STATE OF FLORIDA

DEPARTMENT

OF

ENVIRONMENTAL PROTECTION

Draft

Conditions of Certification

New Hope Power Company

Okeelanta Cogeneration Facility

PA 04-46A

Modified XXXX, 2010

Table of Contents

SECTION A. GENERAL CONDITIONS1

Table of Contents

Table of Contents

Table of Contents

SECTION B. SPECIFIC CONDITIONS

Table of Contents

ATTACHMENTS & APPENDICES

Table of Contents

SECTION A. GENERAL CONDITIONS

I. SCOPE

A. Pursuant to Sections 403.501-.518, Florida Statutes (F.S.)., the Florida Electrical Power Plant Siting Act (PPSA), this certification is issued to New Hope Power Company (NHPC) as owner/operator of the Okeelanta Cogeneration Facility and as Licensee. Subject to the requirements contained in these Conditions of Certification (Conditions), NHPC operates the existing cogeneration facility, which consists of three biomass fired boilers and two steam turbine electrical generators with a nominal 140 MW capacity, two mechanical draft cooling tower systems, and ancillary equipment. Under Modification A to this license (PA 04-46A), the construction and operation of an ash monofill (Ash Monofill) and certain Associated Facilities that are described in the NHPC Application are authorized. These facilities (collectively, the Certified Facility) are located on a 349.3 acre Site, which is located in Palm Beach County, Florida. The UTM coordinates for the Site are: Zone 17, 524.90 km East; 2,940.10 km North. The Department does not intend, solely by the April 2010 incorporation of these General Conditions, to require the retrofitting of existing certified facilities.

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

C. Within 60 days after the completion of construction of Cell 1A of the Ash Monofill, and within 60 days after the completion of construction of any other facility that is certified in the future, the Licensee shall provide the Siting Coordination Office a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the Site, and an aerial photograph delineating the boundaries of the Site. The survey and aerial photograph shall be attached hereto as Attachment A. The Licensee shall notify the Department of any change to the Site boundary. The notification shall be accompanied by an updated land survey (or legal description) and aerial photograph delineating the new boundaries of the Site.

D. If the boundaries of the Certified Area are different than the boundaries of the Site, the Licensee shall comply with the requirements in this paragraph. Within 60 days after completion of construction of the Certified Facility, including but not limited to transmission lines and natural gas pipelines, the Licensee shall provide the Siting Coordination Office a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the Certified Area, and an aerial photograph delineating the boundaries of the Certified Area. The survey and the aerial photograph shall be attached hereto as Attachment B. Any proposed project requiring a change to the boundaries of the Certified Area shall be accompanied by an updated survey map or legal description and aerial photograph.

E. The Certified Facility includes the following major Associated Facilities;

Ash Monofill (150 acre Class I Landfill)

Access corridor

F. Unless otherwise specified within the Conditions of Certification, Licensee shall make a good faith effort to timely comply with any newly established General Condition within 6 months. Licensee shall promptly notify the Department regarding any newly established General Condition for which Licensee cannot timely comply.

[Section 403.511, F.S.; 62-4.160(8), and 62-17.205(2), F.A.C.]

II. APPLICABLE RULES

A. The construction and operation of the Certified Facility shall be in accordance with all applicable non-procedural provisions of the Florida Statutes and Florida Administrative Code, including, but not limited to, the non-procedural portions of the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification or in a subsequent modification to the Conditions:

Chapter 403 (Environmental Control), F.S.; and
Chapters 18-20 (Aquatic Preserves),
40E-2 through 4 (Consumptive Use, Wells, Environmental Resource Permits),
40E-8 (Minimum Flows and Levels),
40E-9 (Real Property Acquisition and Disposal),
40E-20 (General Water Use Permits),
40-E21 (Water Shortage Plan),
40-E40 (General Environmental Resource Permits),
62-4 (Permits),
62-17 (Electrical Power Plant Siting),
62-25 (Regulation of Stormwater Discharge),
62-256 (Open Burning),
62-296 (Stationary Sources-Emission Standards),
62-297 (Stationary Sources-Emission Monitoring),
62-301 (Surface Waters of the State),
62-302 (Surface Water Quality Standards),
62-303 (Identification of Impaired Surface Waters),
62-304 (Total Maximum Daily Loads),
62-330 (Environmental Resource Permitting),
62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters),
62-345 (Uniform Mitigation Assessment Method),
62-520 (Groundwater Classes and Standards),
62-522 (Groundwater Permitting and Monitoring),
62-531 (Water Well Contractor Licensing Requirements),
62-532 (Water Well Permitting and Construction Requirements),
62-550 (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),
62-601 (Domestic Wastewater Treatment Plant Monitoring),
62-604 (Collection Systems and Transmission Facilities),
62-610 (Reuse of Reclaimed Water and Land Application),
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),
62-730 (Hazardous Waste),
62-762 (Aboveground Storage Tank Systems),
62-769 (Florida Petroleum Liability and Restoration Insurance Program),
62-770 (Petroleum Contamination Site Clean-Up Criteria),
62-780 (Contaminated Site Clean-Up Criteria),
62-807 (Natural Gas Transmission Pipeline Siting), and
62-814 (Electric and Magnetic Fields), Florida Administrative Code (F.A.C.).

[Section 403.511, F.S.]

III. REVISIONS TO DEPARTMENT STATUTES AND RULES

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

B. Upon written notification to the Department, any holder of a certification issued pursuant to the PPSA, may choose to operate the certified electrical power plant 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), F.S. ;Rules 62-4.160(8) and 62-4.160(10),F.A.C.]

IV. DEFINITIONS

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

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

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

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

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

E. “DCA” means the Florida Department of Community Affairs.

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

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

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

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

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

P. “ROW” means right-of-way.

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

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

S. “Title V permit” means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.

V. TRANSFERABILITY OF DEFINITIONS

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

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

VI. FEDERAL PERMITS

The following air permits and NPDES multi-sector generic stormwater permit have been issued by the Department pursuant to federal programs and they are applicable to the Certified Facility. The Department may consider a violation of any of these permits as a violation of these Conditions of Certification.

A. Air

The provisions of the following paragraphs shall be conditions of this certification. The Licensee shall comply with the substantive provisions and limitations set forth in both Air Construction Permit No. PSD-FL-196, and the applicable provisions of Title V Air Operation Permit No. 0990005-012-AV as part of these Conditions of Certification, and as those provisions may be modified, amended, or renewed in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification.

1. Air Construction Permit(s)

Air Construction permit PSD-FL-196 is incorporated by reference herein as part of this Certification and attached as Appendix I.

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

2. Title V Permit

Title V Air Operation Permit 0990005-12-AV is incorporated by reference herein as part of this Certification and attached as Appendix II.

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

B. Water

1. Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP)

Any storm water discharges associated with construction activities on the Certified Area shall be in accordance with all applicable provisions of Rule 62-621, F.A.C. Prior to commencing construction activities on the Certified Area that:

- contribute to stormwater discharges to surface waters of the State or into a municipal separate storm sewer system (MS4); and
- disturb one or more acres of land (less than one acre if the activity is part of a larger common plan of development);

a Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP) must be obtained as applicable.

[Section 403.0885, F.S.; Rule 62-621.300(4)(a), F.A.C.]

2. Multi-Sector Generic Permits

Any storm water discharges associated with industrial activity on the Certified Area shall be in accordance with all applicable provisions of Rule 62-621, F.A.C. For industrial activities at the site that result in a discharge of stormwater to surface waters of the State or into a municipal separate storm sewer system (MS4), and fall under any one of the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14), a Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity (MSGP) shall be obtained as applicable.

[Section 403.0885, F.S.; Rule-62-621.300(5), F.A.C.]

3. Discharge of Produced Ground Water

Prior to discharge of produced ground water from any non-contaminated site activity which discharges by a point source to surface waters of the State, as defined in Chapter 62-620, F.A.C., the Licensee must first obtain coverage under the Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity pursuant to Rule 62-621.300(2), F.A.C. Similarly, if the activity involves a point source discharge of ground water from a petroleum contaminated site, the Licensee must obtain coverage under the Generic Permit for discharge from petroleum contaminated sites pursuant to Rule 62-621.300(1), F.A.C. Before discharge of ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed as required by Rule 62-621.300, F.A.C., to determine if the activity can be covered by either permit.

If the activity cannot be covered by either generic permit, the Licensee shall apply for an individual wastewater permit at least ninety (90) days prior to the date discharge to surface waters of the State is expected. No point source discharge to surface water is permissible without an effective permit.

[Section 403.0885, F.S.; Rule-62-621.300(2), F.A.C.]

VII. DESIGN AND PERFORMANCE CRITERIA

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

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

VIII. NOTIFICATION

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

1. A description of and cause of noncompliance; and

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

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

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

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

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

IX. REPLACEMENT FOR RESTORATION OF SYSTEM INTEGRITY

A. Replacement of all or a portion of transmission line(s) or natural gas pipeline(s) certified under the, TLSA or the NGPSA that is necessary to restore system integrity following an emergency as defined by sections 252.34(6), (7) or (9), F.S., and requiring deviation from any condition of certification shall not be considered a modification pursuant to section 403.5315, F.S. A verbal report of the emergency replacement for restoration of system integrity shall be made to the Department as soon as possible. Within 30 days after correction of the Emergency Condition requiring a replacement for system integrity, a report to the Department shall be made outlining the details of the Emergency Condition requiring the replacement and the steps taken for its relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.

B. The Department will use its enforcement discretion when evaluating violations that result from operating the Certified Facility under Emergency Conditions. During and after the Emergency Conditions, the Licensee must use due diligence to bring the facility back into compliance as soon as possible. In addition, the Licensee must use its best efforts and best management practices to minimize adverse environmental impacts. The Licensee shall notify the Siting Office and the appropriate DEP district office when the Emergency Condition has ended. The Licensee must include all monitoring data, which would otherwise be required under normal operating circumstances, recorded during Emergency Conditions, when submitting reports as required by these Conditions. 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.

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

X. CONSTRUCTION PRACTICES

A. Local Building Codes

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

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

B. Particulate Matter

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

[Sections 403.511, 403.531, 403.9416, F.S.; Rule 62-296.320, F.A.C.]

C. Open Burning

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapter 62-256, F.A.C., and Chapter 5I-2, F.A.C. Prior to any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., Licensee shall seek approval from the applicable DEP District Office, whose approval may be granted in conjunction with the approval of the Division of Forestry. Burning shall not occur if not approved by the Department, or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions. A copy of any submittal by Licensee relating to open burning shall be submitted to the Palm Beach County Health Department for any open burning that will take place in Palm Beach County, for informational purposes.

[Sections 403.511, 403.531, 403.9416, F.S.; Rules 5I-2 and 62-256, F.A.C.]

D. Solid Wastes

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

[Sections 403.511, 403.531, 403.9416, F.S.; Rule 62-701, F.A.C.]

E. Flood Control Protection

The Certified Facilities shall be constructed in a manner that complies with any applicable flood protection requirements adopted by Palm Beach County.

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

F. Vegetation

For any new construction of transmission lines on the Certified Area, the Licensee, to the extent Feasible, will retain existing native (non-exotic) vegetation within the Certified Area and practice "best management practices" with respect to vegetation management in the Certified Area, to the extent Feasible and in compliance with Section 163.3209, F.S., which incorporates by reference North American Electrical Reliability Corporation (NERC) standard FAC-003-1, American National Standards Institute (ANSI) standards A300 (Part I)-2001 and Z133.1-2000, and National Electrical Safety Code (NESC) standards adopted by the Florida Public Service Commission. The requirements of section V. D. of the *Upland Erosion Control, Revegetation, and Maintenance Plan* from the Federal Energy Regulatory Commission (FERC) found at this web address http://www.ferc.gov/industries/gas/enviro/uplndctl.pdf, as well as Chapter 7 of the Florida Department of Transportation *Utility Accommodation Manual* located at this web address http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710020001/Chapter-7.pdf, shall serve as guidelines for best management practices.

[Chapter 163.3209, F.S.]

G. Underground Utilities

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

[Chapter 556, F.S.]

H. Electric and Magnetic Fields

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

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

I. Sanitary Wastes

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

XI. RIGHT OF ENTRY

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

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

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

B. When requested by DEP, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within 10 working days, or such longer period as may be mutually agreed upon by DEP and the Licensee, furnish any information required by law, which is needed to determine compliance with this certification. If the Licensee becomes aware that relevant facts concerning the Certified Facility were not submitted or were incorrect in the Application or in any report to DEP or other agencies, such facts or information shall be corrected promptly.

[Sections 403.511, 403.531, 403.9416, F.S.; Rule 62-4.160(7)(a), 62-4.160(15),F.A.C.]

XII. DISPUTE RESOLUTION

If a situation arises in which mutual agreement cannot be reached between Licensee, DEP and another agency receiving a post-certification submittal or between DEP and Licensee regarding compliance with the Conditions of Certification, then the matter shall be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The Licensee or DEP may request DOAH to establish an expedited schedule for the processing of such a dispute.

[Sections 403.527, 403.531 and 120.57, F.S.]

XIII. SEVERABILITY

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

XIV. ENFORCEMENT

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of Certification are binding and enforceable pursuant to Sections 403.141, 403.161, and 403.514, F.S., as applicable. Any noncompliance by the Licensee with a Condition of Certification constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, 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. Abandonment of the Certified Facility will be considered grounds for enforcement action.

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

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

XV. REVOCATION OR SUSPENSION

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

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

XVI. SAFETY

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

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

XVII. HERBICIDES

Herbicides applied at the Site or in any ROW shall only be those registered by the U.S. Environmental Protection Agency and which have state approval. Herbicide application rates and concentrations 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.

[Sections 403.061, 403.088, 487.031 and 487.041, F.S.]

XVIII. CIVIL AND CRIMINAL LIABILITY

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

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

[Sections 403.141, 403.161, 403.511, 403.531, 403.9416, F.S.]

XIX. PROPERTY RIGHTS

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

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

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

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

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

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

XX. PROCEDURAL RIGHTS

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.

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

XXI. 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 of Certification specify otherwise or unless the Licensee and DEP are notified in writing of an agency’s change in address for such submittals and notices:

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

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

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

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

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

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

Treasure Coast Regional Planning Council
Office of the Executive Director
301 E. Ocean Blvd., Suite 300
Stuart, FL 34994

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

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

Palm Beach County
Office of Counsel
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401

Palm Beach County Health Department
826 Evernia Street
West Palm Beach, Florida 33401

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

XXII. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. Purpose of Submittals

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

B. Filings

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

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

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

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

C. Completeness

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

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

D. Interagency Meetings

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

E. Determination of Compliance

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

F. Commencement of Construction

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

G. Revisions to Design Previously Reviewed for Compliance

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

H. Variation to Submittal Requirements

DEP, in consultation with the appropriate agencies that have regulatory authority over a matter to be addressed in a post-certification submittal, and Licensee may jointly agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

I. Disputes

Any agency which received a post-certification submittal pursuant to these Conditions may dispute a determination that a submittal provides reasonable assurances of compliance with the Conditions of Certification made by DEP on matters within that agency's jurisdiction by following the procedures set forth in Chapter 120, F.S. The agency's statement disputing DEP's determination shall state with particularity the location to which the agency's dispute relates. Work in areas other than the location to which the agency's dispute relates will not be affected by the agency's dispute.

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

XXIII. POST CERTIFICATION AMENDMENTS

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

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

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

Chapters 373, 403.4211 and 403.5113, and 403.516, , F.S.; and Rule 62-17 , F.A.C.]

XXIV. MODIFICATION OF CERTIFICATION

A. Pursuant to Section 403.516(1)(a), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department of Environmental Protection to modify, after notice and receipt of no objection by a party or other substantially affected person, any conditions which would not otherwise require approval by the Siting Board. In addition, the Department is delegated the authority to modify conditions as follows:

The certification shall be modified to conform to subsequent DEP-issued amendments, modifications, or renewals of any separately issued Prevention of Significant Deterioration (PSD) permit, Title V Air Operation permit, Underground Injection Control (UIC) permit, or National Pollutant Discharge Elimination System (NPDES) permit for the Certified Facility. In the event of a conflict, the more stringent of the conditions of such permits or of these Conditions of Certification shall be controlling.

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

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

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

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

XXV. COASTAL ZONE CONSISTENCY

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

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

XXVI. STATE WATER QUALITY STANDARDS COMPLIANCE

For each post-certification submittal and modification which addresses matters within DEP's environmental resource permitting jurisdiction, DEP shall provide to the U.S. Army Corps of Engineers (USCOE) a letter stating that the Licensee has met the requirements for 33 United States Code (U.S.C.) 1341.

[Sections 403.067, F.S.]

XXVII. 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.

[Section 403.061(7) FS., and 62-4.110, and 62-701.630, F.A.C.]

XXIII. TRANSFER OF CERTIFICATION

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

[Chapter 120, and Section 403.511, F.S.]

XXIX. LABORATORIES AND QUALITY ASSURANCE

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

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

XXX. ENVIRONMENTAL RESOURCES

A. Stormwater

1. Activities approved by these Conditions shall be conducted in a manner which does not cause violations of state water quality standards. The Licensee shall implement best management practices for erosion and a pollution control plan to prevent violations of state water quality standards as a result of construction on the Certified Area. Erosion control methods shall include, but are not limited to: the use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and the installation of turbidity screens around the areas where construction will occur. Temporary erosion control shall be implemented prior to and during construction and permanent control measures shall be completed within seven days of any construction activity on the Certified Area. Turbidity barriers shall be installed and maintained at all locations on the Certified Area where the possibility of transferring suspended solids into the receiving waterbody exists due to the licensed work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the Licensee shall be responsible for the removal of the barriers. The Licensee shall correct any erosion or shoaling on the Certified Area that causes adverse impacts to the water resources.

2. Water quality data for stormwater discharged from the Certified Area into the surface waters of the state shall be submitted to the Department as required by Chapter 62-160, F.A.C. Standard Operating Procedures can be downloaded from the following website: http://www.dep.state.fl.us/labs/qa/sops.htm

3. The Department must be notified in advance of any proposed construction dewatering unless otherwise approved as part of the application review and certification. 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 either have been submitted and approved with the Application or submitted to the Department prior to the dewatering event.

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

5. Off-Site discharges during construction and operation of the Certified Facilities shall be made only through the facilities authorized by this license. Water discharged from the Certified Facility shall be through structures having a mechanism suitable for regulating

upstream stages. Upstream stages shall be regulated in compliance with the Licensee's Application, as approved by the Department.

6. The Licensee shall complete construction of all aspects of the stormwater management system described in the Application, including water quality treatment features, and discharge control facilities prior to use of the portion of the certified facility being served by the stormwater management system.

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

a. Any existing wells in the path of construction that will no longer be used shall be properly plugged and abandoned by a licensed well contractor.

b. Any existing septic tanks that will no longer be used on Site shall be abandoned at the beginning of construction, unless these Conditions provide otherwise.

c. Any existing fuel storage tanks and fuel pumps that will no longer be used shall be removed at the beginning of construction of the portion of the certified facility that will occupy the area of such tanks unless these Conditions provide otherwise.

8. At least 48 hours prior to the commencement of construction on a new stormwater management system authorized by this license, the Licensee shall submit to the Department a written notification of commencement using an "Environmental Resource Permit Construction Commencement" notice (Form 62-343.900(3), indicating the actual start date and the expected completion date.

9 Each phase or independent portion of the licensed stormwater management system must be completed in accordance with the Application and Conditions prior to the operation of Site infrastructure located within the area served by that portion or phase of the stormwater management system. Each phase or independent portion of the stormwater management system must be completed in accordance with the Application and Conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.

10. Within 30 days after completion of construction of any new portions of the stormwater management system, the Licensee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form 62-343.900(5) and "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343-900(7),. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved drawings with deviations noted.

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

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

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

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

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

B. Wetland and Other Surface Water Impacts

1. Submittals for Activities Within Wetlands or Other Surface Waters Not Previously Approved

a. Prior to the commencement of any new construction on the portion of the Certified Facility to be located in wetlands or other surface waters of the state, the Licensee shall provide to the DEP South District's Environmental Resource Permitting Section all information necessary for a complete *Joint Environmental Resource Permit Application*, DEP Form No. 62-343.900(1), unless such information was previously submitted during the certification proceeding.

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

b. If the Licensee proposes any construction in the waters of the State, the construction, operation and maintenance of the proposed project shall satisfy any applicable non-procedural requirements in Department rules.

[Section 373.414, F.S.]

c. The Licensee shall submit a survey of wetland and surface water areas, as delineated in accordance with Chapter 62-340, F.A.C.

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

2. Consultation

At the request of the Licensee, the DEP Siting Coordination Office may conduct an interagency meeting for the Licensee to consult with the permitting staff of the DEP, the SFWMD, and the FWC, prior to any new construction activities that are proposed in wetlands or other surface water and will be approved under post-certification submittals pursuant to Section A, Condition XXX.B.1.a, above. At DEP's request, the Licensee shall conduct a field inspection with the agencies' staff representatives in conjunction with the interagency meeting.

[Sections 403.504, F.S.]

3. Reduction and Elimination of Impacts for New Activities

a. Avoidance

(1) Where components of the Certified Facility cross wetlands or other surface waters of the state, the Licensee shall utilize adjacent existing access roads and public roads for access to Associated Facilities for construction, operation and maintenance purposes, to the extent Feasible , unless previously approved as part of the certification or as part of a post-certification amendment or modification..

(2) All Certified Facilities shall be constructed in a manner which reduces or eliminates adverse impacts (if any) to wetlands or other surface waters, to the extent Feasible unless previously approved as part of the certification or as part of a post-certification amendment or modification.

(3) To the extent Feasible and utilizing the typical structures shown in the Application, access roads, culverts and structures shall be located to avoid conflict with existing underground utilities (if any) documented in the records of Palm Beach County.

(4) In the event that temporary fill is used to facilitate construction of new components of the Certified Facility in the proposed Certified Area, the temporary fill shall be removed where necessary to minimize impacts to wetlands or habitats of listed species.

b. Clearing In Rights-of -Ways

(1) Except as previously approved as part of the certification or as part of a post-certification amendment or modification, the Licensee shall use only restrictive clearing practices during construction and maintenance of the Certified Facility in any area where the Certified Facility crosses forested wetlands. Restrictive clearing, as used in this condition, is the removal of vegetation by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. These methods may be used alone or in combination, as may be appropriate for specific sites. All cut vegetation must be removed from wetlands that will not be filled, unless other techniques, such as mulching or burning in place, are agreed to by the DEP Siting Coordination Office and the applicable local government in the post-certification review process. Removable construction matting, in conjunction with best management practices, may be used in wetlands to support equipment.

(2) Tree stumps within access roads and in the construction area may be removed, sheared, or ground to 6 inches below the ground line to allow for travel and construction activities.

(3) Unless previously approved as part of the certification or as part of a post-certification amendment or modification, clearing or fill must not occur within 550 feet from the shoreline of a named waterbody designated as an Outstanding Florida Waterbody (OFW).

[Sections 373.414 and 373.416, F.S; 62-330.200(4)(b), F.A.C.]

4. Mitigation

a. Mitigation for wetland impacts pursuant to Section 373.414, F.S shall not be required by DEP for new construction on the Certified Area if the Certified Facility;

(1) is not located within wetlands

(2) will not adversely affect wetlands, or other surface waters, as determined by the Department, or

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

i. All permanent fill shall be at grade; and

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

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

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

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

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

b. For new construction in wetlands that does not comply with the requirements in paragraph 4.a., above, and if new components of the Certified Facility will be constructed in wetlands subject to the Department's jurisdiction, and if no wetlands mitigation plan has been previously approved under this Certification for the new activity, then the Licensee shall propose a mitigation plan as a post-certification submittal under Section A, Condition XXII, above. Once the plan is approved by DEP, the plan shall become part of the Conditions as attachment C. In such cases, the following information shall be provided to the Environmental Resource Permitting Section in the DEP South District Office for review:

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

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

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

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

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

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

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

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

c. Mitigation plans must be found to fully offset the functions and values provided by wetlands that will be degraded or eliminated to the abundance and diversity of fish, wildlife and listed species, and the habitat of fish, wildlife and listed species. DEP will work with the Licensee in the development of acceptable mitigation plans. The mitigation plans proposed by the Licensee shall be submitted for review and compliance monitoring to DEP under Section A, Condition XXII, above.

d. If DEP, upon review of any proposed mitigation plan, determines that the proposed mitigation is inadequate to offset the loss of wetland values described above from a proposed new project, the Licensee may propose additional or alternative mitigation or dispute the determination pursuant to Section A, Condition XII, above, and general law.

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

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

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

f. Construction within wetlands or other surface waters that does not comply with the non-procedural limitations of paragraphs 62-341.620(2)(b)-(i), F.A.C., or paragraph 4.a., above, shall not commence until DEP approves a mitigation plan, and, if a bank is not used, mitigation construction conditions, success criteria and a monitoring plan are incorporated into the certification conditions.

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

[Sections 373.413, 373.414, 403.511, 403.531, F.S. paragraph 62-330.200(4)(b), F.A.C., Chapters 62-343, and 62-345, F.A.C., and Rule 62-341.620, F.A.C.]

XXXI. THIRD PARTY IMPACTS

The Licensee is responsible for maintaining compliance with these Conditions of Certification even when third party activities authorized by the Licensee occur in or on the Certified Area. Such third party activities authorized by the Licensee may include but are not limited to mining, hunting, and timbering.

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

XXXII. FACILITY OPERATION

The Licensee shall at all times properly operate and maintain the Certified Facility and related appurtenances, and systems of treatment and control that are installed and used to achieve compliance with the conditions of this certification, and are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the approval and when required by Department rules.

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

XXXIII. RECORDS MAINTAINED AT THE FACILITY

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

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

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

D. Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;
2. the person responsible for performing the sampling or measurements;
3. the dates analyses were performed;

4. the person responsible for performing the analyses;

5. the analytical techniques or methods used; and,

6. the results of such analyses.

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

XXXIV WATER DISCHARGES

A. Discharges

The Licensee shall not discharge to surface waters wastes which are acutely toxic, or present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant locally occurring wildlife or aquatic species. The Licensee shall not discharge to ground waters wastes in concentrations which, alone or in combination with other substances, or components of discharges (whether thermal or non-thermal) are carcinogenic, mutagenic, teratogenic, or toxic to human beings (unless specific criteria are established for such components in Section 62-520.420, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

For those solid waste management facilities constructed after January 6, 1993, the minimum ground water criteria specified in Rule 62-520.400, F.A.C., shall apply only outside the permitted zone of discharge, notwithstanding the provisions of Rules 62-520.400 and .420, F.A.C. However, exceedances of ground water criteria within a permitted zone of discharge shall continue to require evaluation monitoring and prevention measures in accordance with subsection 62-701.510(7), F.A.C.

[Rules 62-302.500, 62-520.400,and 62-701.320(17), F.A.C.]

B. Wastewater Incident Reporting

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

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

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

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

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

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

e. Estimated amount of the discharge;

f. Location or address of the discharge;

g. Source and cause of the discharge;

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

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

j. Other persons or agencies contacted.

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

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

XXXV. SOLID AND HAZARDOUS WASTE

A. Solid Waste

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

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

B. Hazardous Waste

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

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

C. Hazardous Substance Release Notification

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

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

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

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

XXXVI. STORAGE TANK SYSTEMS

Registration, construction, installation, operation, maintenance, repair, closure, and disposal of storage tank systems that store regulated substances on the Certified Area 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 the discovery of the loss of a regulated substance from a storage tank system exceeding 100 gallons on impervious surfaces, other than secondary containment, such as driveways, airport runways, or other similar asphalt or concrete surfaces, provided that the loss does not come in contact with pervious surfaces; or of the discovery of any other incident listed in Rules 62-761.450(2) or 62-762.451(2), shall be made to the Palm Beach County Health Department on Incident Notification Form 62-761.900(6) within 24 hours or before the close of the County's next business day:

B. Discharge Reporting Requirements

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

C. Discharge Cleanup

If a discharge of a regulated substance occurs at the Certified Facility, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules (for example, Chapter 62-770, F.A.C., Petroleum Contamination Site Cleanup Criteria). 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 62-770, F.A.C., corrective action, including free product recovery, shall be performed in accordance with that Chapter.

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

XXXVII. NOISE

The Licensee shall comply with applicable noise ordinances, if any, governing the Certified Facility.

XXXIII. SCREENING

The Licensee shall comply with applicable local government requirements (if any) concerning the visual screening of the Certified Facility.

~~I. GENERAL~~

~~The following general and specific Conditions shall apply to the construction and operation of the New Hope Power Partnership Okeelanta Cogeneration Facility and Expansion Project. Prior to the completion of the Okeelanta Expansion Project, the Okeelanta Cogeneration Facility shall operate in accordance with its existing permits. Within 90 days of the commencement of commercial operation of the Expansion Project, the Licensee shall surrender any existing non-federal state operating permits for the Okeelanta Cogeneration Facility and Expansion Project.~~

~~A. Definitions~~

~~The meaning of the terms used herein shall be governed by the definitions contained in Chapters 403, 378, 373, 372, and 253, Florida Statutes (F.S.), and any regulation adopted pursuant thereto and the applicable statutes and regulations of any agency with jurisdiction over the Facility. In the event of any dispute over the meaning of a term used in these conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation or, in the alternative, by the use of the commonly accepted meaning as determined by the Department. As used herein:~~

~~1. "Application" shall mean the Site Certification Application (SCA) as filed, supplemented or amended by the Licensee, New Hope Power Partnership (NHPP) for the site and Expansion Project.~~

~~2. "Conditions" shall mean these Conditions of Certification.~~

~~3. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.~~

~~4. "Emergency conditions" shall mean urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity, including but not limited to conditions necessitating new or replacement gas pipeline, transmission lines, or access facilities.~~

~~5. "Expansion Project" or "Project" or "power plant" shall mean the Licensee's Expansion Project at the Okeelanta Cogeneration Facility, as described in the Application, including but not limited to the new steam turbine electrical generator, cooling tower, condenser and related equipment and facilities.~~

~~6. "Facility" or "power plant" shall mean the Licensee's Okeelanta Cogeneration Facility, which is located on an approximately 82.1 acre site in Palm Beach County, Florida. The Facility includes three boilers, a steam turbine electrical generator, a cooling tower, stacks, air pollution control equipment, a fuel storage area, and related equipment and facilities, as described in the Application. The Facility will include the Expansion Project upon its completion.~~

~~7. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.~~

~~8. "FWCC" shall mean the Florida Fish and Wildlife Conservation Commission.~~

~~9. "Licensee" or "Permittee" shall mean an applicant that has obtained a certification order for the subject electrical power plant. In this instance, the New Hope Power Partnership is the Licensee.~~

~~10. "SFWMD" shall mean the South Florida Water Management District.~~

~~B. Applicable Rules~~

~~The construction and operation of the Licensee's Facility shall be in accordance with all of the applicable provisions of at least the following regulations of DEP: Chapters 62-4, 62-17, 62-256, 62-296, 62-297, 62-301, 62-302, 62-531, 62-532, 62-550, 62-555, 62-560, 62-600, 62-601, 62-604, 62-610, 62-620, 62-621, 62-650, 62-699, 62-660, 62-701, 62-762, 62-769, 62-770 and 62-814, Florida Administrative Code (F.A.C.), or their successors if they are renumbered~~

~~II. CHANGE IN DISCHARGE~~

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

~~III. GENERAL CONDITIONS~~

~~A. Facilities Operation~~

~~1. The Licensee shall properly operate and maintain the Facility and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with the Conditions of this certification, and are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the Conditions and when required by Department rules.~~

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

~~3. Licensee shall comply with the terms and conditions contained in Permit No. PSD-FL-196(P), which is attached hereto as Attachment 1, and any revisions, modifications or reissuances thereof.~~

~~B. Non-Compliance Notification~~

~~If, for any reason, the Licensee (defined as the applicant or its successors and/or assigns) does not comply with or will be unable to comply with any limitation specified in this certification, the Licensee shall notify the South District office of the DEP by telephone at (239) 332-6975. After normal business hours, reports of any condition that poses a public health threat shall be made to the State Warning Point at telephone number (850) 413-9911 or (850) 413-9912. The Licensee shall confirm this non-compliance in writing at the DEP South District Office, 2295 Victoria Avenue, Fort Myers, Florida 33901 within seventy-two (72) hours of becoming aware of such conditions, and shall supply the following information~~

~~1. A description of the discharge and cause of noncompliance; and,~~

~~2. The period of non compliance, including exact dates and times; or if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying event.~~

~~C. Spill Notification~~

~~1. The Licensee shall report all critical (having potential to significantly pollute surface or ground waters) spills of liquid or liquid-solid materials, not confined to a building or similar containment structure, to the Department by telephone immediately after discovery and submit a written report within forty eight hours, excluding weekends, from the original notification. The telephonic report shall be submitted by calling the South District Industrial Wastewater Compliance/Enforcement Section under telephone number (239) 332-6975. After normal business hours, contact the State Warning Point by calling (850) 413-9911 or (850) 413-9912. The written report shall include, but not be limited to, a detailed description of how the spill occurred, the name and chemical make-up (include any MSDS sheets) of the substance, the amount spilled, the time and date of the spill, the name and title of the person who first reported the spill, the areal size of the spill and surface types (impervious, ground, water bodies, etc.) it impacted, the cleanup procedures used and status of completion, and include a map or aerial photograph showing the extent and paths of the material flow. Any deviation from this requirement must receive prior approval from the Department.~~

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

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

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

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

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

~~e. Estimated amount of the discharge;~~

~~f. Location or address of the discharge;~~

~~g. Source and cause of the discharge;~~

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

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

~~j. Other persons or agencies contacted.~~

~~D. Safety~~

~~1. The overall design, layout, and operation of the Facility shall be such as to minimize hazards to humans and the environment. Security control measures shall be utilized to prevent exposure of the public to hazardous conditions. The Federal Occupational Safety and Health Standards and any applicable Florida occupational safety standards will be complied with during construction.~~

~~2. The Licensee shall not discharge to surface waters wastes which are acutely toxic, or present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant locally occurring wildlife or aquatic species. The Licensee shall not discharge to ground waters wastes in concentrations which, alone or in combination with other substances, or components of discharges (whether thermal or non-thermal) are carcinogenic, mutagenic, teratogenic, or toxic to human beings (unless specific criteria are established for such components in Section 62-520.420, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.~~

~~E. Enforcement~~

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

~~F. Design and Performance Criteria~~

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

~~G. Certification - General Conditions~~

~~1. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of certification are the same as "Permit Conditions" and are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S. Any noncompliance with a condition of certification or condition of a federally delegated or approved permit constitutes a violation of chapter 403, F.S., and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. The Licensee is placed on notice that the Department will review this approval periodically and may initiate enforcement action for any violation of these Conditions.~~

~~2. This approval is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or Conditions of Certification may constitute grounds for revocation and enforcement action by the Department.~~

~~3. As provided in Subsections 403.087(7), 403.511, and 403.722(5), F.S., the issuance of this approval does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringements of federal, state, or local laws or regulations. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This approval is not a waiver of or approval of any other Department approval that may be required for other aspects of the Facility under federally delegated programs which are not addressed in this certification.~~

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

~~5. In accepting this certification, the Licensee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this Facility which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the Facility arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111 and 403.73, F.S., or Rule 62-620.302, F.A.C. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.~~

~~6. This certification is transferable only upon Department approval in accordance with Section 403.516, F.S., Rules 62-4.120 and 62-730.300, F.A.C., as applicable. The Licensee shall be liable for any noncompliance of the approved activity until the transfer is approved by the Department.~~

~~7. These Conditions of certification or a copy thereof shall be kept at the work site of the approved activity.~~

~~8. The Licensee shall comply with the following:~~

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

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

~~New Hope Power Partnership:~~

~~8001 U.S. Highway 27 South~~

~~South Bay, FL 33493~~

~~*or the Licensee's principal office location.~~

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

~~i. the date, exact place, and time of sampling or measurements;~~

~~ii. the person responsible for performing the sampling or measurements;~~

~~iii. the dates analyses were performed;~~

~~iv. the person responsible for performing the analyses;~~

~~v. the analytical techniques or methods used;~~

~~vi. the results of such analyses.~~

~~9. These Conditions may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Licensee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.~~

~~10. The Licensee, by accepting these Conditions, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:~~

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

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

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

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

~~11. When requested by the Department, the Licensee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating these Conditions, or to determine compliance with the Conditions. The Licensee shall also provide to the Department upon request copies of records required by these Conditions to be kept. If the Licensee becomes aware of relevant facts that were not submitted or were incorrect in the Application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department.~~

~~12. Unless specifically stated otherwise in Department rules, the Licensee, in accepting these Conditions, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the Licensee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.~~

~~13. The Licensee, in accepting these Conditions, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C.~~

~~14. The Licensee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment.~~

~~15. The Licensee shall apply for a revision to any Department issued PSD, Title V, or NPDES permit in accordance with Department Rules in Chapter 62, Florida Administrative Code, and receive approval before construction of any planned substantial modifications to the certified Facility is to commence or in accordance with applicable rules for minor modifications to the certified Facility. A revised permit shall be obtained before construction begins except as provided in the applicable portions of Chapter 62, F.A.C.~~

~~16. The Licensee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with these Conditions. The Licensee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of these Conditions. The notice shall include the following information:~~

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

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

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

~~17. Water quality sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate.~~

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

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

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

~~d. Under Chapter 62-160, F.A.C., sample collection shall be performed by following the protocols approved by the Department. Alternatively, sample collection may be performed by an organization that has an approved Comprehensive Quality Assurance Plan (CompQAP) on file with the Department. This CompQAP shall be approved for collection of samples from the required matrices and for the required tests.~~

~~18. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in these Conditions shall be submitted no later than 14 days following each schedule date. When requested by the Department, the Licensee shall within a reasonable time furnish any information required by applicable law, which is needed to determine compliance with the certification. If the Licensee becomes aware that relevant facts were not submitted or were incorrect in the Application or in any report to the Department, such facts or information shall be corrected promptly.~~

~~H. Laboratories and Quality Assurance~~

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

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

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

~~I. Procedures for Post-Certification Submittals~~

~~1. Purpose of Submittals~~

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

~~***2. Filings***~~

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

~~***3. Completeness***~~

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

~~***4. Interagency Meetings***~~

~~Within sixty (60) days of the filing of a complete post-certification submittal, DEP may conduct an interagency meeting with other agencies which received copies of the submittal. The purpose of such an interagency meeting shall be for the agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether reasonable assurance of compliance with these Conditions has been provided. Failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions nor to delay the time frames for review established by these Conditions.~~

~~***5. Reasonable Assurance of Compliance***~~

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

~~***6. Commencement of Construction***~~

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

~~IV. ADVERSE IMPACT~~

~~The Licensee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. The Licensee shall not adversely impact any jurisdictional wetland without prior approval.~~

~~V. RIGHT OF ENTRY~~

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

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

~~B. To have access during normal business hours (Monday - Friday, 9:00 a.m. to 4:00 p.m.) to any records required to be kept under these Conditions for examination and copying;~~

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

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

~~VI. REVOCATION OR SUSPENSION~~

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

~~VII. CIVIL AND CRIMINAL LIABILITY~~

~~This certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any Conditions of this certification, applicable rules or regulations of the Department or Chapter 403, F.S., or regulations there-under. Subject to Section 403.511, F.S., this certification shall not preclude the institution of any legal action or relieve the Licensee from any responsibilities or penalties established pursuant to any other applicable state statutes or regulations.~~

~~VIII. PROPERTY RIGHTS~~

~~The issuance of this certification does not convey any property rights in either real or personal property, nor any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights nor any infringement of federal, state or local laws or regulations. This certification conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the state. Only the Trustees of the Internal Improvement Trust Fund may express state opinion as to title.~~

~~IX. SEVERABILITY~~

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

~~X. REVIEW OF SITE CERTIFICATION~~

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

~~XI. MODIFICATION OF CONDITIONS~~

~~A. Pursuant to Subsection 403.516(1), F.S., the Siting Board hereby delegates the authority to the Department to modify any condition of this certification, except that any proposed modification to burn a fuel other than biomass fuel, natural gas or distillate oil shall be reviewed by the Board.~~

~~B. Subject to the notice requirements of 403.516(1), F.S., the certification shall be automatically modified to conform to subsequent DEP-issued amendments, modifications or renewals of any separately-issued Prevention of Significant Deterioration (PSD) permit, Title V Air Operation permit, or National Pollutant Discharge Elimination System (NPDES) permit for the Facility and the conditions of such permits shall be controlling over these Conditions.~~

~~XII. CONSTRUCTION~~

~~A. Standards and Review of Plans~~

~~1. The Project shall be constructed pursuant to the design standards presented in the Application and the standards or plans and drawings submitted and signed by an engineer registered in the state of Florida. Specific South District office acceptance of plans will be required based upon a determination of consistency with approved design concepts, regulations and these Conditions, prior to initiation of construction if the Licensee proposes to construct any new: industrial waste treatment facilities; domestic waste treatment facilities; potable water treatment and supply systems; ground water monitoring systems and storm water runoff systems; solid waste disposal areas; facilities impacting jurisdictional wetlands, and hazardous or toxic handling facilities or areas. The Licensee shall present specific facility plans for these types of facilities for review by the South District office at least ninety (90) days prior to construction of those portions of the Facility for which the plans are then being submitted, unless other time limits are specified in the Conditions herein. Review and approval or disapproval shall be accomplished in accordance with Chapter 120, F.S., or these Conditions as applicable.~~

~~2. The Department must be notified in writing and prior written approval obtained for any changes, modification, or revision to be made to the project during construction which is in conflict with these Conditions. If there are any changes, modification, or revision made to the Project as certified without this prior written approval, the project will be considered to have been constructed without departmental approval, the construction will not be cleared for service, and the construction will be considered a violation of these Conditions.~~

~~3. Ninety (90) days prior to the anticipated date of first operation, the Licensee shall provide the Department with an itemized list of any changes made to the facility~~

~~design and operation plans that would affect a change in discharge as referenced in Condition II herein, after issuance of these Conditions. This post certification review of the final design and operation shall demonstrate continued compliance with Department rules and standards.~~

~~B. Control Measures~~

~~1. Storm Water Runoff~~

~~To control runoff during construction which may reach and thereby pollute waters of the state, necessary measures shall be utilized to settle, filter, treat or absorb silt-containing or pollutant-laden storm water to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units above background in waters of the state. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5.~~

~~2. Open Burning~~

~~Any open burning in connection with initial land clearing shall be in accordance with Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., and any applicable county regulation. Any burning of construction-generated material, after initial land clearing, that is allowed to be burned in accordance with Chapter 62-256, F.A.C., shall be approved by the South District office in conjunction with the Division of Forestry and other county regulations that may apply. Burning shall not occur unless approved by the appropriate agency. Burning shall also not occur if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.~~

~~3. Sanitary Wastes~~

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

~~4. Solid Wastes~~

~~Solid wastes resulting from construction shall be disposed of in accordance with the applicable regulations of Chapter 62-701, F.A.C. Solid wastes generated during operation shall be disposed of off-site in DEP licensed facilities by licensed contractors.~~

~~5. Noise~~

~~Construction noise shall not exceed noise requirements of the Palm Beach County Noise Ordinance.~~

~~6. Dust and Odors~~

~~The Licensee shall employ proper odor and dust control techniques to minimize odor and fugitive dust emissions. The Licensee shall employ control techniques sufficient to prevent nuisance conditions on adjoining property.~~

~~7. Transmission Lines~~

~~Any directly associated transmission lines from the New Hope Power Partnership electric switchyard to the existing Florida Power and Light company substation shall be maintained in accordance with the Application and the appropriate state and federal~~

~~regulations concerning use of herbicides. The Licensee shall notify the South District office of the Department of the type of herbicide to be used at least 60 days prior to its first use.~~

~~8. Dewatering Operations~~

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

~~9. Historical or Archaeological Finds~~

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

~~C. Environmental Control Program~~

~~The Licensee shall appoint a representative to conduct an environmental control program. Such representative shall be under the supervision of a Florida registered professional engineer or other qualified person and shall assure that all construction activities conform to applicable environmental regulations and these Conditions. If a violation of standards, harmful effects or irreversible environmental damage not anticipated by the Application or the evidence presented at the certification hearing are detected during construction, the Licensee shall notify the South District office as required by Condition III.B.~~

~~D. Reporting~~

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

~~XIII. AIR~~

~~A. General and Administrative Requirements~~

~~1. Regulating Agencies: All documents related to applications for permits to construct, operate or modify an emissions unit should be submitted to the Bureau of Air Regulation (BAR), Florida Department of Environmental Protection (FDEP), at 2600 Blair Stone Road, Mail Station 5505, Tallahassee, Florida 32399-2400 and telephone number (850)488-0114. All documents related to reports, tests, and notifications should be submitted to the DEP South District Office, 2295 Victoria Avenue, Fort Myers, Florida 33901.~~

~~2. The terms, conditions, requirements, limitations, and restrictions set forth in draft Permit PSD-FL-196(P), which is attached as Attachment A to these Conditions, and any final issuance, modification, or amendment to such PSD permit, are incorporated by reference herein, and are binding and enforceable Conditions of this Certification. The Licensee is subject to and shall comply with the terms, conditions, requirements, limitations, and restrictions set forth in Attachment A. A violation of the terms conditions, requirements, limitations, and restrictions in Attachment A is a violation of these Conditions of Certification.~~

~~3. The Department is delegated the authority to modify these Conditions of Certification to conform them to any subsequently issued amendment or modification to Permit No. PSD-FL-196(P), pursuant to Conditions XI.A and B, above.~~

~~4. The provisions set forth below in Conditions XIII.B, C, and D are excerpted from draft PSD Permit No. PSD-FL-196(P).~~

~~B. Emission Units~~

~~This section of the Conditions addresses the following emissions units.~~

~~1. Emissions Units 001, 002, and 003: Cogeneration Boilers A, B, and C.~~

~~a. Description: Each unit is a biomass-fired spreader stoker steam boiler manufactured by Zurn and designed to produce approximately 506,100 pounds per hour of steam at 1500 psig and 975° F.~~

~~b. Fuels and Capacity: The primary fuel is biomass (760 MMBtu per hour), which includes bagasse from the adjacent sugar mill and clean wood material delivered to the plant by area subcontractors. Auxiliary fuels include natural gas (605 MMBtu per hour) and very low sulfur distillate oil (490 MMBtu per hour).~~

~~c. Controls: Pollution control equipment includes low-NOx burners for gas firing, a selective non-catalytic reduction system to reduce nitrogen oxides emissions, mechanical dust collectors and an electrostatic precipitator to reduce particulate matter emissions, and an activated carbon injection system to reduce potential mercury emissions. Good operating practices and the efficient combustion of clean, low-sulfur fuels minimizes emissions of carbon monoxide, sulfuric acid mist, sulfur dioxide, and volatile organic compounds.~~

~~d. Stack Parameters: Exhaust gases exit a 10 feet diameter stack that is at least 199 feet tall and with a volumetric flow rate of approximately 319,000 acfm at 352° F.~~

~~2. Emissions Unit 004: Material handling and storage including unloading operations, stockpiles, transfer operations, conveyors, screens, crushers, hoppers, silos, and storage tanks.~~

~~3. Emissions Unit 005: Miscellaneous Support Equipment including a nominal 75 MW steam turbine electrical generator, a nominal 65 MW steam turbine electrical generator, condensers, two cooling towers, a switchyard, etc.~~

~~4. New Construction: The existing cogeneration plant includes a new, nominal 75 MW steam turbine electrical generator and a mechanical draft cooling tower. These Conditions authorize the addition of a nominal 65 MW steam turbine electrical generator and the addition of a 2-cell mechanical draft cooling tower. Within 10 days of establishing commercial operation of the new steam turbine electrical generator, the Licensee shall notify the Bureau of Air Regulation and Compliance Authorities. The notification shall include the date of commercial startup and identify any substantial changes in the final equipment that differ from the application. [Design; Rule 62-4.070(3), F.A.C.]~~

~~5. Boiler Design: The cogeneration boilers shall consist of spreader stoker units designed to fire biomass as the primary fuel with pipeline natural gas and distillate oil as auxiliary fuels. Natural gas and distillate oil are fired at startup and shutdown, when necessary to~~

~~ensure good combustion, to supplement biomass fuel, and for periods when the biomass fuel supply is interrupted. No other fuels are authorized.~~

~~6. Stack: Each boiler shall have an individual stack that is at least 199 feet tall. The permanent stack sampling facilities for each stack must comply with Rule 62-297.345, F.A.C.~~

~~7. Process Monitors: Each boiler shall be equipped with instruments to measure the fuel feed rate, heat input, steam production, steam pressure, and steam temperature.~~

~~8. Control Equipment: Each boiler shall be equipped with:~~

~~a. Low-NOx natural gas burners rated for no more than 0.15 pounds of NOx per MMBtu of heat input. Four burners are installed with one in each corner of the boiler. The maximum heat input rate from all four burners is 605 MMBtu per hour.~~

~~b. Mechanical dust collectors consisting of four, large diameter, multi-tube modules with airfoil vanes or equivalent equipment. The mechanical dust collectors shall be installed and maintained as pre-control devices prior to each electrostatic precipitator and designed for a removal efficiency of at least 85% of the particulate matter greater than 10 microns in size (assuming a specific gravity of 2.00).~~

~~c. An electrostatic precipitator (ESP) designed for at least 98 percent removal of particulate matter.~~

~~d. A selective non-catalytic reduction (SNCR) system designed for at least 40 percent removal of NOx.~~

~~e. A carbon injection system (or equivalent) for potential control of mercury emissions.~~

~~9. Continuous Monitors: For each cogeneration boiler, the Licensee shall install, calibrate, maintain, and operate continuous emissions monitoring systems (CEMS) and continuous opacity monitoring systems (COMS) to measure and record emissions of carbon monoxide (CO), nitrogen oxides (NOx), opacity, oxygen (O2), and sulfur dioxide (SO2) in a manner sufficient to demonstrate compliance with these Conditions. The opacity monitor shall be placed in the ductwork between the electrostatic precipitator and the stack or in the stack.~~

~~C. Operational Restrictions~~

~~1. Permitted Capacity: The cogeneration boilers shall be constructed and operated in accordance with the capabilities and specifications described in the Application. The maximum heat input rate to each cogeneration boiler shall not exceed 760 MMBtu/hr when burning 100 percent biomass, 605 MMBtu/hr when burning 100 percent natural gas, and 490 MMBtu/hr when burning 100 percent very low sulfur distillate oil. The steam production of each boiler shall not exceed an average of 506,100 pounds per hour at 1,500 psig and 975°F. The operating hours of the cogeneration boilers are not restricted (8760 hours per year).~~

~~2. Primary Fuel: The primary fuel for the Facility shall be biomass, which shall consist of bagasse and authorized wood material. Bagasse is the fibrous vegetative residue remaining after the sugarcane milling process. Authorized wood material is clean construction and demolition wood debris, yard trash, land clearing debris, and other clean cellulose and vegetative matter. Each cogeneration boiler shall combust no more than 30% by weight yard waste (yard trash) on a calendar quarter basis that is defined as a municipal solid waste (MSW)~~

~~in 40 CFR 60.51a. The biomass fuel used at the cogeneration plant shall not contain hazardous substances, hazardous wastes, biomedical wastes, or garbage. The fuel used at the cogeneration plant shall not contain special wastes, except wood, lumber, trees, tree remains, bagasse, cane tops and leaves, and other clean vegetative and cellulose matter. The Licensee shall perform a daily visual inspection of any wood material or similar vegetative matter that has been delivered to the Facility for use as fuel. Any shipment observed to contain prohibited materials shall not be used as fuel, unless such materials can be readily segregated and removed from the wood material and vegetative matter~~

~~a. The Licensee shall design and implement a management and testing program for the wood material and other materials delivered to the plant for fuel. The program shall be designed to keep painted and chemically treated wood, household garbage, toxic or hazardous non-biomass and non-combustible waste material, from being burned at this Facility. The program shall provide for the routine inspection and/or testing of the fuel at the originating wood yard sites as well as at the Facility site, to ensure that the quantities of painted or chemically treated wood in the fuel are minimized. Based on the analysis of a composite sample, wood material containing more than 70.7 ppm arsenic or 83.3 ppm chromium or 62.8 ppm copper shall not be burned. Fuel scheduled for burning shall be inspected daily. At a minimum, the fuel management program shall include the following sampling and analyses:~~

~~b. At least twice each month, the Licensee shall have separate analyses conducted on an as-fired wood sample and an as-fired bagasse sample for the following: heating value (modified ASTM D3286, Btu/lb, dry), carbon content (modified ASTM D5373, percent by weight, dry), sulfur content (modified ASTM D4239 Method C, percent by weight, dry), and moisture content (modified ASTM D3173, percent by weight). In addition the wood sample shall be analyzed for copper, chromium, and arsenic in accordance with Methods 3050/6010 (EPA Method SW-846) and reported in ppm by weight, dry. Samples shall be taken at least two weeks apart.~~

~~c. At least once each month, the Licensee shall have an analysis conducted on a composite sample of fly ash and bottom ash for arsenic, copper, and chromium in accordance with the procedures described in EPA Method SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (40 CFR 261, Appendix III). The analytical results from ash testing shall be used in conjunction with those from the as-fired wood samples to evaluate the effectiveness of the fuel management program in removing chemically treated wood from the biomass fuel. The Licensee shall dispose of all ash generated on site in accordance with the applicable state and federal regulations.~~

~~d. Analytical results of the as-fired biomass fuels and ash sampling shall be summarized and provided in the quarterly report to the Compliance Authority.~~

~~3. Auxiliary Fuel: The cogeneration boilers shall fire only distillate oil and pipeline natural gas as auxiliary fuels. Distillate oil shall be new No. 2 oil with a maximum sulfur content of 0.05 percent sulfur by weight as determined by the appropriate test method listed in 40 CFR 60.17. "New" oil is oil that has been refined from crude oil and that has not been used in any manner that may contaminate it. Each boiler may startup solely on pipeline natural gas or distillate oil.~~

~~a. Fossil Fuel Limitation: The firing of fossil fuels (distillate oil and natural gas) shall be less than 25 percent of the total heat input to each cogeneration boiler during any calendar quarter.~~

~~b. Fuel Records: The Licensee shall maintain a daily log of the amounts and types of fuels used. The amount, heating value, and sulfur content of each fuel oil delivery shall be kept in a log for at least five years. For each calendar month, the actual monthly SO2 emissions and the 12-month rolling total SO2 emissions shall be determined and kept in a log.~~

~~D. Emissions Limiting Standards~~

~~1. Emissions Standards: Based on the maximum permitted heat input to each cogeneration boiler, stack emissions shall not exceed the standards specified in the following table:~~

		~~Emissions Standards per Boiler i~~	
		~~lb/MMBtu~~	~~lb/hr~~
	~~30-day rolling CEMS avg.~~	~~0.50~~	
	~~12-month rolling CEMS avg.~~	~~0.35~~	
~~Nitrogen Oxides (NOx) b~~	~~30-day rolling CEMS avg.~~	~~0.15~~	~~114.0~~
	~~24-hour rolling CEMS avg.~~	~~0.20~~	
	~~30-day rolling CEMS avg.~~	~~0.10~~	
	~~12-month rolling CEMS avg.~~	~~0.06~~	
~~Stack Opacity d~~	~~6-minute block COMS avg.~~ ~~(Alternative: EPA Method 9)~~	~~20% opacity, except for one 6-minute block per hour that is 27% opacity~~	
~~Particulate Matter (PM/PM10) e~~	~~3-run test avg.~~	~~0.026~~	~~19.8~~
~~Volatile Organic Compounds (VOC) f~~	~~3-run test avg.~~	~~0.05~~	~~38.0~~
~~Mercury g~~	~~3-run test avg.~~	~~5.4 x 10-06~~	~~NA~~
~~Lead and Fluoridesh~~	~~The BACT determination for lead and fluoride emissions is the use of fuels containing low levels of these compounds (bagasse, wood, distillate oil, and natural gas) and~~		

	~~prospective removal with the fly ash by the mechanical dust collectors and electrostatic precipitators.~~

~~Footnotes to Emission Standards Table~~

~~a. Compliance shall be determined by data collected from the required CO CEMS in terms of "lb/MMBtu of heat input". The 30-day rolling average shall be determined by calculating the arithmetic average of all hourly emission rates for 30 successive boiler operating days and be consistent with the NOx monitoring requirements below. Compliance with the 12-month standard shall be based on the rolling average for each consecutive 12-month period.~~

~~b. Compliance shall be determined by data collected from the required NOx CEMS in terms of "lb/MMBtu of heat input". The 30-day rolling average shall be determined by calculating the arithmetic average of all hourly emission rates for 30 successive boiler operating days and the requirements of 40 CFR 60.13, 60.44a, 60.46a, 60.47a, 60.48a, and 60.49a. A boiler-operating day is any day in which any authorized fuel is fired.~~

~~c. Compliance with the SO2 standards shall be determined by data collected from the required SO2 CEMS in terms of "lb/MMBtu of heat input". The 24-hour average shall be determined by calculating the arithmetic average of all valid hourly emission rates for 24 successive boiler-operating hours. The 30-day rolling average shall be determined by calculating the arithmetic average of all hourly emission rates for 30 successive boiler-operating days and the requirements of 40 CFR 60.13, 60.43a, 60.46a, 60.47a, 60.48a, and 60.49a. Compliance with the 12-month standard shall be based on the rolling average for each consecutive 12-month period. Valid SO2 hourly averages shall not be excluded from any compliance average. {Permitting Note: Potential emissions of sulfuric acid mist are minimized by the effective control of SO2 emissions with the firing of low sulfur fuels. For reporting purposes, sulfuric acid mist emissions shall be estimated as 6% of the total measured SO2 emissions.}~~

~~d. Continuous compliance with the opacity standard shall be determined by data collected from the required COMS in terms of "percent opacity" based on 6-minute block averages. Alternatively, compliance may also be determined by conducting EPA Method 9 observations.~~

~~e. Compliance with the particulate matter standards shall be determined by the average of three test runs conducted in accordance with EPA Method 5. For purposes of reporting PM10 emissions, it shall be assumed that all particulate matter emitted is PM10.~~

~~f. Compliance with the VOC standards shall be determined by the average of three test runs conducted in accordance with EPA Method 25A based on propane. In addition, the Licensee may choose to conduct EPA Method 18 concurrently with EPA Method 25A to deduct emissions of methane and ethane from the measured VOC emissions. Otherwise, all emissions measured by EPA Method 25A shall be considered "volatile organic compounds".~~

~~g. Compliance with the mercury standards shall be determined by the average of three test runs conducted in accordance with EPA Method 101A or 29. Emissions in excess of this standard shall be a violation of these Conditions. In addition, if two or more cogeneration boilers exceed the annual mercury emission limit, the Licensee shall reactivate the carbon injection system for all three units within 30 days of the stack test report due date. The minimum carbon injection rate shall be at least 7 pounds per hour. Within 60 days of the stack test report due date,~~

~~the Licensee shall submit to the permitting and compliance authorities a mercury testing protocol designed to establish an effective carbon injection rate to control mercury emissions. Within 60 days of receiving approval for the mercury testing protocol by the permitting authority, the Licensee shall begin the approved testing program. At a minimum, the Licensee shall submit a full engineering report summarizing the uncontrolled emissions, controlled emissions, fuels, operating capacities, and recommending a minimum activated carbon injection rate to control mercury emissions.~~

~~h. The particulate matter standard is also a surrogate standard for lead emissions. {Permitting Note: For reporting purposes, average lead emissions are expected to be 2.6 x 10-05 lb/MMBtu and average fluoride emissions are expected to be 1.9 x 10-04 lb/MMBtu when firing bagasse/wood.}~~

~~i. Each boiler shall comply with the standards when firing any combination of authorized fuels. The "lb/hour" rates are based on the highest emission standard shown for that pollutant. Required compliance tests shall be performed in accordance with the requirements of PSD Permit No 196(P). The cogeneration boilers are also subject to the new source performance standards (NSPS Subpart Da) for new electric utility steam generating units. These requirements include the general provisions of Subpart A in 40 CFR 60, as well as the following source-specific applicable requirements: 60.40a (Applicability and Designation of Affected Facility); 60.41a (Definitions); 60.42a (Standards for Particulate Matter); 60.43a (Standard for Sulfur Dioxide); 60.44a (Standard for Nitrogen Oxides); 60.46a (Compliance Provisions); 60.47a (Emissions Monitoring); 60.48a (Compliance Determination Procedures and Methods); and 60.49a (Reporting Requirements). The cogeneration boilers are also subject to Rule 62-296.405(2), F.A.C. (Fossil Fuel Steam Generators with more than 250 MMBtu per Hour of Heat Input), Rule 62-296.410, F.A.C. (Carbonaceous Fuel Burning Equipment), and Rule 62-296.570, F.A.C. (Reasonably Available Control Technology Requirements for Major VOC and NOx Facilities).~~

~~2. Material Handling: The following conditions apply to the biomass, ash, and activated carbon handling facilities.~~

~~a. All conveyors and conveyor transfer points shall be enclosed to preclude PM emissions (except those directly associated with the stacker/reclaimer, for which enclosure is operationally infeasible).~~

~~b. Water sprays, chemical wetting agents, and/or stabilizers shall be applied to storage piles, handling equipment, unenclosed transfer points, etc. during dry periods and as necessary to prevent visible emissions. When adding, moving or removing material from the storage pile, visible emissions of no more than 20% opacity are allowed.~~

~~c. The mercury control system reactant storage silos shall be maintained at a negative pressure while operating with the exhaust vented to a filter control system. Visible emissions from any storage silo shall not exceed 5 percent opacity based on a 6-minute block average. A visible emissions test (EPA Method 9) shall be performed at least annually for each silo that is loaded with carbon during the federal fiscal year.~~

SECTION B. SPECIFIC CONDITIONS

I.~~XIVI. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS~~ INDUSTRIAL WASTEWATER REQUIREMENTS

This Section addresses Industrial Wastewater program permitting requirements only and does not authorize operation of this Facility prior to obtaining any other permits required by federal agencies.

~~A. Surface Water Discharges~~

~~This facility does not discharge to surface waters of the State.~~

~~B. Underground Injection Control Systems~~

~~This section is not applicable to this facility.~~

~~C~~A. Land Application Systems

1. The Licensee is authorized to discharge process wastewater, non- process wastewater, contact and non-contact stormwater, cooling tower blow down, cachaza slurry from the Okeelanta Corporation's wastewater system (DEP Permit No. FLA015038), and reverse osmosis reject water to Land Application System R-001, R-002, R-003, R-004, a percolation pond network. Discharge to the percolation pond network shall be monitored by the Licensee. Flow shall be monitored and recorded daily and total dissolved solids shall be sampled monthly.

2. The annual average flow into the percolation pond system shall not exceed 1.10 MGD.

3. The annual average total dissolved solids concentration in the effluent to the percolation pond system shall not exceed 6,000 mg/l.

4. Records of the monitoring data shall be kept on Site and made available for inspection by Department personnel during normal business hours.

5. The Licensee will perform an inspection prior to placing a new cell into service each year to ensure that the berm is properly constructed. Documentation of this inspection will be kept on Site and made available for inspection by Department personnel during normal business hours. The rotational schedule for the said cell rotation is provided below.

~~Rotational schedule for the four percolation cells~~	~~Dates~~
~~Cell 2a active~~	~~2004 to 2005~~
~~Cell 1a active~~	~~2005 to 2006~~
~~Cell 3 active~~	~~2006 to 2007~~
~~Cell 4 active~~	~~2007 to 2008~~
~~Cell 2a active~~	~~2008 to 2009~~

Rotational schedule for the four percolation cells	**Crop Year**	**Calendar Dates**
1a	**2008-2009**	**2009 to 2010**
3	**2009-2010**	**2010 to 2011**
2a	**2010-2011**	**2011 to 2012**
4	**2011-2012**	**2012 to 2013**
1a	**2012-2013**	**2013 to 2014**
2a	**2013-2014**	**2014 to 2015**
3	**2014-2015**	**2015 to 2016**
4	**2015-2016**	**2016 to 2017**

~~D~~.B. Other Methods of Disposal or Recycling

There shall be no discharge of industrial wastewater from this facility to ground or surface waters, except as authorized by these Conditions.

~~E~~C. Other Limitations and Monitoring and Reporting Requirements

1. During the period of operation authorized by these Conditions, the Licensee shall complete and submit to the South District Office Discharge Monitoring Reports (DMRs) in accordance with the frequencies specified by the REPORT type (i.e., monthly, toxicity, quarterly, semiannual, annual, etc.) indicated on the DEP's DMR forms (available at the South District Office). Monitoring results for each monitoring period shall be submitted in accordance with the associated DMR due dates below.

REPORT Type On DMR	Monitoring Period	DMR Due Date
Monthly or Toxicity	First day of month – last day of month	28th day of following month

Quarterly	January 1 - March 31 April 1 – June 30 July 1 – September 30 October 1 – December 31	April 28 July 28 October 28 January 28
Semiannual	January 1 – June 30 July 1 – December 31	July 28 January 28
Annual	January 1 – December 31	January 28

DMRs shall be submitted for each required monitoring period including months of no discharge.

The Licensee shall make copies of the attached DMR form(s) and shall submit the completed DMR form(s) to the Department's South District Office at the address specified in Section B, Condition I.C.2., below.

2. Unless specified otherwise in these Conditions, all reports and notifications required by these Conditions, including twenty-four hour notifications, concerning the Facility's percolation pond system shall be submitted to or reported to the South District Office at the address specified below:

South District Office
Post Office Box 2549
Fort Myers, FL 33902-2549
Phone Number - (239) 332-6975
FAX Number - (239) 332-6969
(All FAX copies shall be followed by original copies.)

3. All reports and other information concerning the Facility's percolation pond system shall be signed in accordance with requirements of Rule 62-620.305, F.A.C. [62-620.305, 10-23-00]

4. The Licensee shall provide safe access points for obtaining representative effluent and stormwater samples, which are required by these Conditions.

5. If there is no discharge from the Facility on a day scheduled for sampling, the sample shall be collected on the day of the next discharge.

6. Any bypass of the treatment facility which is not included in the monitoring specified in Sections B, Conditions I.A., B., or C., above, is to be monitored for flow and all other required parameters. For parameters other than flow, at least one grab sample per day shall be monitored. Daily flow shall be monitored or estimated, as appropriate, to obtain reportable data. All monitoring results shall be reported on the appropriate DMR.

~~F. Industrial Sludge Management Requirements~~

~~This section not applicable to this facility.~~

~~G~~D. Ground Water Monitoring Requirements

1. Construction Requirements

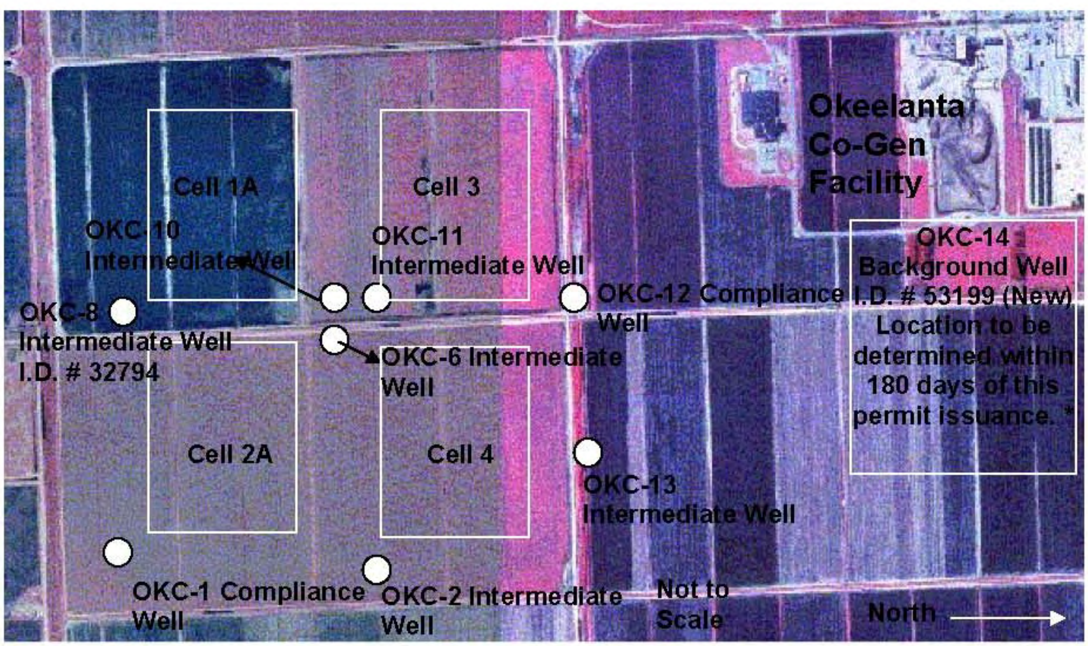
a. Prior to construction of any new ground water monitoring well, a soil boring shall be made at the new monitoring well location in order to properly determine the well depth and screen interval.

b. The Licensee shall give at least 72-hours notice to the Department, prior to the installation of any new monitoring well required by these Conditions.

c. Within 30 days after installation of a new monitoring well, the Licensee shall submit to the Department's South District Office detailed information on the well's location and construction on DEP Form 62-520.900(3), Monitor Well Completion Report.

d. Upon completion of construction of any new background monitoring well, sampling for initial characterization of the monitoring well shall be performed for Total Dissolved Solids, Total Phosphorous, Nitrate, Nitrite, TKN, Chloride, Sodium, pH (field), Specific Conductance (field), Gross Alpha, Water Level, and EPA methods 601, 602, and 608 or equivalent approved method for 40 CFR 136 with detection limits equal to or lower for the parameters listed.

e. The ground water monitoring wells for the Facility shall be located as depicted in the Site map below:



* The location of the new background monitoring well (OKC-14; MWB 53199) is not depicted on this Site map.

2. Operational Requirements

a. During the period of operation authorized by these Conditions, the Licensee shall continue to sample ground water at the existing monitoring wells identified in Section B, Condition I.D.2.b., below, in accordance with these Conditions and the approved ground water monitoring plan prepared in accordance with Rule 62-520.600, F.A.C. Within 90 days of installation of any new background-monitoring well, the Licensee shall begin sampling ground water at the new monitoring well in accordance with these Conditions and the approved ground water monitoring plan.

b. The following monitoring wells shall be sampled for the rotating four cell (1A, 2A, 3 & 4) percolation pond land application systems R-001, R-002, R-003 and R-004.

Monitoring Well ID	Alternate Well Name and/or Description of Monitoring Location	Depth (Feet)	Aquifer Monitored	Monitoring Frequency
MWB-53199	OKC-14 Background Well. (Existing)		Surficial	All Quarters
MWC-25335	OKC-1 Compliance Well. Located in the southeast corner of Cell #2A. (Existing)	17.54	Surficial	1st & 3rd Quarters
MWC-46123	OKC-12 Compliance Well. Located in the northeast corner of Cell #3. (Existing)	17.0	Surficial	2nd & 4th Quarters
MWI-25336	OKC-2 Intermediate Well. Located in the southeast corner of Cell #4. (Existing)	16.0	Surficial	1st & 3rd Quarters
MWI-25340	OKC-6 Intermediate Well. Located in the northwest corner of Cell #2A. (Existing)	15.5	Surficial	2nd & 4th Quarters
MWI-32794	OKC-8 Intermediate Well. Located in the southeast corner of Cell #1A. (Existing)	17.5	Surficial	2nd & 4th Quarters
MWI-32796	OKC-10 Intermediate Well. Located in the northeast corner of Cell #1A. (Existing)	17.0	Surficial	2nd & 4th Quarters
MWI-44599	OKC-11 Intermediate Well. Located in the southeast corner of Cell #3. (Existing)	17.0	Surficial	1st & 3rd Quarters
MWI-44600	OKC-13 Intermediate Well. Located along the center north side of Cell #4. (Existing)	17.0	Surficial	1st & 3rd Quarters

MWB = Background; MWI = Intermediate; MWC = Compliance, MWP = Piezometer

c. The monitor wells specified in Section B, Condition I.D.2.b., above. shall be sampled for the parameters listed below:

Parameter Name	*Compliance Well Limit	Units	Sample Type

Specific Conductance (field)	Report	UMHO/CM	Grab
PH	6.5-8.5	SU	Grab
Chloride (as Cl)	250.0	MG/L	Grab
Solids, Total Dissolved (TDS)	500.0 **	MG/L	Grab
Water Level Relative to NGVD	Report	FEET	Measured
Sodium, Total Recoverable	160.0	MG/L	Grab

* This column summarizes Class G-II maximum contaminant level criteria applicable at the Compliance Well. Refer to Rule 62-520.420, F.A.C. These are not effluent limits.

** May be greater if no other maximum contaminant level is exceeded. See Rule 62-550.320(1), Table 6, F.A.C.

d. A Zone of Discharge is hereby established for the time duration of these Conditions and shall not aerially extend further than one hundred (100) feet beyond the perimeters of the areas of wetted surface of the wastewater holding ponds, nor shall it extend beyond the limits of the property boundaries should such distance be less than one hundred (100) feet. The vertical zone of discharge shall not extend below the semi-confining zones at the base of the water table aquifer. The Licensee's discharge to ground water shall not cause a violation of water quality standards for ground waters at the boundary of the zone of discharge in accordance with Rules 62-520.400 and 62-520.420, F.A.C.

e. The Licensee's discharge to ground water shall not cause a violation of the minimum criteria for ground water specified in Rule 62-520.400, F.A.C., within the zone of discharge.

f. If the concentration for any constituent listed in Section B, Condition I.D.2.c, above, in the natural background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative natural background quality shall be the prevailing standard.

g. Water levels shall be recorded prior to evacuating the well for sample collection. Elevation references shall include the top of the well casing and land surface at each well site (NGVD allowable) at a precision of plus or minus 0.01 feet.

h. Ground water monitoring wells shall be purged prior to sampling to obtain a representative sample.

i. If a monitoring well becomes damaged or cannot be sampled for some reason, the Licensee shall notify the Department immediately and a written report shall follow within seven days detailing the circumstances and remedial measures taken or proposed. Repair or replacement of monitoring wells shall be approved in advance by the Department.

j. Ground water monitoring test results shall be submitted on Part D of DEP Form 62-620.910(10) and shall be submitted to the address specified in Section B, Condition I.C.2. Results shall be submitted with the DMR for each month listed in the following DMR Due Date schedule.

SAMPLE QUARTER	SAMPLE PERIOD	DMR Due Date
1st Quarter	January 1 – March 31	April 28
2nd Quarter	April 1 – June 30	July 28
3rd Quarter	July 1 – September 30	October 28
4th Quarter	October 1 – December 31	January 28

~~H. Other Land Application Requirements~~

~~This section is not applicable to this facility.~~

~~I~~E. ~~Operation and Maintenance Requirements 1.~~ Operation of Treatment and Disposal Facilities

~~a~~1. The Licensee shall ensure that the operation of this facility is as described in the Application and supporting documents.

~~b~~2. The operation of the water pollution control facilities described in these Conditions shall be under the supervision of a person who is qualified by formal training and/or practical experience in the field of water pollution control.

~~J. Record keeping Requirements:~~

~~1. The Licensee shall maintain the following records on the site of the permitted Facility and make them available for inspection:~~

~~a. Records of all compliance monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, including, if applicable, a copy of the laboratory certification showing the certification number of the laboratory, for at least three years from the date the sample or measurement was taken;~~

~~b. Copies of all reports, other than those required in items a. and f. of this Condition, required by the certification for at least three years from the date the report was prepared, unless otherwise specified by Department rule;~~

~~c. Records of all data, including reports and documents used to complete the Application for the certification for at least three years from the date the application was filed, unless otherwise specified by Department rule;~~

~~d. A copy of the current certification;~~

~~e. A copy of any required record drawings;~~

~~f. Copies of the logs and schedules showing plant operations and equipment maintenance for three years from the date on the logs or schedule.~~

~~K~~F. Other Specific Conditions

1. Specific Conditions Applicable to All Permits

a. Drawings, plans, documents or specifications for the Facility that have been previously submitted by the Licensee and retained on file at the South District Office or the Siting Coordination Office, are made a part hereof.

b. Where required by Chapter 471 (P.E.) or Chapter 492 (P.G.) Florida Statutes, applicable portions of reports to be submitted under these Conditions, shall be signed and sealed by the professional(s) who prepared them.

~~c. Section XIV. of these Conditions addresses Industrial Wastewater program permitting requirements only and does not authorize operation of this Facility prior to obtaining any other permits required by federal agencies.~~

2. Specific Conditions Related to Construction

a. Within thirty days of completion of construction of any new industrial wastewater facilities, the Licensee shall submit to the Department a completed “Certification of Completion of Construction” (DEP Form 62-620.910(12)) signed and sealed by the engineer of record or other engineer registered in the state of Florida.

b. Record drawings of any new industrial wastewater facilities shall be prepared and made available in accordance with Rule 62-620.410(6), F.A.C., and the Department of Environmental Protection Guide to Wastewater Permitting within six months of placing such facilities into operation.

3. Reopener Clause

a. The applicable conditions in Section B. Condition I of this certification shall be revised, or alternatively, revoked and reissued in accordance with the provisions contained in Rules 62-620.325 and 62-620.345 F.A.C., if applicable, or to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2)(C) and (D), 304(b)(2) and 307(a)(2) of the Clean Water Act (the Act), as amended, if the effluent standards, limitations, or water quality standards so issued or approved:

i. Contains different conditions or is otherwise more stringent than the Conditions in this certification/or;

ii. Controls any pollutant not addressed in these Conditions of Certification.

iii. The Conditions of Certification as revised or reissued under this subsection shall contain any other requirements then applicable.

b. These Conditions may be reopened to adjust effluent limitations or monitoring requirements should future Water Quality Based Effluent Limitation determinations, water quality studies, DEP approved changes in water quality standards, or other information show a need for a different limitation or monitoring requirement.

c. The Department may develop an applicable Total Maximum Daily Load (TMDL) during the life of this certification. Once a TMDL has been established and adopted by rule, the Department shall revise these Conditions to incorporate the final findings of the TMDL.

4. Notice of Modification or Revision

The Licensee shall file an amendment or apply for a modification to this Certification in accordance with ~~Rules~~ Sections 403.5113 and 403.516, F.S., and Rule 62-620.300, F.A.C., and the Department of Environmental Protection Guide to Wastewater Permitting at least 90 days before construction of any planned substantial modifications to the Facility's wastewater system or with Rule 62-620.325(2) for minor modifications to the Facility's wastewater system. A revised Condition or the Department's concurrence shall be obtained before construction begins on such modifications to the wastewater systems, except as provided in Rule 62-620.300, F.A.C. [62-620.610(16), F.A.C.]

5. Any laboratory test required by these Conditions shall be performed by a laboratory that has been certified by the Department of Health (DOH) under Chapter 64E-1, F.A.C., where such certification is required by Rule 62-160.300, F.A.C. The laboratory must be certified for any specific method and analyte combination that is used to comply with these Conditions. For domestic wastewater facilities, the on-Site test procedures specified in Rule 62-160.300(4), F.A.C., shall be performed by a laboratory certified test for those parameters or under the direction of an operator certified under Chapter 62-602, F.A.C.

6. Field activities including on-Site tests and sample collection, whether performed by a laboratory or a certified operator, must follow the applicable procedures described in DEP-SOP-001/01 (January 2002). Alternate field procedures and laboratory methods may be used where they have been approved according to the requirements of Rules 62-160.220, 62-160.330, and 62-160.600, F.A.C.

7. Bypass Provisions

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

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

ii. 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 preventative maintenance; and

iii. The Licensee submitted notices as required under Section A, Condition VIII.

b. If the Licensee 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 Licensee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Section B, Condition I.F.7.a.iii of these Conditions. 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.

c. 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 Section B, Condition I.F.7.a of these Conditions.

i. 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 Section B, Condition I.F.7.a of these Conditions. [62-620.610(22), F.A.C.]

8. Upset Provisions:

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

i. An upset occurred and that the Licensee can identify the cause(s) of the upset;

ii. The permitted facility was at the time being properly operated;

iii. The Licensee submitted notice of the upset as required in Section A, Condition VIII. of these Conditions; and

iv. The Licensee complied with any remedial measures required under Section A, Condition XVI.

b. In any enforcement proceeding, the Licensee seeking to establish the occurrence of an upset has the burden of proof.

c. 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. [62-620.610(23), F.A.C.]

II. EROSION CONTROL

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

The following measures shall be taken immediately by the Licensee whenever turbidity levels within waters of the State surrounding the project Site exceed 29 NTUs above background as a result of activities on the Certified Area:

A. Immediately cease all work contributing to the water quality violation. Operations may not resume until the DEP South District Office gives authorization to do so.

B. Notify the DEP South District Office, Environmental Resource Compliance/Enforcement Section, at 239/332-6975 within 24 hours of the time the violation is first detected.

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

[62-302, F.A.C.]

III. BY-PRODUCT AND SOLID WASTE STORAGE

A. Solid Waste General

Any solid waste produced by the operation of the Certified Facility shall be disposed of in an approved off-Site disposal facility. However, ash generated by the Certified Facility may be disposed of in the Ash Monofill on the Site. Industrial by-products and ash residue that are to be sold for reuse or beneficially reused are not considered solid waste.

B. By-Product & Solid Waste Site Specific Standards

1. Any future ash or by-product storage areas on the certified Site shall be designed, constructed, operated, maintained, closed and monitored in accordance with any applicable waste disposal requirements described in F.A.C. Chapter 62-701, and these Conditions of Certification. The prohibitions of F.A.C. Chapter 62-701 shall not be violated.

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

C. Ash Monofill (Class I Landfill)

1. The Licensee is authorized to construct and operate Cell 1 of the Ash Monofill and install two above ground leachate storage tanks of approximately 45,000 gallons each. Cell 1 comprises 15.4 acres and consists of Cell 1A (8.4 acres) and Cell 1B (7.0 acres). Upon completion of construction of Cell 1A and after an inspection and approval by the Department, the Ash Monofill may be placed into operation. Future expansions of the Ash Monofill disposal area shall require a petition for modification of these Conditions accompanied by the submittal of a Solid Waste Permit Application Form, 62-701.900(1), including supporting documentation (reports/plans). The petition and form should be submitted one year in advance of the date when the future expansion area needs to be placed in operation (estimated 6 months processing and 6 months construction].

2. The Licensee shall provide reasonable advance notice to the Department so that the Department can schedule Site inspections before and after placement of the geomembrane on the sub-base (bedding layer) in the disposal units of the Class I Ash Monofill.

3. The Licensee shall submit a Certification of Construction Completion (C.C.C.) [DEP Form 62-701.900(2)] signed, dated and sealed by a Professional Engineer within thirty (30) days of construction completion of each disposal unit and installation of leachate storage tanks. However, the report of construction completion may be submitted within ninety (90) days of construction completion. The applicant shall provide at least fourteen (14) days

advance notice prior to accepting waste so that the Department has the opportunity to inspect the Site and the leachate storage tanks.

4. The new leachate collection system shall be water pressure cleaned or inspected by video recording after construction but prior to initial placement of wastes. A report shall be submitted along with the C.C.C

5. A copy of the Operations Plan from the Application package, approved by the Department, shall be kept at or near the Landfill and shall be accessible to landfill operators, and made available for inspection by the Department staff. All activities of the Landfill shall be performed in accordance with the applicable Parts/Sections of the Operations Plan. The Operations Plan shall be updated as operations change but no less frequently than once every 5 years for the Ash Monofill. The Department shall be notified of changes in advance.

6. The stormwater from the Ash Monofill shall be controlled in accordance with Part IV of Chapter 373, Florida Statutes (F. S.) and the rules promulgated thereunder. Any authorized construction shall be completed before the facility receives waste for disposal.

[62-701.400(9)(a)1, F.A.C.

7. Operation and maintenance of the Ash Monofill shall be under the direction of a qualified and trained operator.

8. At least one trained operator shall be present at the Ash Monofill whenever the Ash Monofill is receiving ash or other active operations are being conducted.

9. Whenever solid waste is being received at the Ash Monofill, signs and an employee shall be present on the active working face to direct the incoming wastes to the proper disposal area.

10. At least one trained spotter shall be present at the working face of the landfill at all times when waste is received to detect unauthorized waste. A trained operator may perform the duties of a trained spotter. Equipment operators that have been trained as spotters in accordance with Florida Administrative Code (F.A.C.) Rule 62-701.320(15)(b)(1) or F.A.C. Rule 62-701.320(15)(c) may serve as spotters.

11. If any hazardous waste is detected before or after unloading waste, the Department shall be notified immediately at (239) 332-6975 during normal business hours, and at (850) 413-9911 or toll free at (800) 320-0519 during other times, before reloading, rejecting and redirecting; and instructions from the Department shall be followed. The area where the waste is unloaded shall immediately be cordoned off from public access. If the generator or hauler cannot be identified, the facility operator shall assure the cleanup, transportation, and disposal of the waste at a permitted hazardous waste management facility. If hazardous waste is sent to a hazardous waste disposal facility by the Licensee, copies of the receipts from the hazardous waste disposal facility documenting proper disposal shall be sent to the Department within 5 days of their receipt.

12. Reasonable precautions pursuant to F.A.C. Rule 62-296.320(4)(c) shall be taken to control fugitive particulate at the Site including truck loading and unloading, truck traffic, and all material processing and disposal activities.

13. Pesticides (if any) used to control rodents, flies, and other insects shall be as specified by the Florida Department of Agriculture and Consumer Services (Chapter 5E-2, Florida

Administrative Code), and such pesticides shall be available on Site for use, if necessary to control vectors.

14. Leachate Collection:

a. The leachate shall be collected in the two above ground leachate storage tanks.

b. The leachate collection system shall be maintained in good working condition. The Department shall be notified immediately if any part of the system becomes clogged and leachate cannot be rerouted to the leachate sump.

c. The primary leachate collection and removal system lying above the upper geomembrane shall be designed to limit the leachate head to one foot above the liner during routine landfill operations after placement of initial cover, except in sumps and leachate collection trenches.

[62-701.400(3)(c)1]

15. Leachate Measurement:

a. Quantities of leachate collected by the leachate collection and removal system shall be measured with a flow meter and recorded in gallons per day while discharging/pumping to either leachate storage tank.

b. In conjunction with the above, precipitation records shall be maintained and used by the Licensee to compare with leachate generation rates. These records of leachate and precipitation shall become part of the operating records and be made available to Department personnel during inspections. The records of leachate and precipitation quantities shall be submitted quarterly to the Department.

16. Water Quality Monitoring:

The water quality and leachate monitoring plan, included with the Application, shall be implemented and maintained by the owner or operator to comply with the criteria set forth in F.A.C. Rule 62-701.510 and Chapter 62-520. The water quality and leachate monitoring plan shall also be subject to the following Conditions:

a. The boundary of the zone of discharge, pursuant to F.A.C. Rule 62-520, shall be no more than 100 feet from the disposal unit (Cell 1), or to the facility property boundary, whichever is less. The vertical boundary of the zone of discharge shall not extend below the semi-confining zones at the base of the water table aquifer, as identified in the hydrogeological investigation of the construction permit application.

b. A total of eight monitoring wells will be included in the groundwater monitoring network for Cell 1. The groundwater monitoring wells shall be located as per Figure M.1 prepared by Jones Edmunds & Associates, received September 25, 2008. The proposed monitoring well network and designation:

WELL NO.	**DESIGNATION**
MW-1A	Detection
MW-2A	Detection

MW-3A	Detection
MW-4A	Detection
MW-5A	Detection
MW-6A	Detection
MW-7A	Background
MW-8A	Background

The monitoring wells are to be installed and developed within the Surficial Aquifer System prior to initiation of waste disposal in Cell 1. The detection wells will be installed within 50 feet of the disposal unit. Well screens shall intersect the top of the water column, immediately below the caprock. All wells are to be clearly labeled and easily visible at all times. The Licensee should keep all wells locked to minimize unauthorized access.

c. After construction of the monitoring wells, each well will be sampled initially and analyzed for field and laboratory parameters as described in Rule 62-701.510(8)(a) and (d), F.A.C. The laboratory results for the initial sampling event(s) shall be reported to the Department within 60 days of sample collection.

d. All field and laboratory work done in connection with the facility's Water Quality Monitoring Plan shall be conducted in accordance with standard operating procedures as mandated by Chapter 62-160, F.A.C. and DEP-SOP-001-01.

e. After the initial sampling event, groundwater samples will be collected semiannually, preferably in March and September, from all wells and analyzed for the field parameters and laboratory parameters listed in F.A.C. Rule 62-701.510(8)(a), as set forth below. Pursuant to Rule 62-701.510(6), F.A.C., after the Licensee has analyzed the leachate from the Ash Monofill, the Licensee may request and the Department may grant approval to delete volatile organic compounds (VOCs) or other parameters from the routine monitoring upon a demonstration that such parameters are not in the leachate and are not reasonably expected to be detected in the groundwater as a result of the operations of the Ash Monofill:

FIELD PARAMETERS
Static Water Levels (before purging)
Specific Conductivity
pH
Dissolved Oxygen
Turbidity
Temperature
Colors and Sheens (by observation)

LABORATORY PARAMETERS

Total Ammonia - N
Chlorides
Iron
Mercury
Nitrate
Sodium
Total Dissolved Solids (TDS)
Those parameters listed in 40 CFR Part 258 Appendix I

f. On-Site surface water sampling locations are designated as SW-1 and SW-2. The locations of the surface water sampling points are indicated on Figure M.1, prepared by Jones Edmunds & Associates, received September 25, 2008. On-Site surface water samples will be collected from each location semiannually, and analyzed for the parameters listed in F.A.C. Rule 62-701.510(8)(b):

FIELD PARAMETERS
Specific Conductivity
pH
Dissolved Oxygen
Turbidity
Temperature
Colors and Sheens (by observation)

LABORATORY PARAMETERS
Unionized Ammonia
Total Hardness (as mg/L CaCO3)*
Biochemical Oxygen Demand (BOD5)
Iron
Mercury
Nitrate
Total Dissolved Solids (TDS)
Total Organic Carbon
Fecal Coliform
Total Phosphorous (as mg/L P)*

Chlorophyll A
Total Nitrogen
Chemical Oxygen Demand (COD)
Total Suspended Solids (TSS)
Those parameters listed in 40 CFR Part 258 Appendix I
*62-701, F.A.C. effective 01/06/10

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

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

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

Florida Department of Environmental Protection
South District Office
P.O. Box 2549
Fort Myers, Florida 33902-2549

And to:

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

And to:

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

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

h. Prior to construction of any new or replacement wells (excluding the wells listed in Section B, Condition III.C.16.b, above), the Licensee shall request and receive Department approval. The following information shall be submitted for the wells listed in Section B, Condition III.C.16.b, above, and any other new or replacement wells within 90 days of installation:

i. Well Completion Reports and Construction Details;

ii. Within one week of well completion and development, each new well shall be sampled for the parameters listed in Rule 62-701.510(8)(a) and (8)(d), F.A.C. to establish initial groundwater quality for that well;

iii. A surveyed drawing shall be submitted in accordance with Rule 62-701.510(3)(d)1, F.A.C.

i. If it is necessary to abandon wells, the wells will be abandoned under the direction of a qualified geologist or engineer. This abandonment procedure will include either removing the existing casing and backfilling the well boring, or overdrilling for wells located within the landfill footprint. The details for well abandonment will be presented to the Department for approval prior to conducting any field activities.

j. If monitoring parameters are detected in the detection wells in concentrations which are significantly above background water quality, or exceed the Department's water quality standards or criteria, the Licensee has 30 days within receipt of laboratory data to resample the monitoring well(s) to verify the original analysis. Should the Licensee choose not to resample, the Department will consider the water quality analysis as representative of current groundwater conditions at the facility. If the data is confirmed, or if the Licensee chooses not to resample, the Licensee shall notify the Department within 14 days of this finding. Upon notification by the Department, the Licensee shall initiate evaluation monitoring, preventive measures and corrective actions as described in Rule 62-701.510(7), F.A.C.

k. The technical report required by F.A.C. Rule 62-701.510(9)(b) shall be submitted within 60 days after receipt of the data following the completion of each two years of monitoring. The report shall include evaluations of any seasonal fluctuation in the direction of groundwater flow and shall be the basis for determining the adequacy of the monitoring well network.

17. Leachate Monitoring:

The leachate monitoring plan shall be subject to the following Conditions:

a. Representative samples of leachate will be collected from the leachate collection wet well sump located on the east side of the landfill, marked as L-1 on Figure M.1 (prepared by Jones Edmunds & Associates, received September 25, 2008), on an annual basis (in March) and analyzed in conjunction with the routine monitoring event in accordance with Rule 62-701.510(6)(c), F.A.C.

b. Leachate sampling will be performed in accordance with Department SOPs for the purpose of sampling activities, as mandated by F.A.C. 62-160. The Department will be notified at least fourteen days prior to any sampling event.

c. Leachate samples will be collected annually and analyzed for the parameters described in Rule 62-701.510(8)(c) and (d), F.A.C.:

FIELD PARAMETERS
Specific Conductivity
pH
Dissolved Oxygen
Colors and Sheens (by observation)

LABORATORY PARAMETERS
Total Ammonia - N
Bicarbonate
Chlorides
Iron
Mercury
Nitrate
Sodium
Total Dissolved Solids (TDS)
Those parameters listed in 40 CFR Part 258 Appendix II

Leachate concentrations will be evaluated to determine if relevant constituents are detected in excess of the toxicity characteristics for hazardous waste, as described in 40 CFR 261.24. If the regulatory level is exceeded, then the facility will implement the requirements of Rule 62-701.510(6)(c)2.

18. The Ash Monofill shall receive only ash residue from the New Hope Power Company's Okeelanta Cogeneration Facility. Random inspections of the trucks delivering solid waste shall be conducted pursuant to Rule 62-701.500(6)(a), F.A.C., if (a) the Licensee believes unauthorized waste is being delivered to the Ash Monofill or (b) the Department requests such inspections.

a. Ash residue may be used as initial cover. Ash residue used for initial cover shall be sufficiently free of organics and other materials so as not to attract rodents, flies, or other vermin.

b. Ash daily cover may be used only in areas of the landfill where runoff or infiltration is captured by the leachate collection system.

19. The intermediate cover (minimum 12-inches-thick), in addition to the initial cover, shall be applied within seven (7) days of cell completion and maintained, if additional solid waste will not be deposited within one hundred eighty (180) days of cell completion. The landfill/operator may remove all or part of the intermediate cover before placing additional waste or installing final cover. To control dust and prevent ash migration outside the lined limits of the ash monofill, all exterior slopes will receive intermediate cover within seven days of placement.

20. The Ash Monofill, when filled to design dimensions, shall receive final cover as approved by the Department within one hundred eighty (180) days after the final waste deposit, in accordance with the approved closure plan.

21. The geomembrane liner of the proposed final cover shall be placed over a protective 12-inch soil layer (bedding material). The top 24-inch-thick protective soil layer on the geomembrane liner shall consist of 18-inch-thick sand drainage layer and 6-inch-thick top layer over it that shall be capable of supporting vegetative growth. This top layer cover shall be vegetated and maintained with drought-resistant species to control erosion, in accordance with F.A.C. Rule 62-701.600(5)(f)2.

22. The Licensee shall estimate and record, in tons per day or cubic yards, the amount of ash residue disposed of into the landfill. This daily record shall be compiled monthly and included in the annual facility waste report titled "Landfill Disposal Tonnage."

23. An annual report shall be submitted to the Department estimating the remaining life and capacity of the landfill as outlined in F.A.C. Rule 62-701.500(13)(c).

24. Unacceptable wastes intermixed with the fly-ash and received inadvertently shall be culled and temporarily stored in an on-Site storage container until it can be disposed of in an appropriate state permitted disposal facility.

25. **Financial Responsibility**: The Licensee shall submit updated closure and long-term care cost estimates or an inflation adjustment statement on DEP Form No. 62-701.900(28), between January 1 and March 1 every year to the DEP District office in Fort Myers. Financial Assurance documents (insurance bond, certificate, etc.) corresponding to the submitted cost estimates along with a copy of the estimates or statements shall be submitted to the DEP office in Tallahassee to the following address:

Solid Waste Financial Coordinator
Florida Department of Environmental Protection
2600 Blair Stone Road, Mail Station 4565
Tallahassee, Florida 32399-2400

26. **Closure Schedule**: The Licensee shall, at least one year prior to the projected date when wastes will no longer be accepted at the landfill provide written notice to the

Department District office with a schedule for cessation of waste acceptance and landfill closure in accordance with guidelines set forth in F.A.C. Chapter 62.701.

27. **Closure Plan Submittal**: The Licensee shall submit a closure plan (engineering drawing sheets and a narrative) revised to include any changes and to agree with the requirements of F.A.C. Rule 62.701.600 to the Department for approval no less than ninety (90) days prior to the scheduled closing day.

28. **Closure Design Plan**: The Licensee shall submit a closure design plan, along with the closure plan which shall describe provisions for cover material for long-term care, erosion control, filling areas of subsidence or other depressions, maintaining berms and general maintenance of the facility and specify the anticipated source and amount of material necessary for proper closure of the landfill.

~~XV.~~IV. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

A. Legal/Administrative Conditions

1. General

a. Responsible Entity

The Licensee shall be responsible for compliance with the Certification Conditions. If contractual rights, duties, or obligations are transferred under this Certification, notice of such transfer or assignment, including the identification of the entity responsible for compliance with the Certification, shall immediately be submitted to the Florida Department of Environmental Protection and the SFWMD by the previous certification holder (Licensee) and the Assignee. Any assignment or transfer shall carry with it the full responsibility for the limitations and Conditions of this Certification. The previous Licensee shall be responsible for informing the Assignee of all authorized facilities and uses and the Conditions under which they were authorized. The previous Licensee shall remain liable for corrective actions that may be required as a result of any violations prior to transfer or assignment of any contractual rights, duties, or obligations under this Certification.

[Sections 373.223, 373.342, and 373.4l3, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.38l, and 40E-3.101(1), F.A.C.]

b. Minimum Standards

This Certification is based on the Licensee's submitted information to the SFWMD that reasonably demonstrates that harm to the Site water resources will not be caused by the authorized activities. The plans, drawings and design specifications submitted by the Licensee shall be considered the minimum standards for compliance.

[Sections 373.219, 373.223, 373.229, 373.308, and 373.316, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.500-.531, 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), and 40E-20 (General Water Use Permits, F.A.C.

d. Off-Site Impacts

It is the responsibility of the Licensee to ensure that harm to the water resources does not occur during the construction, operation, and maintenance of the Facility and Project.

[Sections 373.223 and 373.309, F.S.; Rules 40E-2.09l, 40E-2.38l, 40E-3.301(3), and 40E-3.301(4), F.A.C.]

e. Liability

The Licensee shall hold and save the SFWMD harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment and/or use of any system authorized by this Certification, to the extent allowed under Florida law.

[Section 373.223, F.S.; Rules 40E-2.091, and 40E-2.381, F.A.C.]

f. Construction, Operation, and Maintenance Responsibilities

The Licensee shall be responsible for the construction, operation, and maintenance of all facilities installed for the proposed Project and Facility.

[Section 373.309, F.S.; Rule 40E-3.301, F.A.C.]

g. Access

SFWMD representatives shall be allowed reasonable escorted access to the power plant Site, the water withdrawal facilities and any Associated facilities to sample any on-Site wells, inspect and observe any activities associated with the construction of the proposed Project and/or the operation and/or maintenance of the on-Site wells in order to determine compliance with the Conditions of this Certification or other SFWMD rules. The Licensee shall not refuse entry or access to any SFWMD representative who, upon reasonable notice, requests entry for the purpose of the above noted inspection and presents appropriate credentials.

[Sections 373.223 and 373.319, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.]

h. Post Certification Information Submittals

Information submitted to the SFWMD subsequent to Certification, in compliance with the Conditions of this Certification, shall be for the purpose of the SFWMD determining the Licensee's compliance with the Certification Conditions and the non-procedural criteria contained in Chapters 40E-2, ~~and~~ 40E-3, and 40E-20, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered there under.

[Rule 62-17.191, F.A.C.]

i. Enforcement

~~The SFWMD may take any and all lawful actions that are authorized under the statutes and rules of the SFWMD, if necessary, to enforce any condition of this Certification recommended by the SFWMD. Prior to initiating such action, the SFWMD shall notify the Secretary of DEP of the proposed action.~~ The SFWMD may request that the

DEP take any and all lawful actions that are necessary to enforce any condition of this Certification based on the authorizing statutes and rules of the SFWMD.

[Sections 373.223 and 373.319, F.S.; Rules 40E-2.091(1), 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.]

j. Modification/Termination of Agreement

The November 16, 2004 Agreement between the Okeelanta Corporation and the Licensee, as amended on December 14, 2004, that requires the Okeelanta Corporation (Water Use Permit No. 50-01035-W) to provide the Licensee with 2 MGD of makeup water for the new cooling tower and 0.130 MGM of potable water is hereby incorporated within. Any modification of the Agreement that would affect Okeelanta Corporation's obligation to supply such water to the Licensee or any termination of the Agreement shall be subject to review by the SFWMD before it becomes effective, and any such modification or termination may require a post-certification amendment or a modification of this Certification, as determined collectively by the SFWMD and DEP. Any request to modify Water Use Permit No. 50-01035-W that would have the effect of modifying or terminating the Agreement, or the non-renewal of Water Use Permit No. 50-01035-W, upon expiration, shall also be subject to review and may require a post-certification amendment or a modification of this Certification. ~~Authorization to commence construction of the proposed expansion project is contingent upon the SFWMD's approval of the application for renewal (No. 040811-4) of Water Use Permit No. 50-01035-W with the allocations assigned to the Licensee under the November 16, 2004, Agreement, as amended on December 14, 2004.~~

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, F.A.C.]

b. Interference with Existing Legal Uses

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

i. Inability to draw water consistent with the provisions of the ~~Certification~~ permit or exempt use, such as when remedial structural or operational actions not materially authorized by previously existing permits or these Conditions must be taken to address the interference; or

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

iii. Inability of an existing legal user to meet its permitted demands without exceeding the permitted allocation.

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

c. Harm to Existing Off-Site Land Uses

The Licensee shall mitigate harm to existing off-Site land uses caused by the Licensee's withdrawals, as determined through reference to the Conditions for permit issuance. When harm occurs, or is imminent, the SFWMD will require the Licensee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to ~~the Conditions for permit issuance~~ these Conditions of Certification includes:

i. 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.);

ii. Damage to agriculture, including damage resulting from reduction in soil moisture resulting from consumptive use;

iii. Land collapse or subsidence caused by reduction in water levels associated with consumptive use.

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

d. Harm to Natural Resources

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

i. Reduction in ground or surface water levels that results in harmful lateral movement of the fresh water/salt water interface;

ii. Reduction in water levels that harm the hydroperiod of wetlands;

iii. Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;

iv. Harmful movement of contaminants in violation of state water quality standards; or

v. Harm to the natural system including damage to habitat for rare or endangered species.

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

e. Well System Operation

At any time, if there is an indication that the well casing, valves, or controls associated with the on-Site well system leak or have become inoperative, the Licensee shall be responsible for making the necessary repairs or replacement to restore the well system to an operating condition acceptable to the SFWMD. Failure to make such repairs shall be the cause for requiring that the well(s) be filled and abandoned in accordance with the procedures outlined in Chapter 40E-3, F.A.C.

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

2. Site Specific Design Authorizations

a. Authorized Monthly Withdrawals

This Certification authorizes a maximum monthly withdrawal of ~~49.6~~ 50.27 MGM from the Miami/North New River Canals for cooling tower #1 makeup water, ~~and~~ fire protection water, and dust control on dirt roads leading to the ash monofill, a maximum monthly withdrawal of 18.24 MGM from the Surficial aquifer for boiler feedwater, and a maximum monthly withdrawal of 26.14 MGM from the Floridan aquifer for boiler feedwater.

b. Authorized Annual Withdrawals

This Certification authorizes a maximum annual withdrawal of ~~396~~ 401.17 MGY from the Miami/North New River Canals for cooling tower #1 makeup water, ~~and~~ fire protection water, and dust control on dirt roads leading to the ash monofill, a maximum annual withdrawal of 137 MGY from the Surficial aquifer for boiler feedwater, and a maximum annual withdrawal of 313.9 MGY from the Floridan aquifer for boiler feedwater.

c. Authorized Withdrawal Facilities

GROUNDWATER – EXISTING

1 – 9” x 1300’ x 600 GPM well cased to 870 feet withdrawing from the Floridan aquifer

1 – 10” x 80’ x 250 GPM wells cased to 50 feet withdrawing from the Surficial aquifer

2 – 12” x 75’ x 250 GPM well cased to 25 feet withdrawing from the Surficial aquifer

SURFACE WATER – EXISTING

3 – 30 HP x 6” x 450 GPM pumps withdrawing from the Miami/North New River canals by way of the Okeelanta Corporation farm center canal

SURFACE WATER – PROPOSED

1 – 4” x 450 GPM portable centrifugal pump withdrawing from the Miami/North New River canals by way of internal Site ditches

d. Consistency Review of Authorized Withdrawals

~~Within five years of Certification and every five years thereafter, unless extended by mutual agreement between the Licensee and the SFWMD, the Licensee shall submit to the SFWMD a report on the Facility's consistency with the consumptive water use requirements contained within Chapter 40E-2, F.A.C. in effect at that time. Within 90 days after receipt of the completed report, the SFWMD shall evaluate the information contained therein and issue a written notification to the DEP and the Licensee as to whether the ground and surface water withdrawals for consumptive use authorized by this Certification remain in compliance with the provisions of Chapter 373, F.S., and Chapter 40-2, F.A.C., in effect at 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 Facility. If mutual agreement cannot be reached within 90 days after issuance of the written notification on whether the withdrawals of ground and surface water 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.~~

Within five years from the date of issuance of the Certification Order and every five years thereafter, unless extended by mutual agreement between the Licensee and the SFWMD, the Licensee shall submit to the SFWMD a report on the project's consistency with SFWMD's Water Use Conditions of Certification contained herein (Section B.IV.B). Within 90 days after receipt of the completed report, the SFWMD shall evaluate the information contained therein and issue a written notification to the DEP and the Licensee as to whether the ground water withdrawals for consumptive use authorized by this Certification remain in compliance with the provisions of Chapter 373, F.S., and Chapter 40-2, F.A.C., in effect at the time the certification was issued by the Siting Board. In determining whether the Licensee has established that its use of water complies with rule 40E-2, F.A.C., and the Basis of Review for Water Use Permit Applications within the SFWMD, the SFWMD shall evaluate whether the Licensee's use of water interferes with a legal use of water that existed at the time the certification was issued by the Siting Board. If the notification indicates that the withdrawals are not in compliance with these provisions, the SFWMD shall recommend to the Licensee possible alternatives for bringing the withdrawals into compliance with SFWMD's Water Use Conditions of Certification contained herein. In addition, if DEP determines, in consultation with SFWMD, based upon a review of a report submitted pursuant to this condition, that the Licensee has failed to establish that the Licensee's use of water meets the consumptive water use requirements described herein, DEP may seek to modify the authorization to use water in the certification or take other appropriate measures to ensure that the consumptive use of water meets the conditions for issuance in Chapter 40E-2, F.A.C., as described herein. Any modification made pursuant to this condition shall not be subject to, or denied as a result of, competing applications provided there is no increase in the Licensee's allocation and no change in source.

e. Request for Modification of Withdrawals

The SFWMD may request a modification of the ground and surface water withdrawals for consumptive use authorized by this Certification, in accordance with the provisions of Section 403.516, F.S. and Section 62-17.211, F.A.C. Any request for an increase in water withdrawals shall be made pursuant to the provisions of Section 403.516, F.S., and Section 62-17.211, F.A.C.

f. Dewatering Activities

~~Should any dewatering activities become necessary for construction of the proposed expansion project, t~~The Licensee shall submit a detailed plan for any ~~such~~ proposed dewatering activities to the SFWMD, a minimum of 30 days prior to commencement of dewatering, for a determination of compliance with the non-procedural requirements of Chapters 40E-2, 40E-3 and 40E-20, F.A.C., in effect at the time of submittal. The following information, referenced to NGVD where appropriate, shall be submitted:

i. A detailed Site plan which shows the location(s) for each proposed dewatering area;

ii. The method(s) used for each dewatering operation;

iii. The maximum depth for each dewatering operation;

iv. The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;

v. The duration of each dewatering operation;

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

vii. An analysis of the impacts of the proposed dewatering operations on any existing on and/or off-Site legal users, wetlands, or existing groundwater contamination plumes;

viii. The location of any infiltration trench(es) and/or recharge barriers; and

ix. All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

[Sections 373.229 and 373.308, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-3.500-531, F.A.C.]

g. Reporting Requirements

~~Prior to operation of the proposed Expansion Project, the Licensee shall submit the results of the calibration testing of the identified water accounting method(s) and equip all existing and proposed withdrawal facilities with approved water use accounting method(s). Every five years from the date of issuance of the Certification Order, the Licensee shall submit re-calibration data on each withdrawal facility. The Licensee shall report monthly withdrawals for each withdrawal facility to the SFWMD quarterly, including the volumes associated with the November 16, 2004 Agreement, as amended on December 14, 2004, between the Okeelanta Corporation and the Licensee. The Licensee shall specify the water accounting method and means of calibration on each report.~~ Prior to commencement of operation of the proposed Ash Monofill, the Licensee shall equip each new withdrawal facility with a SFWMD-approved operating water use accounting system and submit a report of calibration to the

SFWMD, pursuant to Section 4.1 of the Basis of Review For Water Use Permit Applications. In addition, the Licensee shall submit a report of recalibration for the water use accounting system for each water withdrawal facility (existing and proposed) authorized under this Certification every five years from each previous calibration, continuing at five year increments. The Licensee shall report monthly withdrawals for each withdrawal facility to the SFWMD quarterly, including the volumes associated with the November 16, 2004 Agreement, as amended on December 14, 2004, between the Okeelanta Corporation and the Licensee. The Licensee shall specify the water accounting method and means of calibration on each report.

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

h. Existing Well Repair, Replacement, Abandonment

If any of the existing on-Site wells require repair, replacement, and/or abandonment, the Licensee shall submit the information described in Chapter 40E-3, F.A.C. for review by the SFWMD prior to initiating such activities.

[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.]

i. New Well Construction

Prior to construction of any new or replacement wells, the Licensee shall submit the drilling plans and other pertinent information required by Chapter 40E-3, F.A.C. to the SFWMD for review and approval. If the well locations are different from those previously permitted and approved in this Certification, the Licensee shall also submit to the SFWMD for review and approval an evaluation of the impacts of the proposed pumpage from the proposed well location(s) on adjacent existing legal users, pollution sources, environmental features, and water bodies.

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

j. Water Conservation Plan

i. Prior to the commencement of construction of the proposed ~~Expansion Project~~ ash monofill, the Licensee shall submit an updated Water Conservation Plan, pursuant to the requirements of Chapter 40E-2 in effect at that time, for review and approval by SFWMD staff. The plan shall, at a minimum, incorporate the following components:

An audit of the amount of water needed in the Licensee's operational processes for the ash monofill. The following measures shall be implemented within one year of audit completion if found to be cost effective in the audit:

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

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

(c) Use of processes to decrease water consumption.

ii. Development and implementation of an employee awareness program concerning water conservation.

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

k. Emergency Withdrawals

The SFWMD may grant approval for emergency withdrawals, pursuant to and consistent with Rule 40E-2.451, F.A.C. If any emergency withdrawal will be less than 90 days in duration, the withdrawal will not require a modification of these Conditions of Certification. Any ground or surface water withdrawals under this section in excess of the withdrawals authorized by this Certification shall require prior SFWMD approval. The SFWMD's approval of any withdrawals shall be based on the non-procedural requirements of Chapter 40E-2, F.A.C.

~~XVI.~~V. DEPARTMENT OF COMMUNITY AFFAIRS

The Licensee shall develop a comprehensive hurricane preparation and recovery plan for the New Hope Expansion Project. The plan shall be submitted to the Department of Community Affairs and the Palm Beach County Office of Emergency Management no later than commencement of construction of the New Hope Expansion Project. The Licensee shall formally update the plan every 5 years following commercial operation of the Expansion Project or whenever an additional generating unit is brought into service at the New Hope Facility and shall submit these updated versions of the plan to the Department of Community Affairs and the Palm Beach County Office of Emergency Management. If the Department deems the plan or any of its periodic updates not to be in compliance with the requirements of this Condition, it may petition for enforcement of this Condition pursuant to the Florida Electrical Power Plant Siting Act.

~~XVII.~~VI. FLORIDA DEPARTMENT OF TRANSPORTATION

A. Access Management to the State Highway System

No new access to the State Highway System is proposed in the site certification application. If new access is later proposed, access permitting as defined in Rule Chapters 14-96, State Highway System Connection Permits, Administrative Process, and 14-97, Access Management Classification System and Standards, Florida Administrative Code, will be required.

B. Overweight or Overdimensional Loads

Operation of overweight or overdimensional loads by the applicant on State transportation facilities during construction and operation of the Facility will be subject to safety and permitting requirements as defined in 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 Department of Transportation's

Utility Accommodation Manual (Document 710-020-001) 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. Best Management Practices

1. Traffic control will be maintained during plant construction and maintenance in compliance with the standards contained in the Manual of Uniform Traffic Control Devices, Chapter 14-94, Florida Administrative Code; Florida Department of Transportation's Design Standards; and Florida Department of Transportation's Specifications for Roads and Bridges, whichever is more stringent.

2. If the Licensee uses contractors for the delivery of any overweight or overdimensional loads to the Site during construction, the Licensee should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permitting Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

~~XVIII. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS~~

~~A. Spills~~

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

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

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

~~XIX. BY-PRODUCT AND SOLID WASTE STORAGE~~

~~A. Solid Waste General~~

~~Any solid waste produced by the operation of the Facility shall be disposed of in an approved off-site disposal facility. Industrial by-products and ash residue that are to be sold for reuse or beneficially reused are not considered solid waste.~~

~~B. By-Product & Solid Waste Site Specific Standards~~

~~1. Any future ash or by-product storage areas on the certified site shall be designed, constructed, operated, maintained, closed and monitored in accordance with any applicable waste disposal requirements described in F.A.C. Chapter 62-701, or Chapter 62-673, as appropriate, and these Conditions of Certification. The prohibitions of F.A.C. Chapter 62-701 shall not be violated.~~

~~2. All engineering plans, reports, and related information for ash or by-product storage areas on the certified site shall be provided by the engineer of record with professional certification and shall be approved by the South District of the DEP prior to construction. A construction certification report signed and sealed by a professional engineer, and record drawings showing all modifications to construction plans, shall be submitted to the~~

~~South District office of the DEP prior to operation of each by-product or solid waste storage and disposal area on the certified site.~~

~~XXI. FEDERAL OPERATING PERMITS AND FEES~~

~~A. DEP Responsibilities~~

~~The Department of Environmental Protection shall implement the provisions of Title V of the 1990 Clean Air Act and the NPDES program for the New Hope Power Partnership Okeelanta Cogeneration Facility, developing Conditions of certification requiring submission of annual operating permit information and annual pollutant emission fees in accordance with any applicable provisions in federal law and federal regulations and sections 403.0885, 403.0872, 403.5055, 403.509, and 403.511, F.S.~~

~~B. Licensee Responsibilities~~

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

VII. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. Listed Species Survey.

Unless such information was previously submitted during the certification proceeding, before land clearing and new construction activities occur within the Certified Area, the Licensee shall conduct an assessment for listed species which will note all habitat, occurrence or evidence of listed species. Listed species to be included in this survey shall include those listed as endangered, threatened or of special concern by Florida Fish and Wildlife Conservation Commission or those listed as endangered or threatened by U.S. Fish and Wildlife Service.

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

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

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

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

B. Listed Species Locations

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

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

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

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

[Chapter 379, F.S.]

VIII. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES

A. Unless such information was previously submitted during the certification proceeding, prior to the commencement of new construction, 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 Area, 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.]

IX. PALM BEACH COUNTY

The Licensee shall comply with the Conditions of Approval contained within Palm Beach County Zoning Resolution R-2007-1440 approved by the Board of County Commissioners August 23, 2007 (and any subsequent modifications to Resolution R-2007-1440 approved by the County).

X. HISTORY

Certification; 05/26/05; signed by Governor Bush
Modification; xx/xx/10; signed by Administrator Halpin