

**STATE OF FLORIDA  
DEPARTMENT  
OF  
ENVIRONMENTAL PROTECTION**



**Conditions of Certification**

**Lee County  
Solid Waste Energy Recovery Facility**

**PA90-30I**

**Modified  
XX\XX\XX**

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## **ATTACHMENTS**

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| Attachment B ..... | Surface Water Management System Requirements/Plan(s) |
| Attachment C ..... | Mitigation Requirements/Plan(s)                      |
| Attachment D ..... | LCRRF Groundwater Quality Monitoring Plan            |

## SECTION A: GENERAL CONDITIONS

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### SECTION A: GENERAL CONDITIONS **MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION I. SCOPE**

#### I. SCOPE

A. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501-.518, Florida Statutes (F.S.), and Chapter 62-17, Florida Administrative Code (F.A.C.), this Certification is issued to Lee County as owner/operator and Licensee of Lee County Solid Waste Energy Recovery Facility (LCSWERF or SWERF). Subject to the requirements contained in these Conditions of Certification (Conditions), Lee County will construct, operate, and maintain a nominal 1,800 ton/day facility consisting of three mass burn waterwall combustion systems (nominally 20 MW each), and Associated facilities as described in the Site Certification Application (SCA). The units are located on a 155-acre site at 10500 Buckingham Rd, Suite 400, Ft. Meyers, FL 33905 in Lee County, Florida. The UTM coordinates are: Zone 17; 424.21 km East; 2945.70 km North.

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

- Three municipal waste combustor units
- Ash Handling, Processing, and Storage Facility
- Municipal Solid Waste Transfer Facility
- Class III Solid Waste Transfer Facility
- Water Treatment Facility
- Tire Processing Facility
- Source Separated Organics Processing Facility
- Construction Debris Recycling Facility (CDRF)
- Recovered Material Processing Facility (RMMPF)
- Vehicle Maintenance Facility (VMF)
- Employee Resources Building
- Scale House

C. These Conditions, unless specifically modified, are binding upon the Licensee and shall apply to the construction, operation, and maintenance of the certified facility. If a conflict should occur between the design criteria of this certified facility and the Conditions, the Conditions shall prevail unless modified. In any conflict between any of these Conditions, the more specific condition governs.

D. Within 60 days after completion of construction of the electrical power plant as defined by Section 403.503(14), F.S., but excluding off-site linear and non-linear Associated facilities, the Licensee shall provide to the Department in .pdf format: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the site as defined by Section 403.503(29), F.S., and an aerial photograph delineating the boundaries of the site. The survey map and aerial photograph shall be labeled as the "Site Delineation Map" and incorporated herein as part of Attachment A.

E. Within 120 days following approval of a change to Site boundaries, the Licensee shall submit to the Department an updated survey map (or legal description) and aerial photograph delineating the new boundaries of the Site. The survey and aerial photograph shall be identified as "Site Delineation Map" and incorporated herein as part of Attachment A. Absent



## SECTION A: GENERAL CONDITIONS

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the above description/delineation of the Site, the Department will consider the perimeter fence line of the property on which the Certified Facilities are located to be the boundaries of the Site.

F. If both certified and uncertified facilities lie within the boundaries of the site, the Licensee shall also comply with the requirements of this paragraph. Within 60 days after completion of construction of the plant and on-site associated facilities, but excluding off-site linear and non-linear associated facilities, the Licensee shall provide to the Department in .pdf format acceptable documentation identifying the certified and non-certified facilities within the site such as an aerial photograph. Certified facilities identified within the site shall include both the certified electrical power plant's generating facilities and its on-site certified associated facilities (including on-site linear facilities) as defined by Section 403.503(7), F.S. The document shall be labeled as the "Certified Facilities Identification Map" and incorporated herein as part of Attachment A.

G. Within 120 days after completion of construction of any certified off-site non-linear associated facilities, the Licensee shall provide to the Department in .pdf format; a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the site boundaries for each off-site non-linear associated facility. The survey map or other documents shall be labeled as the "Delineation of the Boundaries of the Certified Off-Site Non-Linear Facilities" and incorporated herein as part of Attachment A.

H. Within 180 days after completion of construction of any new off-site linear associated facilities, as defined in Section 403.503(7), F.S., the Licensee shall provide; an aerial photograph or map at a scale of at least 1:400, or acceptable equivalent documentation such as an official legal description or survey map signed by a professional land surveyor, delineating the boundaries of the certified site for the linear associated facilities, following acquisition of all necessary property interests and the corridor narrowing as described in Section 403.503(11), F.S. These documents shall be labeled as the "Delineation of Certified Off-Site Linear Facilities" and incorporated herein as part of Attachment A.

I. Within 90 days of any post-certification approvals that require a change to the boundaries of the certified facilities depicted in the Delineation of Certified Off-Site Linear Facilities in Attachment A, the Licensee shall submit an updated aerial photograph, map, survey map, or legal description.

*[Sections 403.511 and 403.5113, F.S.; Rules 62-4.160(1), (2), and 62-17.205(2), F.A.C.]*

## **II. APPLICABLE DEPARTMENT RULES ~~MOVED FROM SECTION A.~~ GENERAL CONDITIONS CONDITION II. APPLICABLE RULES**

The construction, operation, and maintenance 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 applicable non-procedural portions of the following Department 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, under a federal permit, or as otherwise provided under Chapter 403, F.S.:

### **Florida Administrative Code:**

18-2 (Management of Uplands Vested in the Board of Trustees)

18-14 (Administrative Fines for Damaging State Lands)

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18-20 (Florida Aquatic Preserves)  
18-21 (Sovereignty Submerged Lands Management)  
62-4 (Permits)  
62-6 (Standards for Onsite Sewage Treatment and Disposal Systems)  
62-17 (Electrical Power Plant Siting)  
62-40 (Water Resource Implementation Rule)  
62-150 (Hazardous Substance Release Notification)  
62-160 (Quality Assurance)  
62-204 (Air Pollution Control-General Provisions)  
62-210 (Stationary Sources-General Requirements)  
62-212 (Stationary Sources-Preconstruction Review)  
62-213 (Operation Permits for Major Sources of Air Pollution)  
62-256 (Open Burning)  
62-296 (Stationary Sources-Emission Standards)  
62-297 (Stationary Sources-Emission Monitoring)  
62-302 (Surface Water Quality Standards)  
62-303 (Identification of Impaired Surface Waters)  
62-304 (Total Maximum Daily Loads)  
62-330 (Environmental Resource Permitting)  
62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)  
62-342 (Mitigation Banks)  
62-345 (Uniform Mitigation Assessment Method)  
62-520 (Ground Water Classes, Standards, and Exemptions)  
62-528 (Underground Injection Control)  
62-531 (Water Well Contractor Licensing Requirements)  
62-532 (Water Well Permitting and Construction Requirements)  
62-550 (Drinking Water Standards, Monitoring, and Reporting)  
62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems)  
62-560 (Requirements for Public Water Systems That Are Out of Compliance)  
62-600 (Domestic Wastewater Facilities)  
62-604 (Collection Systems and Transmission Facilities)  
62-610 (Reuse of Reclaimed Water and Land Application)  
62-620 (Wastewater Facilities and Activities Permitting)  
62-621 (Generic Permits)  
62-650 (Water Quality Based Effluent Limitations)  
62-660 (Industrial Wastewater Facilities)  
62-699 (Treatment Plant Classification and Staffing)  
62-701 (Solid Waste Management Facilities)  
62-709 (Criteria for Organics Processing and Recycling Facilities)  
62-710 (Used Oil Management)  
62-730 (Hazardous Waste)  
62-737 (The Management of Spent Mercury-Containing Lamps and Devices Destined for Recycling)  
62-740 (Petroleum Contact Water)  
62-761 (Underground Storage Tank Systems)

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## SECTION A: GENERAL CONDITIONS

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62-762 (Aboveground Storage Tank Systems)  
62-777 (Contaminant Cleanup Target Levels)  
62-780 (Contaminated Site Cleanup Criteria)  
62-814 (Electric and Magnetic Fields)

### III. REVISIONS TO DEPARTMENT STATUTES AND RULES **MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION III. REVISIONS TO DEPARTMENT STATUTES AND RULES**

A. The Licensee shall comply, after a reasonable time, with rules adopted by the Department subsequent to the issuance of the Certification under the PPSA which prescribe new or stricter criteria, to the extent that the rules are applicable to electrical power plants. Except when a variance, exception, exemption, or other relief has been granted, subsequently adopted Department rules which prescribe new or stricter criteria shall operate as automatic modifications to this Certification.

B. Upon written notification to the Department, the Licensee may choose to operate the certified electrical power plant in compliance with any rule subsequently adopted by the Department which prescribes criteria more lenient than the criteria required by the terms and conditions in the Certification which are not site-specific.

*[Sections 403.511(5)(a) and (b), F.S.; Rule 62-4.160(10), F.A.C.]*

### IV. DEFINITIONS **MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION IV. DEFINITIONS**

Unless otherwise indicated herein, the meaning of terms used herein shall be governed by the applicable definitions contained in Chapters 253, 373, 379, 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 used herein, the following shall apply:

A. “Application” or “SCA” is defined in Section 403.503(6), F.S. For purposes of this license, “Application” shall also include materials submitted for post-certification amendments and petitions for modification to the Conditions of Certification, as well as supplemental applications.

B. “Associated facility” or “associated facilities” as defined by Section 403.503(7), F.S.

C. “Certified facility” or “certified facilities” means the certified electrical power generation facilities and all certified on- or off-site associated facilities and structures identified or described in the Application, in the final order of certification, or in a post-certification amendment or modification.

D. “DEM” shall mean the Florida Division of Emergency Management.

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

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- F. “DHR” means the Florida Department of State, Division of Historical Resources.
- G. “DOC” means the Florida Department of Commerce
- H. “DOT” means the Florida Department of Transportation.
- I. “Emergency conditions” or “Emergency reporting” means urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity.
- J. “Feasible” or “Practicable” means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- K. “FWC” means the Florida Fish and Wildlife Conservation Commission.
- L. “Licensee” means an applicant that has obtained a certification order for the subject project.
- M. “NED, NWD, CD, SED, SWD, SD” shall mean the Northeast, Northwest, Central, Southeast, Southwest, and South DEP district offices, respectively.
- N. “NWF, SR, SJR, SWF, or SFWMD” means the Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida Water Management District, respectively.
- O. “Post-certification submittal” shall mean a submittal made by the Licensee pursuant to a Condition of certification.
- P. “Right-of-Way” or “ROW” as defined in Section 403.503(27), F.S.
- Q. “SCO” means the Department’s Siting Coordination Office.
- R. “Site” as defined in Section 403.503(28), F.S.
- S. “State Water Quality Standards” shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapters 62-302 and 62-520, F.A.C.
- T. “Surface Water Management System”, “SWMS”, or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms “surface water management system”, “SWMS”, or “system” include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.
- U. “Wetlands” shall mean those areas meeting the definition set forth in Section 373.019(27), F.S., as delineated pursuant to Chapter 62-340, F.A.C.

**V.        FEDERALLY DELEGATED OR APPROVED PERMIT PROGRAMS  
REPLACES SECTION A. GENERAL CONDITIONS CONDITION Vi.  
FEDERAL PERMITS**

Subject to the Conditions set forth herein, this certification shall constitute the sole License of the state and any agency as to the approval of the location of the site and any Associated facility and the construction and operation of the electrical power plant, except for the issuance of Department Licenses required under any federally delegated or approved permit program. This certification is not a waiver of any other Department approval that may be

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required under federally delegated or approved programs. In the event of a conflict between the certification process and federally required procedures, the applicable federal requirements shall control.

*[Sections 403.5055, 403.508(8), and 403.511(1), F.S.]*

### **VI. DESIGN AND PERFORMANCE CRITERIA ~~MOVED FROM SECTION A. GENERAL CONDITIONS~~ CONDITION VII. DESIGN PERFORMANCE CRITERIA**

Certification, including these conditions, is predicated upon preliminary designs, concepts, and performance criteria described in the SCA or in testimony and exhibits in support of certification. The final engineering design of the certified facilities will be consistent and in substantial compliance with the preliminary information described in the SCA or as explained at the certification hearing (if any). Conformance to those criteria, unless specifically modified in accordance with Sections 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.

*[Sections 403.511(2)(a), 403.516, F.S.; Rules 62-4.160(2), 62-17.211, F.A.C.]*

### **VII. NOTIFICATION ~~MOVED FROM SECTION A. GENERAL CONDITIONS~~ CONDITION 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 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.
3. All notifications which are made in writing shall additionally be provided to the SCO via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us).

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

B. The Licensee shall promptly notify the SCO in writing (email acceptable) of any previously submitted information concerning the certified facility that is later discovered to be inaccurate.

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

C. Any owner or operator of a facility who has knowledge of any incident reportable to the State Watch Office regarding a certified facility shall notify the State Watch Office at (800) 320-0519 as soon as possible, but not later than 24 hours after discovery of the incident.

D. Any owner or operator of a facility who has knowledge of any reportable pollution release shall submit a Public Notice of Pollution by following the instructions at

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<https://prodenv.dep.state.fl.us/DepPNP/user/pnpRequest>, as soon as possible, but not later than 24 hours after discovery of the release.

*[Section 403.077, F.S.]*

E. Within 60 days after certification of a linear Associated facility the Licensee shall file a notice of the certified route with the Department's clerk (Office of General Counsel) and the clerk of the circuit court for each county through which the corridor will pass.

The notice shall consist of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified route and shall state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor.

*[Section 403.5112, F.S.]*

### **VIII. EMERGENCY CONDITION NOTIFICATION AND RESTORATION NEW**

If the Licensee is temporarily unable to comply with any of the conditions of the License due to breakdown of equipment or destruction by hazard of fire, wind, or other cause, such as an emergency as defined by Sections 252.34(4), (7), (8), or (10), F.S., the Licensee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the Licensee from any liability for failure to comply with Department rules. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

*[Rule 62-4.130, F.A.C.]*

### **IX. CONSTRUCTION PRACTICES MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION IX. CONSTRUCTION PRACTICES**

#### **A. Local Building Codes**

Subject to the conditions set forth herein, this certification constitutes the sole license of the state and any agency as to the approval of the location of the site and any Associated facility and the construction and operation of any certified facility. The Licensee is not required to obtain building permits for certified facilities. However, this certification shall not affect in any way the right of any local government to charge appropriate fees or require that construction of structures used by the electrical power plant that are not an integral part of a generating plant, substation, or control center (such as, office buildings, warehouses, garages, machine shops, and recreational buildings) be in compliance with applicable building construction codes.

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

#### **B. Open Burning**

Prior to open burning in connection with land clearing, the Licensee shall seek authorization from the Florida Forest Service in accordance with the requirements of Chapters 62-256 and 5I-2, F.A.C.

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

### **C. Vegetation**

For areas located in any Florida Department of Transportation (DOT) right-of-way, Chapter 3.18 of the 2017 Florida DOT *Utility Accommodation Manual* available on the DOT website at <https://www.fdot.gov/programmanagement/utilities/default.shtm> shall serve as guidelines for best management practices.

*[Chapter 14-46, F.A.C.]*

### **D. Existing Underground Utilities**

The Licensee must follow all applicable portions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, F.S. The Licensee shall provide the affected local government and the SCO with copies of valid tickets obtained from Sunshine State One Call of Florida upon request. Tickets shall be available for request until the underground work is completed for the affected area.

*[Chapter 556, F.S.]*

### **E. Electric and Magnetic Fields (EMF)**

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

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

### **F. Existing Wells**

Any existing wells to be impacted in the path of construction of certified facilities that will no longer be used shall be abandoned by a licensed well contractor. All abandoned wells shall be filled and sealed in accordance with Rule 62-532.500(5), F.A.C., or with the rules of the authorizing agency, or consistent with these Conditions.

*[Rules 62-532.400 and 62-532.500(5), F.A.C.]*

### **G. Abandonment of Existing Septic Tanks**

Any existing septic tanks that will no longer be used shall be abandoned in accordance with Rule 62-6.011, F.A.C., unless these Conditions provide otherwise.

*[Chapter 62-6, F.A.C.]*

### **H. Sanitary Wastes**

Disposal of sanitary wastes from construction toilet facilities shall be in accordance with applicable regulations of the Department.

*[Rule 62-6.0101, F.A.C.]*

## **X. RIGHT OF ENTRY MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION 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 the Department or other agencies with jurisdiction over a portion of the certified facility, any authorized off-site mitigation/compensation area or Associated facility:



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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 the Department, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within a reasonable time frame as may be mutually agreed upon by the Department and the Licensee, furnish any information required by law, which is needed to determine compliance with the certification.

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

### **XI. DISPUTE RESOLUTION NEW**

#### ***A. General***

If a situation arises in which mutual agreement cannot be reached between the Department and the Licensee, and/or, an agency with substantive regulatory jurisdiction over a matter, the Department may act as a facilitator in an attempt to resolve the issue. If the dispute is not resolved informally in this manner, Licensee may request one or more meetings in which both Licensee and the agency with substantive regulatory jurisdiction over the matter can participate and attempt to resolve the issue informally. If, after such meetings, a mutual agreement cannot be reached between the parties, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The Licensee or the Department may request DOAH to establish an expedited schedule for processing the dispute. Any filing with DOAH shall state with particularity the specific project and geographic location to which the dispute relates. Work unrelated to the specific project and in areas other than the location to which the dispute relates will not be affected by the dispute.

#### ***B. Modifications***

If written objections are filed regarding a requested modification, and the objections address only a portion of a requested modification, the Department shall issue a final order approving the portion of the modification to which no objections were filed, unless that portion of the requested modification is substantially related to or necessary to implement the portion to which written objections are filed.

#### ***C. Post-certification Submittals***

If it is determined, after assessment of a post-certification submittal, that compliance with the Conditions will not be achieved for a particular portion of a submittal, the Department may make a separate assessment of other portions of the submittal, unless those portions of the submittal are substantially related to or necessary to implement that portion for which it has been determined that compliance with the Conditions will not be achieved.

*[Section 120.57, F.S.; Rule 62-17.211, F.A.C.]*



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### **XII. SEVERABILITY MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION XI. SEVERABILITY**

The provisions of this certification are severable, and if any provision of this certification or the application of any provision of this certification to any circumstance is held invalid, the remainder of the certification or the application of such provision to other circumstances shall not be affected thereby.

### **XIII. ENFORCEMENT MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION XII. ENFORCEMENT**

A. The terms, conditions, requirements, limitations, and restrictions set forth in these Conditions are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, which may result in 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.

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, subject to the restrictions in Sections 403.111 and 403.73, F.S. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

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

### **XIV. REVOCATION OR SUSPENSION MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION 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. This certification is valid only for the specific processes and operations identified in the SCA and approved in the final order of certification or indicated in the testimony and exhibits in support of certification or approved in a subsequent amendment or modification of the certification. 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, F.S.; Rule 62-4.160(2), F.A.C.]*

### **XV. REGULATORY COMPLIANCE MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION XIV. SAFETY**

As provided in Sections 403.087(8) and 403.722(5), F.S., except as specifically provided in the final order of certification, a subsequent modification or amendment, or these

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Conditions, the issuance of this License does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This License is not a waiver of or approval of any other Department license or permit that may be required for other aspects of the certified facility that are not addressed in this License. This license does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of the certified facility, or from penalties therefore.

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

### **XVI. CIVIL AND CRIMINAL LIABILITY ~~REPLACED SECTION A. GENERAL CONDITIONS~~ CONDITION XV. CIVIL AND CRIMINAL LIABILITY**

Except to the extent a variance, exception, exemption, or other relief is granted in a final order of certification, in a subsequent modification to these Conditions, or as otherwise provided under Chapter 403, F.S., this certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any Condition, applicable rules or regulations of the Department, or any other state statutes or regulations which may apply.

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

### **XVII. USE OF STATE LANDS ~~MOVED FROM SECTION A. GENERAL CONDITIONS~~ CONDITION XVI. PROPERTY RIGHTS**

A. Except as specifically provided in the final order of certification or these Conditions, the issuance of this License 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 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 Licensee 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., except as specifically provided in the final order of certification or these Conditions. If any portion of the certified facility is located on sovereign submerged lands, the Licensee must submit section F of Form 62-330.060(1), F.A.C., *Application for Individual and Conceptual Approval Environmental Resource Permit (State 404 Program Permit) and Authorization to Use State-Owned Submerged Lands* to the Department prior to construction. If any portion of the certified facility is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

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

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D. The Licensee is hereby advised that Florida law states: “A person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

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

*[Chapters 253 and 258, F.S.; Chapters 18-2, 18-14, 18-21, 62-340, and Rules 62-330.060(1) and 62-4.160(4), F.A.C.]*

### **XVIII. PROCEDURAL RIGHTS MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION 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 any party of whatever procedural rights it may have under Chapter 120, F.S., including those related to rule-making proceedings.

*[Section 403.511(5)(c), F.S.]*

### **XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION 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 Conditions specify otherwise or unless the Licensee and the Department 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 3500  
2600 Blair Stone Road  
Tallahassee, Florida 32399-3000  
[SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us)

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

Florida Department of Commerce  
Bureau of Community Planning and Growth

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107 East Madison Street  
Tallahassee, Florida 32399-2100

Florida Fish & Wildlife Conservation Commission  
Conservation Planning Services  
620 South Meridian Street, MS 5B5  
Tallahassee, Florida 32399-1600  
[ConservationPlanningServices@myfwc.com](mailto:ConservationPlanningServices@myfwc.com)

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

Florida Department of Agriculture and Consumer Services  
Office of General Counsel  
407 South Calhoun Street  
Tallahassee, Florida 32399-0800

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 South Bronough Street  
Tallahassee, Florida 32399-0250  
[compliancepermits@dos.myflorida.com](mailto:compliancepermits@dos.myflorida.com)

Lee County  
Solid Waste  
10500 Buckingham Road  
Fort Myers, Florida 33905  
[swadmin@leegov.com](mailto:swadmin@leegov.com)

*[Section 403.511, F.S.]*

### **XX. PROFESSIONAL CERTIFICATION NEW**

To ensure protection of public health, safety, and welfare, any construction, modification, or operation of an installation which may be a source of pollution, or of a public drinking water supply, shall be in accordance with sound professional engineering practices pursuant to Chapter 471, F.S.; and all final geological papers or documents involving the practice of the profession of geology shall be in accordance with sound professional geological practices pursuant to Chapter 492, F.S. Where required by Chapter 471 or 492, F.S., applicable portions of amendment requests, petitions for modifications, post certification submittals, and supporting

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documents which are submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared or approved them.

*[Rule 62-4.050, F.A.C.]*

**XXI. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS ~~MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION XX. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS~~**

***A. Purpose of Submittals***

Conditions 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 these Conditions, without further agency action. A submittal of information or determination of compliance pursuant to a post-certification submittal under this Condition does not provide a point of entry for a third party.

***B. Filings***

All post-certification submittals of information by Licensee are to be filed with the agency or office that requires the submittal pursuant to these Conditions. The SCO shall be copied on all post-certification submittals in electronic .pdf format (unless other formats are requested), via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us). Each submittal shall clearly identify the Certified facility name, PA#, and the Condition number(s) (i.e. Section X, Condition XX.y.(z)) requiring the submittal. As required by Section 403.5113(2), F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.

*[Section 403.5113, F.S.; Rule 62-17.191(3), F.A.C.]*

***C. Completeness***

DEP shall review each post-certification submittal for completeness. This review may include consultation with the other agency(ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the submittal. DEP's finding of completeness shall specify the area of the certified facility affected and shall not delay further processing of the post-certification submittal for non-affected areas.

If any portion of a post-certification submittal is found to be incomplete, the 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.

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

***D. Interagency Meetings***

If a situation arises in which mutual agreement between either the Department and the Licensee, or, the Licensee and an agency with substantive regulatory jurisdiction over a matter cannot be reached, the Department may act as a facilitator in an attempt to resolve the issue.

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

### ***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 of whether there is demonstration of compliance with these Conditions. If it is determined that compliance with the Conditions has not been provided, the 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. A post-certification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

*[Rules 62-17.191(1)(c)3, and 62-17.191(1)(d), F.A.C.]*

### ***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 these Conditions and the subsequently submitted construction details.

### ***G. Revisions to Design Previously Reviewed for Compliance***

If revisions to site-specific designs occur after submittal, the Licensee shall submit revised plans prior to construction for review in accordance with the post-certification process specified in this Condition.

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

## **XXII. POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY REPLACED PORTION OF PARAGRAPH B FROM SECTION A. CONDITION XIX PROCEDURES FOR POST-CERTIFICATION SUBMITTALS**

Within 90 days after certification, and within 90 days after any subsequent modification or certification, the Licensee shall provide the SCO a complete summary of those post-certification submittals that are identified in these Conditions when due-dates for the information required of the Licensee have been 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 SCO, in a sortable spreadsheet, electronically, in the format shown below or equivalent. For subsequent modifications and certifications, a "Post-Certification Submittal Requirements Summary" shall be required only for new or altered post-certification requirements.

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



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*[Section 403.5113, F.S.; Rule 62-17.191(3), F.A.C.]*

**XXIII. POST-CERTIFICATION AMENDMENTS MOVED FROM SECTION A. GENERAL CONDITIONS CONDITION XX. POST-CERTIFICATION AMENDMENTS**

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

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

B. If the Department concludes that the change would require a modification to the Conditions, the Department shall provide written notification to the Licensee that the proposed change to the SCA requires a request for modification pursuant to Section 403.516, F.S.

*[Section 403.5113, F.S.]*

**XXIV. MODIFICATION OF CERTIFICATION MOVED FROM SECTION A. CONDITION XXI. MODIFICATION OF CERTIFICATION**

A. Pursuant to Section 403.516(1)(a), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department to modify any Condition which would not otherwise require approval by the Siting Board, after notice and receipt of no objection by a party to the certification within 45 days after notice by mail to the party's last address of record, and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days of public notice.

B. The Department may modify Conditions, in accordance with Section 403.516(1)(b), F.S., which are inconsistent with the terms of any subsequent and separately issued DEP permits, permit amendments, permit modifications, or permit renewals under a federally delegated or federally approved permit program. Such modification may be made without further notice if the matter has been previously noticed under the requirements for any federally delegated or approved permit program.

C. In accordance with Section 403.516(1)(c), F.S., the Licensee may file a petition for modification with the Department, or the Department may initiate the modification upon its own initiative.

D. Any anticipated facility expansions, production increases, or process modifications which may result in new, different, or increased discharge or emission of

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pollutants, change in fuel, or expansion in generating capacity must be reported by submission of an appropriate request for an amendment, modification, or certification.

E. Alteration of Site boundaries may require modification of the Conditions of Certification.

*[Section 403.516, F.S.; Rule 62-17.211, F.A.C.]*

### **XXV. COASTAL ZONE CONSISTENCY ~~MOVED FROM CONDITION XXII.~~ COASTAL ZONE CONSISTENCY**

Pursuant to Sections 373.428 and 403.511, F.S., certification of the facility constitutes the State's concurrence that the licensed activity or use is consistent with the federally approved program under the Florida Coastal Management Act.

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

### **XXVI. WATER QUALITY CERTIFICATION ~~NEW~~**

Pursuant to the Operating Agreement between the Department, United States Army Corps of Engineers (USACE) and water management districts, the written final order granting certification under the Florida Electrical Power Plant Siting Act, sections 403.501-.518, F.S., also constitutes certification of compliance with state water quality standards pursuant to section 401 of the Clean Water Act, 33 U.S.C.

*[2012 Operating Agreement, Jacksonville District USACOE, DEP and Water Management Districts, Section II.A.1.(f)]*

### **XXVII. FINANCIAL RESPONSIBILITY ~~MOVED FROM CONDITION 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.

*[Rule 62-701.630, F.A.C.]*

### **XXVIII. TRANSFER OF CERTIFICATION ~~MOVED FROM CONDITION XXIV.~~ TRANSFER OF CERTIFICATION**

A. This certification is transferable in whole or in part, upon Department approval, to an entity determined to be able to comply with these Conditions. 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's SCO. The notice of intent shall: identify the intended new certification holder or Licensee; identify the current and the new entity responsible for compliance with the certification; and include a written agreement from the intended new Licensee/Transferee to abide by all Conditions, as well as applicable laws and regulations. Upon receiving a complete notice of intent, the transfer shall be approved by the Department unless the Department objects to the transfer on the grounds that the new Licensee will be unable to comply with the Conditions, specifies in writing its reasons for its objections, and gives notice and an opportunity to petition for an administrative hearing pursuant to Section 120.57, F.S. Upon approval, the Department will initiate a modification to the Conditions to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.



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B. In the event of the dissolution of the Licensee, the Department may transfer certification to successor entities which are determined to be competent to construct, operate, and maintain the certified facility in accordance with the Conditions and which are proper applicants as defined by the PPSA. Upon determination that such a successor entity complies with the requirements for transfer of certification, the Department will initiate a modification to the Conditions to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.

[Chapter 120, F.S.; Rule 62-17.211, F.A.C.]

### **XXIX. LABORATORIES AND QUALITY ASSURANCE ~~MOVED FROM SECTION A~~ ~~CONDITION XXV. LABORATORIES AND QUALITY ASSURANCE~~**

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

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

### **XXX. ENVIRONMENTAL RESOURCES ~~REPLACED SECTION A. CONDITION XXV. ENVIRONMENTAL RESOURCES~~ and ~~SECTION B. CONDITION II. SOUTH FLORIDA WATER MANAGEMENT DISTRICT, paragraph D. Environmental Conditions~~**

#### **A. General**

##### **1. Submittals for Construction Activities**

a. Prior to the commencement of construction of new facilities and/or new Associated facilities the Licensee shall provide to the DEP South District for review, all information necessary for a complete *Application for Individual and Conceptual Approval Environmental Resource Permit and Authorization to Use State-Owned Lands* (ERP), DEP Form 62-330.060(1), F.A.C., or other applicable ERP authorization form. A copy of the submittal shall also be provided to the SCO.

b. This form may: 1) be submitted concurrently with a SCA; 2) be submitted as part of an amendment request or a petition for modification; or 3) be submitted as a post-certification submittal following approval of a Project through certification, modification, or amendment. Such ERP submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapter 62-330, F.A.C., as applicable, unless otherwise stated in these Conditions. While the information is provided for review via submittal of the ERP form, consistent with Section 403.511, F.S., a separate ERP is not required for certified facilities, and therefore, a separate ERP will not be issued.

c. Those forms submitted as part of a SCA, an amendment, or modification, shall be processed concurrently with the respective SCA, amendment, or modification, in compliance with the applicable PPSA procedures. Those forms submitted as a post-certification submittal (after certification, modification, or amendment and prior to construction) shall be processed in accordance with Section A. General Conditions, Condition

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XXI., Procedures for Post-Certification Submittals. Post-certification submittal information may be submitted for discrete portions of the certified facilities for a determination of compliance with these Conditions.

d. No construction shall commence on a project feature, or in a particular segment of a linear facility, until the Department has determined that there is a demonstration of compliance with these Conditions. For post-certification submittal reviews, the Department's determination is governed by Section A, General Conditions, Condition XXI, Procedures for Post-Certification Submittals.

e. Concurrent with submittal of the DEP form required in subparagraph A.1.a., above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department compliance review. Available DEP-approved wetland and surface water delineations within the boundaries of a certified site or a portion thereof may be used and reproduced for this delineation submittal and verification. Formal DEP-approved wetland and surface water delineations are valid only for a period of five years.

*[Section 373.416, F.S.; Chapters 62-330 and 62-340, F.A.C.]*

2. Construction, operation, and maintenance of the proposed project (including any access roads and structures constructed within wetlands and other surface waters, and/or Associated facilities) shall satisfy any applicable non-procedural requirements in the Department rules.

*[Section 373.414(1)(a), F.S.]*

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by subparagraph A.1.a., above, including plans or other supporting documentation, 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.

*[Sections 373.421, 403.504, F.S.]*

4. Silt screens, hay bales, turbidity screens/barriers or other such sediment control measures shall be utilized during construction. The selected sediment control measure shall be installed landward of all protected wetlands and other surface waters and shall be properly "trenched" etc. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into wetlands and other surface waters.

*[Chapter 62-330, F.A.C.]*

### **B. Surface Water Management Systems**

1. Information regarding surface water management systems (SWMS) will be reviewed for consistency with the applicable non-procedural requirements under Part IV of Chapter 373, F.S., following submittal of Form 62-330.060(1), F.A.C., to the DEP District.

2. All construction, operation, and maintenance of the SWMS(s) for the certified facilities shall be as set forth in the plans, specifications, and performance criteria contained in the SCA and other materials presented during the certification proceeding, post-certification submittals, and as otherwise approved. If specific requirements are necessary for construction,

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operation, and/or maintenance of an approved SWMS, those requirements shall be incorporated into a SWMS Operation and Maintenance Requirements for that system and incorporated herein as Attachment B (Surface Water Management System Requirements). Any alteration or modification to the SWMS Plan or the SWMS as certified requires prior approval from the Department.

3. To allow for stabilization of all disturbed areas, prior to construction, during construction of the SWMS, and for a period of time after construction of the SWMS, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the licensed work, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007) unless a project-specific erosion and sediment control plan is approved as part of this License. If project-specific Conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual*. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

4. The Licensee shall complete construction of all aspects of the SWMS described in the ERP Application Form, submitted as part of a post-certification submittal, amendment, modification, or SCA including water quality treatment features, and discharge control facilities prior to use of the portion of the certified facility being served by the SWMS.

5. At least 48 hours prior to beginning the authorized activities, the Licensee shall submit to the DEP District a fully executed Form 62-330.350(1), "Construction Commencement Notice," (October 1, 2013), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), indicating the expected start and completion dates. A copy of this form may be obtained from the Department, as described in subsection 62-330.010(5), F.A.C., and shall be submitted electronically. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction and, in such a case, submittal of Form 62-330.350(1) is not required.

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6. Each phase or independent portion of the approved system must be completed in accordance with the submitted DEP Form prior to the operation of the portion of the certified facility being served by that portion or phase of the system.

7. Within 30 days, or such other date as agreed to by DEP and the Licensee, after completion of construction of any new portions of the SWMS, the Licensee shall submit to the DEP District, and copy the SCO, a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required “As-Built Certification and Request for Conversion to Operation Phase” (DEP Form 62-330.310(1), F.A.C.). Additionally, if deviations from the approved drawings are discovered, the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

8. Any substantial deviation from the approved drawings, exhibits, specifications, or Conditions, may constitute grounds for revocation or enforcement action by the Department.

9. The operation phase of any new SWMS approved by the Department shall not become effective until the Licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the approved plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system.

10. The DEP District must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in off-site discharge or sediment transport into wetlands or surface waters, a written dewatering plan must be submitted to and approved by the Department prior to the dewatering event.

*[Section 373.414, F.S.; Chapters 62-302, 62-330, and Rule 62-4.242, F.A.C.]*

### **C. Wetland and Other Surface Water Impacts**

1. All certified facilities shall be constructed in a manner which will eliminate or reduce adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent practicable or otherwise comply with the Department’s substantive criteria for elimination or reduction of such impacts. When impacts to wetlands will occur as a result of a future amendment, modification, or certification, and cannot be practicably eliminated or reduced, the Licensee may propose, and the Department or Board shall consider, mitigation to offset such impacts under the ERP review process pursuant to subparagraph A.1., above.

2. Proposed mitigation requirements/plans submitted with the DEP ERP Application forms required in subparagraph A.1.a., above, or submitted as part of an amendment, modification, or certification, and that are deemed acceptable by DEP, shall include applicable construction conditions, success criteria, monitoring plans, and remedial actions (if applicable), and shall be incorporated into these Conditions as Attachment C (Wetland Mitigation Requirements/Plans).

*[Sections 373.413, 373.414, 373.415, 403.511, and 403.814(6), F.S.; Chapters 62-312, 62-330, 62-340, 62-342, and 62-345, F.A.C.]*

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### **XXXI. THIRD PARTY IMPACTS MOVED FROM SECTION A. CONDITIONS XXVII. THIRD PARTY IMPACTS**

The Licensee is responsible for maintaining compliance with these Conditions even when third party activities authorized by the Licensee occur in or on the certified site.

*[Sections 403.506(1), F.S.]*

### **XXXII. FACILITY OPERATION REPLACED SECTION A. CONDITION XXVIII. FACILITY OPERATION**

The Licensee shall properly operate and maintain the certified facility and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with these Conditions, as required by the final order of certification, these Conditions, or a post-certification amendment or modification. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the final order of certification, these Conditions, or a post-certification amendment or modification.

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

### **XXXIII. DECOMMISSIONING New**

Prior to decommissioning, the Licensee shall submit a plan for decommissioning the Certified Facilities to the Department within 90 days of ceasing operations. The decommissioning plan shall, at a minimum, address the following:

1. The anticipated timeline of decommissioning and demolition activities.
2. A description of demolition activities and potential authorizations necessary to complete demolition.
3. Management and disposal of any known and/or discovered contamination.
4. Management and disposal of known and/or discovered hazardous materials including lead-based paint and asbestos-containing materials.
5. A schedule for when the Site Assessment will be performed and when the Site Assessment Report will be submitted pursuant to the requirements of Rule 62-780.600, F.A.C.
6. Closure of any Surface Water Management System(s)

*[Chapters 62-257, 62-701, and 62-780, F.A.C.]*

### **XXXIV. RECORDS MAINTAINED AT THE FACILITY MOVED FROM SECTION A. CONDITION XXIX. RECORDS MAINTAINED AT THE FACILITY**

- A. These Conditions or a copy thereof shall be kept at the site.
- B. The Licensee shall hold at the site, or other location designated by these Conditions, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation required by these Conditions, copies of all reports required by these Conditions, and records of all data used to complete the SCA for this approval. These materials shall be retained at least 3 years

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from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

C. Records of monitoring information shall include:

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

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

### **XXXV. WATER DISCHARGES ~~REPLACED SECTION A. CONDITION XXX.~~ WATER DISCHARGES**

#### **A. Discharges**

1. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption or other relief is granted or authorized by these Conditions, the Licensee shall not discharge to surface or ground waters of the State, wastes in concentrations, which, alone or in combinations with other substances or components of discharges (whether thermal or non-thermal), are carcinogenic, mutagenic, or teratogenic to human beings (unless specific criteria are established for such components in Rule 62-520.400, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

2. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, all discharges and activities must be conducted so as to not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of Rules 62-4.242(1)(a), (1)(b), and 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in Rules 62-4.242(2) and (3), F.A.C.

3. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, all dewatering discharges must be in compliance with Rule 62-621.300, F.A.C.

*[Chapters 62-4, 62-302, 62-520, 62-550, 62-620, and 62-621, F.A.C.]*

#### **B. Wastewater Incident Reporting**

The Licensee shall report to the Department any noncompliance which may endanger health or the environment. 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

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written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; clean up actions taken and status; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. For noncompliance events related to sanitary sewer overflows, bypass events, or unauthorized discharges, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (e.g., sanitary sewer overflow, bypass, unauthorized discharge); type of sanitary sewer overflow structure (e.g., manhole); the discharge location address and latitude/longitude; type of water discharged; discharge volumes and volumes recovered; volume discharged to surface waters and receiving waterbody name; types of human health and environmental impacts of the sanitary sewer overflow, bypass event, or unauthorized discharge (e.g., beach closure); whether the noncompliance was caused by a third party; and whether the noncompliance was related to wet weather. The written submission may be provided electronically using the Department's Business Portal at <http://www.fldepportal.com/go/> (via "Submit" followed by "Report" or "Registration/Notification"). Notice required for public notice of pollution under paragraph (d) may be provided together with the written submission using the Business Portal. All noncompliance events related to sanitary sewer overflows or bypass events submitted after (September 14, 2021), shall be submitted electronically.

1. The following shall be included as information which must be reported within 24 hours under this condition:

- a. Any unanticipated bypass which causes any reclaimed water or the effluent to exceed any permit limitation or results in an unpermitted discharge,
- b. Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
- c. Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice; and,
- d. Any unauthorized discharge to surface or ground waters, except for discharges to ground water of reclaimed water meeting Part III or Part V treatment standards under Chapter 62-610, F.A.C.

2. Oral reports as required by this subsection shall be provided as follows:

a. For unauthorized releases or spills of treated or untreated wastewater reported pursuant to subparagraph 1.d. above, 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 WATCH OFFICE toll free number (800)320-0519, as soon as practicable, 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 Watch Office:

- (1) Name, address, and telephone number of person reporting,
- (2) Name, address, and telephone number of Licensee or responsible person for the discharge,
- (3) Date and time of the discharge and status of discharge (ongoing or ceased),

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- (4) Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater),
- (5) Estimated amount of the discharge,
- (6) Location or address of the discharge,
- (7) Source and cause of the discharge,
- (8) Whether the discharge was contained on-site, and cleanup actions taken to date,
- (9) Description of area affected by the discharge, including name of water body affected, if any; and,
- (10) Other persons or agencies contacted.

b. Oral reports, not otherwise required to be provided pursuant to subparagraph 2.a., above, shall be provided to the Department within 24 hours from the time the Licensee becomes aware of the circumstances.

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.

4. In accordance with Section 403.077, F.S., unauthorized releases or spills reportable to the State Watch Office pursuant to subparagraph 2.a. above shall also be reported to the Department within 24 hours from the time the Licensee becomes aware of the discharge. The Licensee shall provide to the Department information reported to the State Watch Office. Notice of unauthorized releases or spills may be provided to the Department through the Department's Public Notice of Pollution web page at <https://floridadep.gov/pollutionnotice> or by reporting electronically using the Department's Business Portal at <http://www.fldeportal.com/go/> (via "Submit" followed by "Report" or "Registration/Notification").

a. If, after providing notice pursuant to paragraph (d) above, the Licensee determines that a reportable unauthorized release or spill did not occur or that an amendment to the notice is warranted, the Licensee may submit a letter to the Department documenting such determination at [pollution.notice@floridadep.gov](mailto:pollution.notice@floridadep.gov).

b. If, after providing notice pursuant to paragraph 4. above, the Licensee discovers that a reportable unauthorized release or spill has migrated outside the property boundaries of the installation, the Licensee must provide an additional notice to the Department that the release has migrated outside the property boundaries within 24 hours after its discovery of the migration outside of the property boundaries.

5. Unless discharged to surface waters, a spill, release, discharge, upset or bypass involving reclaimed water meeting Part III or Part V treatment standards under Chapter 62-610, F.A.C., shall not be considered to endanger health or the environment and shall be reported under subsection (21) of Rule 62-610, F.A.C.

*[Chapter 403, F.S.; Rule 62-620.610(20), F.A.C.]*



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### **C. Bypass Provisions**

1. Bypass is prohibited, and the Department may take enforcement action against a Licensee for bypass, unless the Licensee affirmatively demonstrates that:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and,

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

c. The Licensee submitted notices as required under Condition XXXIV. Water Discharges, paragraph C.2.

2. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Condition XXXIV. Water Discharges, paragraph B, above. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

3. The Department shall approve an anticipated bypass, after considering its adverse effect, if the Licensee demonstrates that it will meet the three conditions listed in Condition XXXIV. Water Discharges, paragraph C.1., above.

4. A Licensee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Condition XXXIV. Water Discharges, paragraph C.1., above.

*[Chapter 403, F.S.; Rule 62-620.610(22), F.A.C.]*

### **D. Upset Provisions**

1. A Licensee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the Licensee can identify the cause(s) of the upset,

b. The certified facility was at the time being properly operated,

c. The Licensee submitted notice of the upset as required in Condition XXXIV. Water Discharges, paragraph B.; and,

d. The Licensee complied with any remedial measures required.

2. In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the Licensee.

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3. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review.

*[Chapter 403, F.S.; Rule 62-620.610(23), F.A.C.]*

### **XXXVI. SOLID AND HAZARDOUS WASTE ~~REPLACED SECTION A. CONDITION XXXI. SOLID AND HAZARDOUS~~**

#### ***A. Solid Waste***

1. The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-701, F.A.C., for any solid waste generated within the certified facility during construction, operation, maintenance, and closure.

2. Any ash residue generated by the Licensee at the certified facility shall be disposed of, and/or managed, at a permitted solid waste facility in accordance with Chapter 62-701, F.A.C.

3. The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-711, F.A.C., for any waste tires being processed within the certified facility during construction, operation, maintenance, and closure.

*[Chapters 62-701 and 62-711, F.A.C.]*

#### ***B. Hazardous Waste, Used Oil, Petroleum Contact Water, and Spent Mercury***

1. The Licensee shall comply with all applicable non-procedural provisions of 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 unless the facility is a Very Small Quantity Generator (VSQG). VSQGs generate no more than 100 kg (220 lbs) of hazardous waste in any month and have less than 1,000 kg (2,200 lbs) of accumulated hazardous waste at any one time.

2. The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-710, F.A.C., for any used oil and used oil filters generated within the certified facility.

3. The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-737, F.A.C., for any spent mercury-containing lamps and devices generated within the certified facility.

4. The Licensee shall comply with all applicable provisions of Chapter 62-740, F.A.C., for any petroleum contact water located within the certified facility.

*[Chapters 62-710, 62-730, 62-737, and 62-740, 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 certified facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the State Watch Office, (800) 320-0519, as soon as possible, but not later than one working day of discovery of the release.

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2. Any owner or operator of a facility who has knowledge of any release of a hazardous substance from a certified facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the public by submitting a Public Notice of Pollution, <https://prodeinv.dep.state.fl.us/DepPNP/user/pnpRequest>, as soon as possible, but not later than 24 hours after discovery of the release.

3. 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.

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

*[Chapter 62-150, F.A.C.]*

### **D. Contaminated Site Cleanup**

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-780, F.A.C., for any violations of relevant provisions of Chapters 376 or 403, F.S., that result in legal responsibility for site rehabilitation pursuant to those chapters. This responsibility for site rehabilitation does not affect any activity or discharge permitted or exempted pursuant to Chapters 376 or 403, F.S., or rules promulgated pursuant to Chapters 376 or 403, F.S.

*[Chapter 62-780, F.A.C.]*

### **E. Water Quality Reporting Requirements for the Solid Waste Program**

All solid and/or hazardous wastewater 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.

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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  
[SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us)

[Rules 62-160.110, 62-160.240, 62-160.340, 62-701.510(9)(a), 62-710, 62-730.225  
62-737, 62-740, and 62-780, F.A.C.]

### **XXXVII. STORAGE TANK SYSTEMS ~~MOVED FROM SECTION A. CONDITION~~ XXXII. STORAGE TANK SYSTEMS**

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

#### ***A. Incident Notification Requirements.***

Notification of any condition or situation indicating that a release or discharge may have occurred from a storage tank system or system component shall be made to the County in writing or electronic format on Form 62-761.900(6), Incident Notification Form (INF), within 72 hours of discovery or before the close of the County's next business day.

#### ***B. Discharge Reporting Requirements***

Notification of the discovery of a discharge of a regulated substance shall be made to the county in writing or electronic format on Form 62-761.900(1), Discharge Report Form (DRF) within 24 hours of the discovery or before the close of the County's next business day, unless the discovery is a non-petroleum, de minimis discharge referenced in Rule 62-780.550, F.A.C., or a petroleum or petroleum product de minimis discharge referenced in Rule 62-780.560(1), F.A.C. A de minimis discharge is exempt from the notification requirements as long as discharge is removed and properly treated or properly disposed, or otherwise remediated pursuant to the applicable provisions of Chapter 62-780, F.A.C.

#### ***C. Discharge Cleanup***

If a discharge of a regulated substance occurs at the certified facility, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable

## SECTION A: GENERAL CONDITIONS

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Department rules. The Licensee is advised that other federal, state, or local requirements may apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with that Chapter.

### ***D. Out of Service and Closure Requirements***

Storage tank systems shall be taken out-of-service and/or closed as necessary in accordance with Rules 62-761.800 and 62-762.801, F.A.C., as applicable.

*[Chapters 62-761, 62-762, and 62-780, F.A.C.]*

## SECTION B: SPECIFIC CONDITIONS

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### SECTION B. SPECIFIC CONDITIONS

#### I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### ***A. Protection of Vegetation Moved from Section B. Condition I. Department of Environmental Protection, paragraph D.***

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.

*[Original Certification, 06/19/1992]*

##### ***B. Operation Moved with revisions from Section B. Condition I. Department of Environmental Protection, paragraph H.***

#### 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. 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. Sanitary Wastewater Disposal

Domestic wastewater from the SWERF is disposed via a force main to a regional sewage collections system with City of Fort Myers Central Advanced Wastewater Treatment Facility Sanitary Sewer System.

#### 3. Groundwater Quality Monitoring

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

b. The Licensee shall implement the approved Groundwater Quality Monitoring Plan (GWQMP) incorporated herein as Attachment D to these Conditions. A violation of the GWQMP shall be a violation of these Conditions of Certification and may constitute grounds for enforcement.

c. During the period of operation authorized by this Site Certification, the Licensee shall conduct ground water monitoring at the specified monitor wells for the

## SECTION B: SPECIFIC CONDITIONS

parameters and frequency identified in the GWQMP (Attachment 1 to the GWQMP), in accordance with Rules 62-520 and 62-701 F.A.C. and the GWQMP.

d. All ground water monitoring wells shall be installed before the application of waste or wastewater.

e. After well installation and well development, but before the application of the waste or wastewater for which the ground water monitoring plan was required, the licensee shall sample one or more of the ground water monitoring wells specified in the Department-approved monitoring plan for the primary and secondary drinking water parameters included in Chapter 62-550, F.A.C. (excluding asbestos, acrylamide, Dioxin, butachlor, epichlorohydrin, pesticides, and PCBs, unless reasonably expected to be a constituent of the discharge or an artifact of the site). In addition, volatile organics and extractable semivolatile organics shall be analyzed. Results of this sampling shall be submitted to the Department within 60 days after sampling.

f. 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              |

g. Revisions to the GWQMP other than those described in paragraph 4. Revisions Requiring Modification to the Conditions of Certification below, shall be submitted to the DEP South District Office, Solid Waste Section and the Tallahassee Solid Waste Section for review and approval, with a copy submitted to the DEP Siting Office in accordance with Section A, Condition XX. Procedures for Post-Certification Submittals.

h. For any approved new or revised solid waste disposal area, a revised GWQMP shall be submitted to the Solid Waste Section of the DEP Tallahassee office and to [SCO@floridadep.gov](mailto:SCO@floridadep.gov) for review at least 12 months prior to operation of a new site, 90-days prior to implementation of a revised site, or such other date as the Licensee and DEP agree.

i. 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.

j. 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

## SECTION B: SPECIFIC CONDITIONS

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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.

k. Every five years the Licensee shall submit, to the Department the results of sampling monitoring wells specified in the Department-approved monitoring plan for the primary and secondary drinking water parameters included in Chapter 62-550, F.A.C. Additional volatile and semi volatile parameters as specified in the ground water monitoring plan shall be analyzed. Sampling shall occur no sooner than 180 days before the five-year period.

### 4. Revisions Requiring Modification to the Conditions of Certification

a. At a minimum, projects which involve any one of the following shall be reviewed for a determination on the requirement of a modification to these Conditions and if a modification is required, it shall be processed in accordance with Section 403.516(1)(c), F.S., and Rule 62-17.211, F.A.C., as applicable:

(1) new major sources of wastewater;

(2) new wastewater treatment facilities or improvements made to existing wastewater treatment facilities, including those which provide for a new or expanded land application system;

(3) pollutants not addressed in the MPIS or these Conditions resulting from a change in the solid waste disposal facility or the industrial wastewater facility; and

(4) other projects that cause or may cause changes to the quantity and/or quality of discharges to groundwater as a result of solid waste disposal or industrial wastewater treatment.

b. Any change which is reasonably expected to lead to substantially different environmental impacts, including but not limited to vertical expansion, horizontal expansion, and/or base grade elevation changes.

*[Chapters 62-520, 62-620, and 62-701, F.A.C.]*

### 5. Resource Recovery Facility

a. Classification. The resource recovery Facility shall be operated in accordance with all applicable requirements of Chapter 62-701, F.A.C.

b. Waste Records. The owner or operator of the resource recovery Facility shall record, in tons (or cubic yards) per day, the amount of waste received, and ash removed for disposal. This information shall be compiled monthly and made available to the Department upon request.

c. Plans and Drawings. A copy of these conditions of certification, and record drawings, shall be kept at the Facility at all times for reference and inspections.

d. Drainage and Leachate Management. All liquids from residuals shall be contained.

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



## SECTION B: SPECIFIC CONDITIONS

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### 6. 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 Chapter 62-701, 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 Solid Waste 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.

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. During maintenance activities, ash may be transferred in a covered container from one building to another building. 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.

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 Rule 62-701.520, F.A.C. 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 Chapter 62-730, F.A.C. Disposal of Grade III Domestic Wastewater Treatment Sludge, disposal of domestic septage, and disposal of food service sludge, shall be in accordance with Chapter 62-701, F.A.C.

j. The processing and storage of any waste tires shall be in accordance with Rule 62-711.530(1) through (5) and 62-711.540, F.A.C. and any other applicable department rules, to protect the public safety, health and welfare. "Waste tire" means

## SECTION B: SPECIFIC CONDITIONS

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a tire that has been removed from a motor vehicle and has not been retreaded or regrooved, includes used tires and processed tires, but does include solid rubber tires and tires that are inseparable from the rim.

### ***C. Cooling Water Moved from Section B. Condition I. Department of Environmental Protection, Paragraph G***

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.

*[Rules 62-600.440(5)(c), 62-610.652(5), and 62-610.668(2)(b), F.A.C.]*

### ***D. Operational Contingency Plans Moved from Section B. Condition I. Department of Environmental Protection, Paragraph F***

#### 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 infectious 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. Modifications to Drawings/Plans

The Licensee shall furnish appropriate modifications to drawings and plot plans submitted including operational procedures for isolation and containment of hazardous wastes.

### ***E. Transmission Lines Moved from Section B. Condition I. Department of Environmental Protection, Paragraph J***

The directly associated transmission lines from the SWERF electric generators to the existing Florida Power & Light substation shall be cleared, maintained, and prepared without the use of herbicides.

*[Original Certification, 06/19/1992]*

## SECTION B: SPECIFIC CONDITIONS

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### ***F. Surface Water Discharge Moved from Section B. Condition II. South Florida Water Management District, Paragraph C. Surface Water Management Conditions, 2.***

#### 1. Allowable Discharge

The surface water management system for the project facilities has been designed such that peak post-development discharges from the project site do not exceed 37 csm for the 25 year/3 day design storm. Please see Attachments B-1 & 2, hereby incorporated by reference.

#### 2. 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 is through 70 linear feet of 24" diameter RCP Culvert.

#### 3. Authorized Receiving Water

Six Mile Cypress Slough

#### 4. Authorized Control Elevation

21.4 Feet NGVD.

#### 5. Lee County

Should Lee County determine that discharge to the Orange River becomes necessary, the Licensee will need to revise these facilities and obtain approval from the Department through a modification or amendment in order to bring them into compliance with the appropriate drainage criteria.

*[Chapters 373.313 and 373.314, F.S.]*

## **II. SOUTH FLORIDA WATER MANAGEMENT DISTRICT Moved with revisions from Section B. Condition 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

## SECTION B: SPECIFIC CONDITIONS

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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.

*[Sections 373.223 and 373.413, F.S.; Rules 40E-2.091(1)(a), 40E-2.301, 40E-2.381(1), and 40E- 4.091(1)(a), 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.

*[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, and 40E-4.091(1)(a), 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) and 40E-3 (Water Wells), 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.

*[Sections 373.223 and 373.413(1); Rules 40E- 2.091(1)(a), 40E-2.381(d), and 40E-2.381(e), and 40E-4.091(1)(a), 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.

*[Sections 373.223, 373.443, F.S.; Rules 40E-2.091(1)(a), and 40E- 2.381(2)(i), , 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.

*[Sections 373.309, 373.413(1) and 373.416(1), F.S., Rule 40E-3.301, , 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

## SECTION B: SPECIFIC CONDITIONS

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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.

*[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, and 40E-4.091(1)(a) F.A.C.]*

### h. 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.

*[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, and 40E-4.091(1)(a), F.A.C.]*

### i. Processing of Informational Requests

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 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.

*[Section 373.413(2), F.S.]*

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

*[Section 373.085, 373.229, and 373.413(2), F.S.; Rule 40E-2.101(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.

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

#### b. Impacts on Existing Legal Uses

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

## SECTION B: SPECIFIC CONDITIONS

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

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

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

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

(1) Significant reduction in water levels on the property to the extent that the designed function of the water body and related surface water management improvements are damaged, not including aesthetic values. The designed function of a water body is identified in the original permit or other government authorization issued for the construction of the water body. In cases where a permit was not required, the designed function shall be determined based on the purpose for the original construction of the water body (e.g., fill for construction, mining, drainage canal, etc.);

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

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

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

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

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

## SECTION B: SPECIFIC CONDITIONS

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- (3) Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;
- (4) Harmful movement of contaminants in violation of state water quality standards; or
- (5) Harm to the natural system including damage to habitat for rare or endangered species.

*[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 that meets the criteria set forth in Chapter 40E-3, F.A.C.. 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.

*[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

## SECTION B: SPECIFIC CONDITIONS

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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.

### 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. 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, the Licensee shall submit 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



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(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, and 40E-3.500-531, 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.

*[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.

*[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.

*[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;

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

iii. Use of processes to decrease water consumption.

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

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

### **C. Surface Water Management**

1. 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 Chapter 40E-2, 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:

a. 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;

b. 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;

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

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

e. Cross-section of all proposed control structures which demonstrate compliance with SFWMD water quality and quantity criteria;

f. 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.

2. 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

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determination of compliance with the non-procedural requirements of Chapter 40E-2, F.A.C. For all construction activities, the following information shall be submitted:

- a. A centerline profile of existing topographic features along the proposed access/maintenance road(s);
- b. A preliminary design of the proposed access/maintenance and finger road(s) with elevations marked;
- c. A typical cross-section of the proposed access/maintenance and finger roads;
- d. 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;
- e. 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;
- f. A cross-section of all proposed excavation areas showing the proposed depth of excavation;
- g. Calculations and the supporting documentation which demonstrate compliance with all applicable criteria, particularly as they relate to allowable discharge;
- h. Identification of wet season water table elevations for each basin in which facilities will be located;
- i. 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
- j. 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-2 and 40E-4.091(1)(a), F.A.C.]*

### **III. DIVISION OF EMERGENCY MANAGEMENT Moved with revisions from Section B. Condition III. Department of Community Affairs, paragraph K.**

The Licensee shall develop and maintain a comprehensive hurricane preparation and recovery plan for the Facility. The plan shall be submitted to the Lee County Office of Emergency Management and updated every 5 years.

### **IV. DEPARTMENT OF COMMERCE (formerly known as the Department of Community Affairs) moved from Section B. Condition III. Paragraph J**

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

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B. 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.

*[Original Certification, 6/19/1992]*

**V. DEPARTMENT OF TRANSPORTATION Moved with revisions from Section B. Condition 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 Control Classification System and Access Management 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 2017 Utility Accommodation Manual and Rule Chapter 14-46, 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 Administration 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 Moved with Revisions from Section B. Condition 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.

## SECTION B: SPECIFIC CONDITIONS

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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 using a geographic information system (GIS). Examples of such wildlife-based habitat classification schemes include Florida's State Wildlife Action Plan<sup>1</sup> (FWC 2019) or the Natural Communities Guide<sup>2</sup> (Florida Natural Areas Inventory 2010).

*[Article IV, Sec. 9, Florida Constitution; Section 379.2291, F.S.; and Rules 68A-27, 68A-4, and 68A-16, F.A.C.]*

1. Florida Fish and Wildlife Conservation Commission (FWC). 2019. Florida's Wildlife Legacy Initiative: Florida's State Wildlife Action Plan. Tallahassee, Florida.

2. Florida Natural Areas Inventory. 2010. Guide to the Natural Communities of Florida: 2010 edition. Florida Natural Areas Inventory, Tallahassee, Florida.

### **B. Listed Species Locations**

1. 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 FWC to determine whether additional pre-clearing surveys are warranted, and to identify potential mitigation, or avoidance recommendations. If additional pre-clearing surveys are required by FWC as appropriate and as specified in these Conditions of Certification, they shall occur in the reproductive season prior to the anticipated date for the start of any construction within the Certified Facility. 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.

2. If listed wildlife species are found, their presence shall be reported to the Florida Department of Environmental Protection Siting Coordination Office, the FWC, and the USFWS.

3. If avoidance of state-listed wildlife species is not feasible, the Licensee shall consult with the FWC to determine the steps appropriate for the species potentially impacted to avoid, minimize, mitigate, or otherwise appropriately address potential impacts. These steps shall be memorialized in a Species Management Plan and submitted to the FWC.

*[Article IV, Sec. 9, Florida Constitution; Section 379.2291, 403.507, and 403.5113(2), F.S.; and Rule 68A-27, F.A.C.]*

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### **VII. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES** **Moved from Section B. Condition 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.]*

### **VIII. LEE COUNTY** **Moved from Section A Condition XXXIII. Noise**

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

### **IX. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES** **Replaced** **Section B. Condition I. Department of Environmental Protection, H. Operation** **3. paragraph c. and Condition III. Department of Community Affairs,** **paragraph C.**

A. Only herbicides registered by the U.S. Environmental Protection Agency and the Florida Department of Agriculture and Consumer Services shall be used at the Certified Facility. Herbicide applications will be in accordance with label directions and will be carried out by a licensed applicator, in compliance with all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.

*[Chapter 487, F.S.]*

B. Removal of invasive exotic species shall be part of regular maintenance of the site.

*[Chapter 5B-57, F.A.C.]*

## **HISTORY**

Certification of Units 1 and 2 on 06/19/92; signed by Governor Chiles  
Modification 04/03/95; signed by Secretary Wetherell

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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 11/27/06; signed by Siting Administrator Oven  
Modification 05/07/07; signed by Siting Administrator Halpin  
Modification 03/22/10; signed by Siting Administrator Halpin  
Modification XX/XX/XXXX; signed by Deputy Director Mulkey

## ATTACHMENTS

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### ATTACHMENT A: Maps



## ATTACHMENTS

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### **ATTACHMENT B: Surface Water Management System Operation and Maintenance Requirements**

## **ATTACHMENTS**

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### **ATTACHMENT C: Mitigation Requirements/Plans (if applicable)**

## ATTACHMENTS

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### **ATTACHMENT D: Groundwater Monitoring Plan (revised in 2023)**