurs between the Application's design criteria and the Conditions of Certification, the Conditions shall prevail.

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

VIII. NOTIFICATION

A. If, for any reason, the licensee does not comply with or will be unable to comply with any condition or limitation specified in this license, the licensee shall immediately provide the Department with the following information:

1. A description of and cause of noncompliance; and

2. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken

to reduce, eliminate, and prevent recurrence of the noncompliance. The licensee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this certification.

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

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

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

IX. CONSTRUCTION PRACTICES

A. Local Building Codes

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

[Section 403.511(4), 403.531(4) and 403.9416(7) F.S.]

B. Particulate Matter

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

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

C. Open Burning

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapter 62-256, F.A.C., and Chapter 51-2, F.A.C. Prior to any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., Licensee shall seek approval from the applicable DEP District Office, whose approval may be granted in conjunction with the approval of the Division of Forestry. Burning shall not occur if not approved by the Department, or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.

[Rule 62-256, F.A.C.]

D. Solid Wastes

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

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

E. Sanitary Wastes

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

F. Flood Control Protection

The Certified Facilities shall be constructed in a manner that complies with the applicable non-procedural flood protection requirements of Chapter 62-312, F.A.C.

[Rule 62-312, F.A.C.]

G. Underground Utilities

During design and prior to construction of any linear associated facility, Licensee shall contact Sunshine One Call and obtain a listing (design and construction tickets) of all of the known existing underground utilities within the proposed ROW. Licensee shall provide the affected county and the Siting Office with a copy of the design plans for any linear associated facility that will be located within the County's right-of-way. Licensee must also follow safe digging practices and the applicable provisions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, Florida Statutes.

[Chapter 556, F.S.]

H. Electric and Magnetic Fields

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

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

X. RIGHT OF ENTRY

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

1. At reasonable times, to enter upon the Certified Facility in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this certification; or

2. During business hours, to enter the Licensee’s premises in which records are required to be kept under this certification; and to have access to and copy any records required to be kept under this certification.

B. When requested by DEP, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within a reasonable time, furnish any information required by law, which is needed to determine compliance with this certification. If the Licensee becomes aware that relevant facts concerning the Certified Facility were not submitted or were incorrect in the Application or in any report to DEP or other agencies, such facts or information shall be corrected promptly.

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

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 circumstance is held invalid, the remainder of the certification or the application of such provision to other circumstances shall not be affected thereby.

XII. ENFORCEMENT

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of Certification are binding and enforceable pursuant to Sections 403.141,

403.161, and 403.514, F.S.as applicable. Any noncompliance by the Licensee with a Condition of Certification constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, license termination, license revocation, or license revision. The Licensee is placed on notice that the Department may review this certification periodically and may initiate enforcement action for any violation of these Conditions. Abandonment of the Certified Facility will be considered grounds for enforcement action.

B. All records, notes, monitoring data and other information relating to the construction or operation of the Certified Facility which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the Certified Facility and arising under the Florida Statutes or Department rules.

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

XIII. REVOCATION OR SUSPENSION

This certification shall be final unless revised, revoked or suspended pursuant to law. This certification may be suspended or revoked pursuant to Section 403.512, F.S., or for violations of these Conditions of Certification. This approval is valid only for the specific processes and operations identified within the Application and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the Certified Facility that are the cause of such action, and other portions of the Certified Facility shall remain unaffected by such action.

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

XIV. SAFETY

As provided in subsection 403.087(7), F.S., the issuance of this license does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This license does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of this Certified Facility, or from penalties therefore.

[Rules 62-4.160(3); 62-4.160(5), F.A.C.]

XV. CIVIL AND CRIMINAL LIABILITY

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

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

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

XVI. PROPERTY RIGHTS

A. The issuance of this certification conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

B. If any portion of the Certified Facility is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the Certified Facility must comply with the applicable portions of Chapters 18-2, 18-20 and 18-21, F.A.C., and Chapters 253 and 258, F.S. If any portion of the Certified Facility is located on sovereign submerged lands, the Licensee must submit section G of the Joint Application for Environmental Resource Permits to the Department prior to construction. If any portion of the Certified Facility is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

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

D. The Licensee is hereby advised that Florida law states: “No person shall commence any excavation, construction, or other activity involving the use of sovereign or other state lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to $10,000 per offense.

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

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

XVII. LICENSEE’S PROCEDURAL RIGHTS

Except as specified in Chapter 403, F.S., or Chapter 62-17, F.A.C., no term or Condition of Certification shall be interpreted to preclude the post-certification exercise by the

Licensee of whatever procedural rights it may have under Chapter 120, F.S., including those related to rule-making proceedings.

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

XVIII. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES

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

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

Florida Department of Environmental Protection
South District Office
2295 Victoria Avenue, Suite 364
Fort Myers, FL 33902-2549

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

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

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

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

Southwest Florida Regional Planning Council
Office of the Executive Director
1926 Victoria Avenue
Fort Myers, FL 33901

South Florida Water Management District
Office of General Counsel
3301 Gun Club Road
West Palm Beach, Florida 33406

Florida Department of State,

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

Lee County
Attorney's Office
PO Box 398
Fort Myers, FL 33902

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

XIX. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. Purpose of Submittals

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

B. Filings

All post-certification submittals of information by Licensee are to be filed with the DEP Siting Coordination Office, the DEP South District Office, and any other agency that is entitled to receive a submittal pursuant to any Condition of Certification. As required by Section 403.5113(2), F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.

The Licensee shall provide within 90 days after certification or modification, a complete summary of those post-certification submittals that are identified in the Conditions of Certification where due-dates for the information required of the Licensee are identified. A summary shall be provided as a separate document for each transmission line, if any. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the DEP Siting Coordination Office and any affected agency or agency subunit to which the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below or equivalent.

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

[62-17.191(3), F.A.C.]

C. Completeness

DEP shall promptly review each post-certification submittal for completeness. This review may include consultation with the other agency (ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the submittal. DEP's finding of completeness shall specify the area of the Certified Facility affected, and shall not delay further processing of the post-certification submittal for non-affected areas. If any portion of a post-certification submittal is found to be incomplete, Licensee shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

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

D. Interagency Meetings

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

E. Determination of Compliance

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

F. Commencement of Construction

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

G. Revisions to Design Previously Reviewed for Compliance

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

H. Variation to Submittal Requirements

DEP, in consultation with the appropriate agencies that have regulatory authority over a matter to be addressed in a post-certification submittal, and Licensee may jointly

agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

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

XX. POST CERTIFICATION AMENDMENTS

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

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

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

[Chapter 403.5113, F.S.]

XXI. MODIFICATION OF CERTIFICATION

A. Pursuant to Section 403.516(1)(a), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department of Environmental Protection to modify, after notice and receipt of no objection by a party or other substantially affected person, any conditions which would not otherwise require approval by the Siting Board. In addition, the Department is delegated the authority to modify conditions as follows: The certification shall be modified to conform to subsequent DEP-issued amendments, modifications, or renewals of any separately issued Prevention of Significant Deterioration (PSD) permit, Title V Air Operation permit, Underground Injection Control (UIC) permit, or National Pollutant Discharge Elimination System (NPDES) permit for the Certified Facility. In the event of a conflict, the more stringent of the conditions of such permits or of these Conditions of Certification shall be controlling.

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

C. Requests which include alterations affecting wetlands regulated under Part IV of Chapter 373 (relevant to environmental resource permitting), F.S may require modification to the Conditions of Certification. Activities regulated pursuant to Chapter 373, Part IV, and meeting any one of the below criteria may require a modification to these conditions. An activity is not a minor modification and may be considered a modification if:

1. the activity requires a new site inspection by the department in order to evaluate the request;

2. the activity substantially

a. increases the authorized discharge;

b. results in different or increased impacts on wetlands and other surface waters, as delineated by the methodology ratified by section 373.4211, F.S., and codified in Chapter 62-340, F.A.C;

c. decreases the retention/detention specified by the current application/license;

d. decreases any flood control elevations for roads or buildings specified by the current application/license; or

e. increases the Certified Facility area; or

3. the activity occurs on sovereign (or state-owned) submerged lands.

For approval of activities governed by the Department's program for Environmental Resource Permits, the Licensee shall submit a completed application Form# 62-343.900(1) (as required in Rules 62-343.070(2) and 62-343.090(2)(b), F.A.C.) with its petition for modification.

D. Any anticipated facility change which results in a change to the boundaries of the certified area must be accompanied by a map or aerial photograph showing the proposed new boundaries of the certified area. The Department may consider any such change to be a modification of the Conditions of Certification, including those changes that would otherwise be considered an amendment to the Site Certification Application.

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

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

XXII. COASTAL ZONE CONSISTENCY

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

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

XXIII. FINANCIAL RESPONSIBILITY

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

[62-4.110, and 62-701.630, F.A.C.]

XXIV. TRANSFER OF CERTIFICATION

This certification is transferable in whole or in part, upon Department approval, to an entity determined to be competent to construct, operate and maintain the Certified Facility in accordance with these Conditions of Certification. The Department will consider whether the entity is a proper applicant as defined by the PPSA, in making its approval. A transfer of certification of all or part of the Certified Facility may be initiated by the Licensee's filing of a Notice of Intent to Transfer Certification with the Department. A copy of the necessary form may be obtained by contacting the Siting Coordination Office. Upon approval the Department will initiate a modification to the Conditions of Certification to reflect the change in ownership in accordance with Section 62-17.211, F.A.C. Upon determination that such a successor entity complies with the above, the Department will initiate a modification to the Conditions of Certification to reflect the change in ownership in accordance with Section 62-17.211, F.A.C.

[62-17.211, F.A.C.]

XXV. LABORATORIES AND QUALITY ASSURANCE

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

[Rules 62-160 F.A.C.]

XXVI. ENVIRONMENTAL RESOURCES

A. Stormwater

1. Activities approved by these conditions shall be conducted in a manner which does not cause violations of state water quality standards. The licensee shall implement best management practices for erosion and a pollution control plan to prevent violations of state water quality standards as a result of construction on the Certified Area. Temporary erosion control methods shall be implemented prior to and during construction and permanent control measures shall be completed within seven days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the licensed work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the licensee shall be responsible for the removal of the barriers. The licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

2. Water quality data for the water discharged from the licensee's property or into the surface waters of the state shall be submitted to the Department as required by these Conditions. Analyses shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association or Methods for Chemical Analyses of Water and Wastes by the U.S. Environmental Protection Agency. If water quality data are required, the licensee shall provide data as required on volumes of water discharged, including total volume discharged during the

days of sampling and total monthly volume discharged from the property or into surface waters of the state.

3. The Department must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must either have been submitted and approved with the license application or submitted prior to the dewatering event. The dewatering plan must be submitted to the South Florida Water Management District.

4. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as feasible in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

5. Off site discharges during construction and operation of the certified facilities shall be made only through the facilities authorized by this license. Water discharged from the Certified Facility shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operation schedules satisfactory to the Department.

6. The licensee shall complete construction of all aspects of the stormwater management system described in the Application, including wetland compensation/mitigation areas (if any), water quality treatment features, and discharge control facilities prior to use of the development being served by this stormwater management system.

7. The following shall be properly abandoned and/or removed in accordance with the applicable regulations:

a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.

b. Any existing septic tanks on site shall be abandoned at the beginning of construction, unless these Conditions provide otherwise.

c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction, unless these Conditions provide otherwise.

8. All stormwater management systems shall be operated to conserve water in order to maintain environmental quality and resource protection; to increase the efficiency of transport, application and use; to decrease waste; to minimize unnatural runoff from the property and to minimize dewatering of offsite property.

9. At least 48 hours prior to the commencement of construction on any new stormwater management system authorized by this license, the licensee shall submit to the Department a written notification of commencement using an “Environmental Resource Permit Construction Commencement” notice (Form No. 62-343.900(3), F.A.C.) indicating the actual start date and the expected completion date.

10. Each phase or independent portion of the licensed system must be completed in accordance with the Application and Conditions prior to the operation of site infrastructure located within the area served by that portion or phase of the stormwater management system. Each phase or independent portion of the system must be completed in accordance with the Application and Conditions prior to transfer of responsibility for operation

and maintenance of that phase or portion of the system to a local government or other responsible entity.

11. Within 30 days after completion of construction of any new portions of the stormwater management system, the licensee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form No. 62-343.900(5), F.A.C.), and "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343-900(7), F.A.C.). Additionally, if deviations from the approved drawings are discovered during the certification process the certification must be accompanied by a copy of the approved drawings with deviations noted.

12. This license is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the Application. Any substantial deviation from the approved drawings, exhibits, specifications or Conditions, may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas substantially deeper than shown on the approved plans.

13. The operation phase of any new stormwater management system approved by this license shall not become effective until the licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the licensed plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system. This license may not be transferred to the operation and maintenance entity approved by the Department until the operation phase of this license becomes effective. Following inspection and approval of any new stormwater management system by the Department, the licensee shall request transfer of the license to the responsible operation and maintenance entity approved by the Department, if different from the licensee. Until a transfer is approved by the Department pursuant to Section 62-343.110(1)(d), F.A.C., the licensee shall be liable for compliance with the terms of the license.

14. Should any regulatory agency other than the Department require changes to the licensed system, the Department shall be notified of the changes prior to implementation so that a determination can be made whether a modification is required.

15. If the Application contains a delineation of the extent of a wetland or other surface water subject to the Department's jurisdiction pursuant to Chapter 373, Part IV, the delineation shall not be considered binding on the Department, unless a specific condition of this certification or a formal wetlands jurisdictional determination under section 373.421(2), F.S., provides otherwise.

[Chapters 62-302, 62-330 and 62-343, F.A.C. and Rule 62-4.242, F.A.C.]

B. Wetland Impacts

1. Submittals for Activities within Wetlands or Other Surface Waters

a. Prior to the projected commencement of construction of any portion of the Certified Facility in wetlands or other surface waters, the Licensee shall provide to the appropriate DEP District's Environmental Resource Permitting Section(s) and the U.S. Army

Corps of Engineers all information necessary for a complete *Joint Environmental Resource Permit application*, DEP Form No. 62-343.900(1), with copies to the appropriate WMD(s), local government (s) and RPC(s) for informational purposes.

[Section 373.416, F.S.; Rule 62-343.900(1, F.A.C.)]

b. If the Licensee proposes any construction in the waters of the State, the Licensee shall provide reasonable assurance that the construction, operation and maintenance of the proposed project, satisfies any applicable non-procedural requirements in the rules of the South Florida Water Management District.

[Section 373.414, F.S.; Rule 62-17.665(7)(d)]

c. If a post-certification submittal is required, the submittal shall include a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff.

[Chapter 62-340, F.A.C.]

2. Reduction and Elimination of Impacts

a. Avoidance

(1) If components of the Certified Facility cross wetlands or other surface waters of the state, the Licensee shall utilize adjacent existing access roads and public roads for access to associated facilities for construction, operation and maintenance purposes to the extent practicable.

(2) Where practicable, the Licensee shall make an effort to reduce or eliminate impacts to wetlands and other surface waters within the Certified Area.

(3) To the extent practicable and utilizing the typical structures shown in the Application, access roads, culverts and structures shall be located to avoid conflict with existing underground utilities documented in county records.

(4) In the event temporary fill is used to facilitate construction, the temporary fill shall be removed where necessary to minimize impacts to wetlands or habitats of listed species.

[Sections 373.414 and 373.416, F.S;62-300.200(4)(b), F.A.C.; and SFWMD Basis of Review Section 4.2.1]

3. Mitigation

a. Mitigation for wetland and other surface water impacts pursuant to Section 373.414, F.S. shall not be required by DEP if the Certified Facility;

(1) is not located within wetlands

(2) will adversely affect wetlands or other surface waters of the state, or

(3) for transmission lines, complies with the following conditions:

i. All permanent fill shall be at grade; and

ii. Vegetation within wetlands may be cut or removed no lower than the soil surface while maintaining the remainder of the project right-of-way within the wetland by selectively clearing vegetation which has an expected mature height above 14 feet. Brazilian pepper, Australian pine, and melaleuca shall be eradicated throughout the wetland portions of the right-of-way; and

iii. Erosion control methods shall be implemented as necessary to ensure that state water quality standards for turbidity are met. Diversion and impoundment of surface waters shall be minimized; and

iv. The proposed construction and clearing shall not adversely affect threatened and endangered species; and

v. The proposed construction and clearing shall not result in a permanent change in existing ground surface elevation.

vi. For associated linear facilities, where fill is placed in wetlands, the clearing to ground of forested wetlands is restricted to 4.0 acres per 10-mile section of the project, with no more than one impact site exceeding 0.5 acres. The impact site which exceeds 0.5 acres shall not exceed 2.0 acres. The total forested wetland clearing to the ground per 10-mile section shall not exceed 15 acres. The 10-mile sections shall be measured from the beginning to the terminus, or vice versa, and the section shall not end in a wetland.

b. For construction in wetlands that does not comply with the requirements in paragraph a., the Licensee shall propose a mitigation plan as a post-certification submittal in accordance with Condition XIX above. Once the plan is approved by DEP, the plan shall become part of the Conditions as Attachment C. In such cases, the following information shall be provided to the appropriate DEP District(s) Environmental Resource Permitting Section for review:

(1) detailed description, location map, and recent aerial photograph of each wetland impact area in which the paragraphs 62-341.620(2)(b)-(i), F.A.C., limitations were not met;

(2) acreage of the type and quality of wetland being impacted at each such site;

(3) narrative, drawings, location map, and aerial photographs showing and explaining the proposed mitigation, or in the case of a mitigation bank, the name and location of the bank;

(4) detailed description of the existing conditions at the impact site and, unless a mitigation bank is proposed, at the mitigation area;

(5) acreage and wetland type of the proposed mitigation, or for a Department-approved mitigation bank, the type and number of credits;

(6) if not a mitigation bank, documentation providing reasonable assurance that the proposed mitigation will be successful; and

(7) an analysis pursuant to Chapter 62-345, F.A.C.

(8) To the extent mitigation will be provided from a mitigation bank, a credit reservation letter will be provided from the selected bank demonstrating the necessary credits are being set aside to offset project impacts.

c. Mitigation plans must be found to fully offset the functions and values provided by wetlands that will be degraded or eliminated to the abundance and diversity of fish, wildlife and listed species, and the habitat of fish, wildlife and listed species. 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 in accordance with Condition XIX.

d. If DEP, upon review of any proposed mitigation plan, determines that the proposed mitigation is inadequate to offset the loss of wetland values described above from the project, the Licensee may propose additional or alternative mitigation or dispute the determination.

e. If the proposed mitigation plan is deemed acceptable by DEP; and,

(1) Does not involve the use of a mitigation bank, the construction conditions, success criteria and a monitoring plan will be incorporated into the construction conditions.

(2) Does involve the use of a mitigation bank within 90 days after issuance of the site certification or 30 days prior to commencement of construction of the Project, the Licensee shall provide the Siting Coordination Office with documentation of the final purchase of the required mitigation credits and deduction of those credits from the wetlands mitigation bank's ledger. Upon receiving complete information, the Department will assess the revised mitigation plan within 90 days. If the Department, upon review of the proposed mitigation, determines that the proposed mitigation is inadequate to offset the additional wetland loss and habitat degradation from this project, the Licensee shall propose additional mitigation.

f. Construction within wetlands or other surface waters that does not comply with the non-procedural limitations of Rule 62- 341.620(2)(b)-(i), F.A.C., or paragraph 3.a. above, shall not commence until DEP approves a mitigation plan, and, if a bank is not used, mitigation construction conditions, success criteria and a monitoring plan are incorporated into the certification conditions.

g. The Licensee shall be deemed to have met the requirements of this condition relative to mitigation if the Licensee satisfies the criteria of the SFWMD's Basis of Review for Environmental Resource Permit Applications and Chapter 62-345, F.A.C.

[Sections 373.413, 373.414, 403.511, 403.531, 403.814(6) and 403.9416, F.S.; paragraph 62-330.200(4)(b), F.A.C., and Rule 62-341.620, F.A.C.]

XXVII. THIRD PARTY IMPACTS

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

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

XXVIII. FACILITY OPERATION

A. The Licensee shall properly operate and maintain the Certified Facility and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with the conditions of this License as 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 License and when required by Department rules.

B This License 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 drawings, exhibits, specifications, or conditions of this License may constitute grounds for revocation and enforcement action by the Department.

[Rules 62-4.160(2) and 62-4.160(6), F.A.C.]

XXIX. RECORDS MAINTAINED AT THE FACILITY

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

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

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

D. Records of monitoring information shall include:

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

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

XXX. WATER DISCHARGES

A. Discharges

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.

[Rules 62-302.500 and 62-520.400, F.A.C.]

B. Wastewater Incident Reporting

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

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

a. Name, address, and telephone number of person reporting;

b. Name, address, and telephone number of permittee or responsible person for the discharge;

c. Date and time of the discharge and status of discharge (ongoing or ceased);

d. Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);

e. Estimated amount of the discharge;

f. Location or address of the discharge;

g. Source and cause of the discharge;

h. Whether the discharge was contained on-site, and cleanup actions taken to date;

i. Description of area affected by the discharge, including name of water body affected, if any; and

j. Other persons or agencies contacted.

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

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

XXXI. SOLID AND HAZARDOUS WASTE

A. Solid Waste

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

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

B. Hazardous Waste

The Licensee shall comply with all applicable provisions of DEP Rule Chapter 62-730, F.A.C., for any hazardous waste generated within the Certified Facility. An EPA identification number must be obtained before beginning hazardous waste activities, except for Conditionally Exempt Small Quantity Generators (CESQGs) who are exempt from this regulation under Title 40 Code of Federal Regulations (CFR), §261.5. CESQGs generate no more than 100 kg (220 lbs) of hazardous waste in any month.

[Rule 62-730, F.A.C.]

C. Hazardous Substance Release Notification

1. Any owner or operator of a facility who has knowledge of any release of a hazardous substance from a facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the State Warning Point Number, (850) 488-1320, within one working day of discovery of the release.

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

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

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

D. Water Quality Reporting Requirements

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

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

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

Florida Department of Environmental Protection
South District Office
2295 Victoria Ave., Suite 364
Ft. Myers, Florida 33902-2549

And to:

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

And to:

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

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

XXXII. STORAGE TANK SYSTEMS

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

A. Incident Notification Requirements.

Notification of the discovery of the loss of a regulated substance from a storage tank system exceeding 100 gallons on impervious surfaces, other than secondary containment, such as driveways, airport runways, or other similar asphalt or concrete surfaces, provided that the loss does not come in contact with pervious surfaces; or of the discovery of any other incident listed in 62-761.450(2) or 62-762.451(2), shall be made to the County on Incident

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

B. Discharge Reporting Requirements

Upon discovery of an unreported discharge, the owner or operator shall report to the County on Discharge Report Form 62-761.900(1) within 24 hours or before the close of the County's next business day those items listed in 62-761.450(3)(a), F.A.C. including a spill or overfill event of a regulated substance to soil or another pervious surface, equal to or exceeding 25 gallons, unless the regulated substance has a more stringent reporting requirement specified in C.F.R. Title 40, Part 302.

C. Discharge Cleanup

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

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

XXXIII. NOISE

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

SECTION B. SPECIFIC CONDITIONS

I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. Facilities Operation

Nothing in these Conditions shall be construed to allow operation (including periods of pollution control equipment malfunction) that is inconsistent with, or in violation of any Federal permit or rule.

B. Adverse Impact

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

C. Dust and Odors

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.

D. Protection of Vegetation

The Licensee 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.

E. Environmental Control Program

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, is detected during construction, the Licensee shall notify the South District Office (DEP SD) as required by Condition VIII.

F. Operational Contingency Plans

1. Operating Procedures

The Licensee 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.

2. Contingency Plans

The Licensee 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.

3. Current Engineering Plans

The Licensee 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.

4. Application Modifications

The Licensee 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.

G. Cooling Water

1. 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 Licensee is forced to use groundwater for cooling due to non-availability of reclaimed water, such use shall be in accordance with Section B, Condition II.

2. 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.

H. Operation

1. Wastewater Disposal

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 Section A, Condition XIX.

2. Water Discharges

a. 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.

b. 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 Licensee shall immediately notify the South District office and SFWMD and institute remedial action.

c. Groundwater Monitoring Program

(1) 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.

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

(3) 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

(4) Upon completion of construction of the groundwater monitoring system, but no less than 12 months before the commencement of operation the Licensee 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.

(5) 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.

(6) 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 Section A, Condition XXI. The groundwater monitoring program may be reviewed annually.

3. Solid/Hazardous Waste

a. 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 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 Section A, Condition XIX. 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.

b. 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.

c. 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.

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

e. 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.

f. 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 3.b. above.) These reports shall be furnished to the South District Office quarterly, commencing 120 days after the SWERF becomes operational and is producing residues.

g. 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”.

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

i. 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.

I. Proprietary Documents or Information - Confidentiality

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

J. Transmission Lines

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.

K. Construction & Demolition Debris Recycling Facility (CDRF)

Prior to construction and operation of the CDRF, Lee County shall submit a completed application form No. 62-701.900(4), (excluding those portions previously submitted for this project), including supporting data for the District's review and approval. Review of this post-certification submittal shall be in accordance with Section A, Condition XIX, Procedures for Post-Certification Submittals and shall include all portions of form 62-701.900(4).

II. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

A Legal/Administrative Conditions

1. General

a. Responsible Entity

The Licensee, 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 (Licensee) 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 Licensee'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 Licensee 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 Licensee to ensure that adverse offsite 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 Licensee 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 Licensee 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 Licensee 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 Licensee’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 there under. 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 Licensee or Project Engineer shall notify the SFWMD Field Engineering Division of the construction start date. Annual construction status reports shall be submitted by the Licensee 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 of 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.

l. 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 Licensee 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 Licensee 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 Licensee 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 Licensee 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 Licensee 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 Licensee must comply with any water withdrawal reductions ordered by the SFWMD in accordance with the Water Shortage Plan, Chapter 40E-21, F.A.C.

[Reference: Section 373.246, F.S., Rule 40E-2.381(2)(c), F.A.C.]

b. Impacts on Existing Legal Uses

The Licensee 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 Section B, Condition II.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 Licensee that results in significant impairment or loss of use of well or water body.

[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 Licensee shall mitigate any adverse impacts on existing offsite 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 Section B, Condition II.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.

[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 Licensee 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 section B, Condition II.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.

[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 Licensee shall be responsible for making the necessary repairs or replacement to restore the well system to an operating condition acceptable to the SFWMD. Failure to make such repairs shall be 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 Licensee and the SFWMD, the Licensee 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 Licensee 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.

[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.

[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 Licensee 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 Licensee 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 Licensee 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 Licensee shall also submit to the SFWMD for review and approval an evaluation of the impacts of the proposed pumpage from the proposed well location(s) on adjacent existing legal users, pollution sources, environmental features, 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 Licensee 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 Licensee's operational process. The following measures shall be implemented within one year of audit completion if found to be cost effective in the audit:

i. Implementation of a leak detection and repair program;

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

iii. Use of processes to decrease water consumption.

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

[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 Licensee 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 Licensee 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 Licensee 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 Licensee 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 Licensee 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 Licensee 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 onsite 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.

[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.

[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 Licensee 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.

[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 Licensee 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 Licensee 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 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. 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 Licensee 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.

[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.

[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.]

III. DEPARTMENT OF COMMUNITY AFFAIRS

A. Transmission Line

The Licensee shall make all feasible efforts to avoid impacting wetlands on the site and within the certified corridor. The Licensee 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 Licensee 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 Licensee 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 Licensee 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 Licensee 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 Licensee 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 Licensee shall endeavor to market the energy recovery facility's ash residue. The Licensee shall file an annual report with the Department of Environmental Protection detailing its progress in marketing the ash.

F. Microbiological Testing

The Licensee 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 Licensee 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 Licensee shall stop construction in that area and immediately notify the Division of Historic Resources (DHR) in the Florida Department of State. The Licensee 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 Licensee 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 Licensee shall promote ride sharing by members of the construction and operation work forces.

J. Employment

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

2. The Licensee 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 Licensee 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 Licensee 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.

IV. SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

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.

V. DEPARTMENT OF TRANSPORTATION

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.

VI. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. Listed Species Survey.

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

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

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

3. This survey shall identify locations of breeding locations, nests, and burrows for listed wildlife species. Nests and burrows may be recorded with GPS coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, the FWC prefers that a protection radius surrounding nest sites and burrows be included, rather than individual nests and burrows, and be physically marked so that clearing and construction will avoid impacting them.

4. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community (Florida Land Use, Cover and Forms Classification System, or FLUCFCS, at the third degree of detail) including a wildlife-based habitat classification scheme such as the Comprehensive Wildlife Conservation Strategy (FWC 2005), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (FNAI 1990) of each community that is contained within the certified facility prior to land clearing and construction activities using GIS.

B. Listed Species Locations

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

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

2. *Listed Vegetation Species*: If listed vegetation species are found on public land or water, their presence shall be reported to the DEP Siting Coordination Office and the Florida Department of Agriculture and Consumer Services. Listed wildlife species and listed vegetation species on public land or water shall not be disturbed, if feasible.

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

[Chapter 379, F.S.]

VII. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES

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

B. If historical or archaeological artifacts are discovered at any time within the Certified Facility, the Licensee shall notify the appropriate DEP District office (s) and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, Tallahassee, Florida 32399-0250, telephone number (850) 487-2073, and PEF/TECO shall consult with DHR to determine appropriate action.

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

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

Modification 03/22/10; signed by Siting Administrator Halpin