

**STATE OF FLORIDA
SITING BOARD**

IN RE: KISSIMMEE UTILITY AUTHORITY	)	
and FLORIDA MUNICIPAL POWER	)	
AGENCY (CANE ISLAND POWER PARK),	)	DOAH CASE NO. 98-3619EPP
POWER PLANT SITING	)	OGC 98-2297
APPLICATION PA 98-38,	)	DEP99-0394
	/	

FINAL ORDER APPROVING CERTIFICATION

On September 23, 1999, an Administrative Law Judge ("ALJ") with the Division of Administrative Hearings ("DOAH") submitted an Order of Adoption in this proceeding. This Order of Adoption adopts, in its entirety, the "Jointly Filed Proposed Corrected Recommended Order" filed by counsel for the Kissimmee Utility Authority ("KUA") and counsel for the Department of Environmental Protection ("DEP") with DOAH on September 10, 1999. The Order of Adoption indicates that copies were served upon counsels for DEP, KUA, the Florida Municipal Power Agency ("FMPA"), the County Manager of Osceola County ("the County"), and upon counsels or representatives of other designated governmental entities. A copy of the Order of Adoption with the Jointly Filed Proposed Corrected Recommended Order is attached as Composite Exhibit A. The matter is now before the Governor and Cabinet, sitting as the Siting Board, for final agency action under the Florida Electrical Power Plant Siting Act (hereafter "PPSA") embodied in §§ 403.501-403.518, Florida Statutes.

BACKGROUND

KUA is an independent authority engaged in the generation and distribution of electrical power to persons within its service area. FMPA is a joint agency formed pursuant to the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, and exercises powers under the Joint Power Act, Chapter 361, Part II, Florida Statutes. KUA and FMPA each have a fifty (50) percent joint ownership of the existing Cane Island Units 1 and 2 and the proposed Cane Island Unit 3 and associated facilities. KUA/FMPA have requested certification under the PPSA of Cane Island Units 1-3 and the Cane Island-Intercession City transmission line proposed corridor ("the Project"). The Project site is in the Cane Island Power Park ("Power Park") located about five miles west of the City of Kissimmee. The Power Park encompasses 1,026.5 acres of land within an unincorporated area of the County.

On January 25, 1993, KUA was granted a Conditional Use/Site Development Plan Permit (CU/SDP 92-86) by the Board of County Commissioners for development of the Power Park as a combustion turbine power plant facility. Approximately 150.4 acres of the Power Park have been permitted for power development and support facilities. Cane Island Units 1 and 2 began commercial operation in 1995, along with the Clay Street Transmission Line, the Bonnet Creek Canal Transmission Line, and the natural gas pipeline. The two transmission lines and the natural gas pipeline were not required to be certified under the PPSA, since these units were below 75 megawatts of steam generation. See § 403.503(12), Florida Statutes. Cane Island Units 1 and 2, the two transmission lines, the natural gas pipeline, and the Power Park were permitted with each individual agency involved.

The proposed on-site facilities of Cane Island Unit 3 consist of a new combined cycle electric generating unit which includes one combustion turbine, a heat recovery steam generator, and a steam turbine generator. The approximate 100 megawatt steam generating capacity of Unit 3 requires this unit to be certified under the PPSA. KUA/FMPA elected to include Units 1 and 2 in the certification request to incorporate all permit conditions into one site-specific set of conditions. The Florida Public Service Commission issued a determination of need for Unit 3 on October 7, 1998 (Order No. PSC-98-1301-FOF-EN).

PPSA PROCEEDINGS

A PPSA land use hearing was conducted by the ALJ on November 17, 1998, as required by § 403.508(1), Florida Statutes. On December 8, 1998, the ALJ entered an Order of Adoption finding and concluding that the subject site at the Power Park is consistent and in compliance with the County's existing land use plans and zoning ordinances. On March 9, 1999, the Siting Board entered an Order adopting the ALJ's Order of Adoption and determining that the proposed site is consistent and in compliance with the existing land use plans and zoning ordinances of the County.

A PPSA site certification hearing was conducted by the ALJ on June 1, 1999, pursuant to § 403.508(3), Florida Statutes. This site certification hearing was conducted for the purpose of receiving evidence concerning the issue of whether the Project complies with the criteria for certification set forth in the PPSA. Testimony and documentary evidence were presented at the site certification hearing by KUA/FMPA and DEP. This documentary

evidence included a Joint Stipulation Between the Parties and Conditions of Certification as revised on May 18, 1999. The record reflects that no other agencies or persons appeared at this hearing.

On September 10, 1999, KUA/FMPA and DEP jointly filed with DOAH a Proposed Corrected Recommended Order which was subsequently adopted by the ALJ on September 23, 1999. The ALJ concluded in the Order of Adoption that KUA/FMPA had demonstrated that the Project will minimize adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic wildlife through the use of reasonable and available methods. The ALJ further concluded that the Project will comply with applicable nonprocedural requirements of all agencies, result in minimal environmental impacts compared to its benefits, and will "serve and protect the broad interests of the public." The ALJ thus recommended that the Siting Board grant certification of the Project pursuant to the PPSA, subject to DEP's Conditions of Certification.

CONCLUSIONS

No Exceptions have been filed with the Siting Board challenging any of the factual findings, legal conclusions, or recommendation set forth in the ALJ's Order of Adoption now on review. Furthermore, the record before the Siting Board does not contain any recommendations of denial of site certification of this Project by any state, regional, or local agency. Having reviewed the Order of Adoption and other matters of record and being otherwise duly advised, it is ORDERED that:

A. The ALJ's Order of Adoption dated September 23, 1999, is hereby ADOPTED in its entirety and incorporated herein by reference.

B. Certification of the location, construction, and operation of the Project as proposed in KUA/FMPA's site certification application, is APPROVED, subject to the Revised Conditions of Certification admitted into evidence at the site certification hearing as DEP's Exhibit 3 and adopted by reference by the ALJ's Order of Adoption dated September 23, 1999.

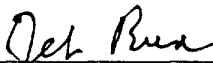
C. Authority to assure and enforce compliance by KUA/FMPA and their agents with all of the Conditions of Certification imposed by this Final Order is hereby DELEGATED to DEP.

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

Any party to this certification proceeding has the right to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection, Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the Clerk of the Department.

DONE AND ORDERED this 22nd day of November 1999, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on November 9, 1999.

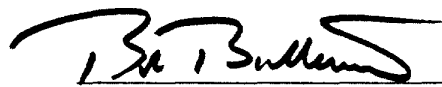
THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



THE HONORABLE JEB BUSH
GOVERNOR



KATHERINE HARRIS
SECRETARY OF STATE

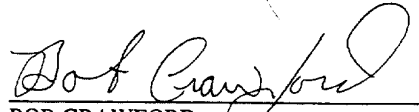


BOB BUTTERWORTH
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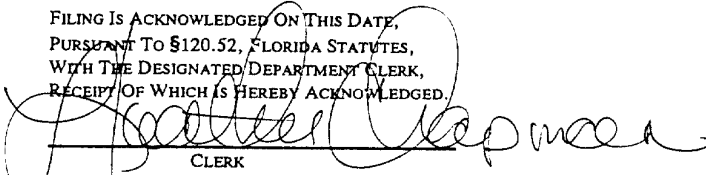
ROBERT F. MILLIGAN
COMPTROLLER


BILL NELSON
TREASURER


BOB CRAWFORD
COMMISSIONER OF AGRICULTURE


TOM GALLAGHER
COMMISSIONER OF EDUCATION

FILING IS ACKNOWLEDGED ON THIS DATE,
PURSUANT TO §120.52, FLORIDA STATUTES,
WITH THE DESIGNATED DEPARTMENT CLERK,
RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.


CLERK
11-23-99
DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Final Order has been sent by United States Postal Service to:

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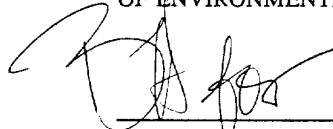
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and

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this 25th day of November, 1999.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



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Filed with the Clerk of the
Division of Administrative Hearings
this 22nd day of July, 1999.

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JOINTLY FILED PROPOSED RECOMMENDED ORDER

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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE; KISSIMMEE UTILITY AUTHORITY)
and FLORIDA MUNICIPAL)
POWER AGNECY (CANE ISLAND)
PARK), POWER PLANT SITING)
APPLICATION PA 98-38)
_____)

JOINTLY FILED PROPOSED RECOMMENDED ORDER

Pursuant to notice, this cause came on for formal hearing before Daniel Manry, duly designated Administrative Law Judge of the Division of Administrative Hearings, in Kissimmee, Florida on June 1, 1999. The appearances were as follows:

APPEARANCES

For the Kissimmee Utility
Authority:

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STATEMENT OF THE ISSUE

The issue to be resolved in this proceeding concerns whether certification should be granted to the Kissimmee Utility Authority and Florida Municipal Power Agency (KUA/FMPA) for Cane Island Units 1, 2 and 3 (Units 1-3) at the KUA Cane Island Power Park in Kissimmee, Florida, in accordance with the pertinent provisions of Sections 403.501 through 403.518, Florida Statutes.

PRELIMINARY STATEMENT

This proceeding arose on the application by the Kissimmee Utility Authority and Florida Municipal Power Agency ("KUA/FMPA") for a power plant site certification for their existing Units 1 and 2 and the proposed Cane Island Unit 3 and associated facilities (the Cane Island Unit 3 project). The project and the application include construction of a proposed, new, off-site 230 kilovolt (kV) transmission line to connect to Florida Power Corporation's Intercession City generating plant located one-quarter mile to the west of the Cane Island site boundary.

The Florida Public Service Commission ("PSC") issued a determination of need for Unit 3 on October 7, 1998, in accordance with Section 403.519, Florida Statutes. Thereafter, a land-use hearing was conducted before the undersigned on November 17, 1998, in accordance with Sub-Sections 403.508(1) and (2) and 403.5175(3), Florida Statutes. A Recommended Order was entered and that Recommended Order was adopted by the Governor and Cabinet sitting as the Siting Board on March 9, 1999.

The subject certification hearing was held as noticed on June 1, 1999, in accordance with Section 403.508(3), Florida Statutes. The hearing was conducted for the purpose of receiving evidence concerning whether there is compliance with

criteria contained in Section 403.5175, Florida Statutes; 403.502, Florida Statutes; and Section 403.519, Florida Statutes.

KUA/FMPA presented prefiled written testimony of fourteen (14) witnesses and thirteen (13) exhibits numbered KUA-1 through KU-13, including the Cane Island Units 1-3 Site Certification Application (SCA) as amended and identified as Exhibit KUA-6. A Joint Stipulation Between the Parties stipulating to the prefiled testimony and exhibits, stipulating to acceptance of the expert witnesses, stipulating that there were no facts at issue, and stipulating to the proposed Conditions of Certification was presented by KUA/FMPA. The KUA/FMPA expert witnesses were admitted as proffered, as was the KUA/FMPA prefiled testimony, exhibits, and Joint Stipulation Between the Parties. The witnesses and exhibits are more particularly described in the record in this proceeding, a transcript of which has been filed.

The Department of Environmental Protection presented the testimony of Hamilton S. Oven, Jr., Administrator of the Siting Coordination Office of the Department of Environmental Protection ("DEP" or "Department") and a licensed professional engineer. He was admitted as an expert in electrical power plant siting and the power plant siting process. The Department had three (3) exhibits admitted into evidence (DE P-Ex.1 through DEP-Ex.3), including Mr. Oven's resume.

Opportunity was afforded for members of the general public to appear; however, no members of the public appeared.

Upon concluding the taking of evidence, KUA/FMPA elected to order a transcript of the proceedings. Accordingly, a Proposed Recommended Order was timely submitted and has been considered in the rendition of this Recommended Order.

FINDINGS OF FACT

1. The Kissimmee Utility Authority and Florida Municipal Power Agency are each fifty (50) percent joint owners of Cane Island Units 1 and 2 (Sharma prefiled test at 3).

2. The Cane Island Power Park ("Power Park") is an existing power plant site located in an unincorporated area of Osceola County, situated five (5) miles west of the City of Kissimmee, one (1) mile northwest of Intercession City and just north of the Old Tampa Highway (Site Certification Application,

Vol. 2, at 2-1). The Reedy Creek Swamp surrounds the site on three sides (DEP-Ex. 2 at 12). The site is bordered on the south by the CSX railroad. Id. The lands bordering the site on the west, north, and northeast are uninhabited conservation area. Id. During permitting of Cane Island Units 1 and 2, 860 acres of the Power Park uplands and wetlands were dedicated to the South Florida Water Management District ("SFWMD") as a conservation area. Id. The nearest residents are located approximately 0.6 mile to the south of the generating Units along Old Tampa Highway and 0.8 mile to the southeast. Id.

3. The Cane Island Power Park encompasses approximately one thousand twenty-seven (1,027) acres (Site Certification Application, Vol. 2, at 2-1). Of the one thousand twenty-seven (1,027) acres, only one hundred sixty-four (164) acres have been allocated for development of power generation and support facilities (Id.; DEP-Ex. 2 at 1). The proposed Unit 3 will be constructed on approximately five (5) acres of that one thousand twenty-seven (1,027) acre existing Power Park site (SCA, Vol. 2 at 4-1).

4. The Department is an agency of the State of Florida charged, in pertinent part, with jurisdiction over and regulation of the certification of power plant siting and operation, in accordance with the various provisions of the Florida Electrical Power Plant Siting Act, Sections 403.501-403.518, Florida Statutes, and related rules cited and discussed elsewhere herein.

5. Notice of the certification hearing was accorded to all parties entitled thereto as well as to the general public (KUA-Ex. 2 G and H).

6. The existing Power Park began commercial operation in 1995. It currently consists of a simple cycle combustion turbine generating unit known as Unit 1, a combined cycle combustion turbine generating unit known as Unit 2, a fuel oil unloading facility, a switch yard, industrial wastewater treatment facilities, water tanks, two (2) No. 2 fuel oil storage tanks, water treatment facilities, as well as maintenance shops and a warehouse (SCA, Vol. 2 at 1-1, Fig. 2.1-3).

7. The on-site facilities of the Cane Island Unit 3 project consist of a new combined-cycle electric generating unit which includes one combustion turbine, a heat recovery steam generator and a steam turbine generator (SCA, Vol. 2, at 2-1).

An additional 1 million gallon No. 2 oil storage tank is planned for installation that will allow all the Cane Island units to operate at full load for approximately three days on No. 2 oil (Sharma prefiled test. at 4). A second mechanical draft cooling tower using treated sewage effluent from the City of Kissimmee effluent pipeline will be installed to provide cycle cooling water for Unit 3 (DEP-Ex. 2 at 9). Additionally, a new 230 kV transmission line will be constructed from the plant to Florida Power Corporation's Intercession City Plant (SCA, Vol. 2 at 6-1).

CONSISTENCY AND COMPLIANCE WITH LOCAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODES

8. On November 17, 1998, the Division of Administrative hearings conducted a public hearing as required by Section 403.508, Florida Statutes, to determine whether the power plant site would be consistent and in compliance with existing land use plans and zoning requirements. *Id.* On December 8, 1998, the Administrative Law Judge issued an Order of Adoption that recommended, "that the site as used and proposed is consistent and in compliance with the land use plans and zoning ordinances of Osceola County". *Id.* On March 9, 1999, the Siting Board adopted the Administrative Law Judge's Order and found the site as used and as proposed to be used, consistent and in compliance with Osceola County's land use plans and zoning ordinances. *Id.*

9. Unit 3 will further the goals, objectives, and policies of the Economic Development Element of the Osceola County Comprehensive Plan. (Joint Stipulation at 5.) The construction phase of Unit 3 is expected to create approximately 240 temporary jobs during the peak of construction. (Grotts prefiled test. at 6.) KUA will retain two additional full-time workers to assist with operation of Unit 3. *Id.* at 8.

PSC NEED DETERMINATION

10. On October 7, 1998, the Public Service Commission issued Order No. PSC-9S-1301-FOF-EM, determining the need for the proposed combined cycle Unit 3 to be constructed at Cane Island Power Park. (DEP-Ex. 2, App. IIA.)

CAPITAL COSTS AND SCHEDULING

11. KUA/FMPA will invest approximately \$117.6 million in Unit 3 and its associated facilities. (Sharma prefiled test. at 5.)

12. Mobilization and physical construction of Unit 3 are scheduled to begin on October 1, 1999, with commercial operation commencing on June 1, 2001. (Sharma prefiled test. at 5.)

GENERATING UNITS

13. Cane Island Unit 3 will be a 1-on-1, "F" class combined cycle unit consisting of one combustion turbine, one heat recovery steam generator (HRSG) and one steam turbine. The estimated net output of the unit at International Organization for Standardization (ISO) conditions is 262 MW which includes a reduction of four (4) percent for degradation. Current plans are for the unit to have evaporative cooling and a small amount of duct firing to allow the steam turbine to be fully loaded during hot ambient temperatures. The unit will burn natural gas as a primary fuel and will be capable of burning low sulfur, No. 2 oil as backup fuel. (Sharma prefiled test. at 4.)

14. The existing Unit I is a nominal, 40 MW simple cycle, combustion turbine unit. (SCA, Vol. 2, at 1-1.) Existing Unit 2 is a nominal, 120 MW combined-cycle unit. Id. With the addition of Cane Island Unit 3, the generating capacity at the Cane Island Power Park will more than double from 160MW to approximately 410MW.

TRANSMISSION FACILITIES

15. Electric power and energy supplied from KUA-owned generators and purchased capacity is delivered through 230KV and 69KV transmission lines to eight (8) distribution substations. (Sharma prefiled test. at 4.) Unit 3 will use some of the existing transmission facilities. The addition of Unit 3 will require the construction of a new, offsite, 230KV transmission line to be constructed from the plant to Florida Power Corporation's Intercession City Plant located west of Reedy Creek. (DEP-Ex. 2 at 11.) The initial segment of the proposed transmission line will be constructed on existing transmission structures as the line exits the Power Park switch yard. (DEP-Ex. 2 at 11.) It will then be constructed as a single circuit design on single pole, tubular steel structure with drilled concrete pier foundations capable of supporting a double circuit in a 120 foot wide right-of-way. Id. Construction of a portion of the line will require crossing and clearing wetland areas associated with the Reedy Creek Swamp. Id. An associated access road will be constructed to allow for erection and maintenance of the line. Id. Overall, adverse environmental

impacts from the construction of new transmission line are expected to be slight. Id. No long-term, significant changes in diversity or abundance of wildlife are expected. Id.

16. Both the electric and magnetic fields for the new transmission line will be in compliance with all applicable standards of Chapter 62-814, Florida Administrative Code, Electric and Magnetic Fields. (DEP-Ex. 2 at 11.)

NATURAL GAS PIPELINE LATERAL

17. The natural gas to be used to fuel Unit 3 will be pumped to the site by way of the existing Florida Gas Transmission system utilizing the existing KUA lateral. (DEP-Ex. 2 at 9.) All fuel handling and metering facilities, will meet the applicable requirements of the Florida Department of Environmental Protection, as specified in Chapter 62-762, F.A.C., and will meet all applicable requirements of the applicable National Fire Prevention Association codes. Id.

WASTEWATER TREATMENT

18. Sanitary wastewater produced during normal plant operations will continue to be routed to the onsite septic tank and drain field system. (DEP-Ex. 2 at 10.) The two new employees expected to be associated with Unit 3 will increase sanitary wastes by approximately 80 gallons per day (gpd). Id. This minor increase in the current 3,000 gpd flow can be adequately accommodated by the existing system. Id.

19. Process wastewaters consist of service water treatment system backwash water, water from equipment and floor drains, neutralization basin effluent, steam cycle (boiler) blowdown and evaporative cooling tower blowdown. Id. These wastewaters are now being treated appropriately by the onsite, industrial waste treatment system. Id. Neutralized wastewater from this system, steam cycle blowdown, and cooling tower blowdown from Unit 3 operations will be treated and discharged to the City of Kissimmee municipal effluent pipeline as is currently done. Id.

20. Water discharging through plant floor drains with the potential for oil contamination is routed through an oil/water separator and percolation pond for treatment before discharge to onsite groundwater. (SCA, Vol. 2 at 5-25.)

WELL FIELD

21. Groundwater withdrawals from the two (2) existing deep wells that serve the Cane Island Power Park are permitted by the SFWMD. (SCA, Vol. 2, at 5-29.) The current annual allocation is 75 million gallons. Id. These wells will also supply Unit 3 service and potable water demands. (DEP-Ex. 2 at 50.) KUA/FMPA has requested authorization for the use of well water under emergency conditions, such as the disruption of effluent supply from the City of Kissimmee. (Sommerfield prefiled test. at 5-6.) The annual allocation requested, which includes the emergency use, is 283 million gallons. (DEP-Ex. 3 at 48.) Four new wells will be installed onsite to provide the emergency use withdrawals (DEP-Ex. 2 at 50.) No adverse impacts are anticipated from the increased withdrawals. (Sommerfield prefiled test at 7.)

FUEL SUPPLY AND STORAGE

22. A new 1 million gallon, above-ground fuel oil (No. 2) storage tank will be added at the Power Park for Unit 3 (SCA, Vol. 2, at 3-7). This tank will tie into and use the existing backup fuel system associated with Units 1 and 2. Id.

23. The existing fuel oil storage consists of two above-ground tanks (one 300,000 gallon tank for Unit 1, and one - 700,000 gallon tank for Unit 2). Id. The construction, materials, installation and use of the bulk storage tanks conform to American Petroleum Industry (API) Standard 650, American Institute of Steel Construction (AISC), American Society for Testing and Materials (ASTM), national Electric Code (NEC), and Occupational Safety and Health Administration (OSHA) standards. Id. The locations of these storage tanks are indicated on the Site Arrangement, Figure 2. 1-3 of the Site Certification Application, Volume 2.

24. Fuel will be delivered to one of the three vertical oil storage tanks by tanker truck. Id. The containment area for each fuel oil tank is provided by an earthen berm. Id. Each berm is designed to meet DEP requirements to provide containment for both 110 percent of the storage capacity of the largest tank within the impoundment and a sufficient allowance for the design (10 year, 24 hour) rainfall storm event (approximately 7 inches). Id. In addition, each containment area is provided with a synthetic liner which is protected with approximately 6 inches of sand. Id. The liner is sufficiently impermeable to ensure that no oil can escape by infiltrating through the liner

and soil, and into surface or ground waters as required by DEP regulation. Id.

25. The fuel oil truck unloading station is located south of the Unit 1 storage tank as indicated on the Site Arrangement. Id. The unloading station consists of above ground and double-walled, below grade piping running to the storage tanks outside and inside each of the earthen berms. Id. The unloading station includes a manually operated isolation valve and a check valve immediately adjacent to the unloading station. Id. This allows immediate isolation of the piping system from a spill at the delivery truck and prevents backflow spillage of oil from the system. Id.

26. KUA's existing Spill Prevention, Control and Countermeasures Plan and Facility Response Plan will be modified as required to include Unit 3 facilities. Id.

FOUNDATION STABILITY

27. The geology of the Cane Island site consists of 30 to 50 feet of loose to medium dense sands with intermittent layers of clayey and silty sands. Underlying the surficial layer ~ as 30 to 50 feet of clayey silt, silty clay, and clayey sand. Limestone was encountered from 68 to 102 feet below ground surface. Some localized areas of buried karstic activity were identified at the site and were classified as past activity. (SCA, Vol 2, at 2-30 and 2-31.)

28. Foundations for Unit 3 are to be similar to the foundations types utilized for Units 1 and 2. The existing units were constructed using shallow foundations consisting of mats and spread and strip footings. Ground improvement methods consisting of stone columns, deep dynamic compaction and compaction grouting were utilized to prepare the subsurface materials for the constructed facilities. (SCA, Vol. 2 at 2-31.)

ARCHEOLOGICAL AND HISTORIC SITES

29. The Florida Department of State, Division of Historical Resources ("DOS DHR") determined that the existing site was not likely to include significant archaeological or historical resources and that the Cane Island project is unlikely to affect any properties listed, or eligible for listing, in the National Register. (DEP-Ex 2, at 6.)

LAND-USE COMPATIBILITY

30. Construction noise, including preoperation steam pipe blowing and steam venting, may be noticed by some neighbors. Id. at 12. Construction noise levels for site clearing and steel erection are estimated to be between 40-45 decibels (dBA) at residences nearest the site. Id. The cleaning of steam lines will generate loud noise in two to three minute bursts over a period of several weeks. Id. A public notification response program will help mitigate the disturbance of the steam blows to nearby residents. Id. Noise levels during operation should not increase significantly. Id.

31. Traffic impacts of the Unit 3 construction are expected to cause an increase in local traffic, especially on Old Tampa Highway and US Highway 17192. Id. The increased traffic is not expected to exceed the Level of Service designated for the impacted roadways and intersection. Id. During operation of Unit 3, there will be a slight increase in traffic due to the two additional workers on site and a slightly more frequent delivery of supplies or fuel to the site. Id.

32. The developed portion of the Power Park site is a sufficient distance from existing public roads such that the intervening wooded areas conceal the facilities from public view. Id. The screening vegetation- also acts as a muffler to reduce operational noise as well as construction noises. Id. The presence of the swamp system associated with Reedy Creek will continue to act as a barrier to development in the immediate site vicinity on the east, north and west. Id. at 13. This site location nurses that construction of Unit 3 and operation of the Power Park will cause minimal disturbance to citizens of Osceola County. Id.

SOCIOECONOMIC IMPACTS

33. The construction of Unit 3 will have a positive impact on the local economy, providing approximately 240 jobs at the peak of construction during the 20-month construction period (Groatts prefilled test. at 6; SCA, Vol. 2 at 4-16). The vast majority of the construction work force is expected to be filled by workers already residing in the study area (Groatts prefilled test. at 6). Direct construction payroll will be approximately \$18 million. Id. Most of this payroll amount, therefore, will directly benefit the area's economy. Id. at 6-7.

34. There will be no significant, long-term increase in demand by the Cane Island Power Park for public services, either directly or indirectly, through any increase in population attributable to increased staffing. While the influx of the construction work force may increase the demand for services from local governments and nearby service providers, representatives of these entities have indicated that they have more than enough service capacity to accommodate the construction work force (Groff's prefiled test. at 7).

AIR QUALITY

35. The Unit 3 combustion turbine is subject to pre-construction review requirements under the provisions of Chapter 403, Florida Statutes, and Chapters 69-4, 62-204, 69-210, 69-212, 69-214, 69-296 and 62-297, Florida Administrative Code ("F.A.C."). (DEP-Ex. 2 at 16.)

36. The Cane Island Power Park is located in Osceola County, an area designated as an attainment area for all criteria pollutants in accordance with Rule 62-204.360, F.A.C. Id.

37. The Unit 3 combustion turbine is subject to review under Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (PSD), because the potential emission increases for particulate matter/particulate matter less than 10 microns (PM/PM₁₀), carbon monoxide (CO), volatile organic compounds (VOC) and nitrogen oxides (NO_x) exceed the significant emission rates given in Chapter 62-212, Table 62-212.400-2, F.A.C. The PSD review consists of a determination of Best Available Control Technology (BACT) for PM/PM₁₀, VOC, CO and NO_x, an analysis of air quality impacts on soils, vegetation and visibility and an analysis of air quality impacts resulting from associated commercial, residential and industrial growth. Id.

38. The Unit 3 combustion turbine will increase emissions of four pollutants at levels in excess of PSD significant amounts: PM₁₀; CO; NO_x; and VOC. PM₁₀, and No_x, are criteria pollutants and have defined national and state ambient air quality standards (AAQS), PSD increments and significant impact levels. CO and VOC are criteria pollutants and have only AAQS and significant impact levels defined. Since the project's VOC emissions increase is less than 100 tons per year, no air quality analysis is required for VOC. Id. at 19.

39. Air emissions from the Unit 3 combustion turbine must not cause or contribute to a violation of federal and state ambient air quality standards and PSD increments. All of Osceola County is classified as a Class II area for PSD purposes. The Class I area nearest to the Cane Island Power Park is the Chassahowitzka National Wilderness area, located approximately 105 km northwest of the site. Id.

40. An air quality analysis, undertaken in accordance with computer modeling procedures approved in advance with the DEP, demonstrated that the project resulted in no significant air quality impacts arising from the emissions. Therefore, further air quality impact studies which would include AAQS/NAAQS and PSD increment impact analyses for these pollutants were not required. Id.

41. The Unit 3 combustion turbine is not a major source of hazardous air pollutants (HAP) and is not subject to any specific industry or HAP control requirements pursuant to Section 112 of the Clean Air Act, 42 U.S.C. s. 7401 et seq. Id. at 22.

42. The Unit 3 combustion turbine's air emissions are not expected to cause any adverse impacts on vegetation, soil or wildlife in the Cane Island Power Park vicinity or in the Chassahowitzka National Wilderness areas, the nearest PSD Class I area. Id. at 21.

43. A regional haze analysis was performed which shows that the Unit 3 combustion turbine will not result in adverse impacts on visibility in the vicinity of the Chassahowitzka National Wilderness area. Id. at 22.

44. Short-term increases in the labor force during the construction phase will not result in permanent or significant commercial and residential growth in the vicinity of the project. Any resulting air emissions from residual growth will be very small, well distributed and will have no significant impact on ambient air quality. Id.

BACT AND EMISSION RATES

45. A BACT analysis is intended to ensure that the air emission control systems selected for a new project reflect the latest in control technologies used in a particular industry based on a cost-benefit approach, taking into account technical, economic, energy and environmental considerations. BACT is a

case-by-case analysis made by the permitting authority (DEP) during P.S.D. permitting. Section 403.509(3), Florida Statutes. A BACT review for the Unit 3 combustion turbine was conducted for PM/PM10; CO; NOx and VOC. (SCA, Appendix 10.7.)

46. The Department determined in the P.S.D. analysis that BACT for the Unit 3 combustion turbine particulate matter (PM/PM10) emissions is use of natural gas as the primary fuel and low sulfur diesel fuel oil (distillate fuel oil) as a back-up fuel, good combustion practices and a 10% opacity limitation. This is the most stringent form of control technology available for the control of particulate matter emissions from combustion turbines. (DEP-Ex.2 at 33.)

47. The Department determined in the P.S.D. analysis that BACT for the Unit 3 combustion turbine for CO and VOC emissions consists of good combustion practices. The economic, energy and environmental impacts associated with use of an oxidation catalyst were too great to warrant its use based upon the BACT analysis, and upon recent BACT determinations by DEP for similar units. As such, the BACT emission limits for CO emissions are 20 and 30 parts per million (ppm) while firing natural gas and distillate fuel oil, respectively. The BACT emission limits for VOC emissions are 4 and 10 ppm while firing natural gas and distillate fuel oil, respectively. Id.

48. The Department determined in the P.S.D. analysis that BACT for the Unit 3 combustion turbine NOx emissions consists of dry, low NOx (DLN) burners and water injection during natural gas and distillate fuel oil firing, respectively. The environmental, economic and energy costs associated with use of a selective catalytic reduction (SCR) system analyzed in DEP's BACT review process did not warrant the use of the SCR post-combustion control device. As such, the proposed emissions for NOx are 9 and 42 ppm (dry at 15% oxygen) for natural gas and distillate fuel oil firing, respectively. Additionally, NOx emission limits of 9.4 and 12 ppm apply during duct burner operation and intermittent simple cycle operation, respectively. Id.

49. No petition was filed under Section 403.508, Florida Statutes, challenging the Department's determination of BACT for P.S.D.; therefore, it is not at issue in this proceeding. Section 403.508(3), Florida Statutes.

INDUSTRIAL WASTEWATER

50. The Power Park has five major sources of wastewater. (SCA, Vol. 2 at 3-16.) These are sanitary wastewaters, oil/water separator effluent, cooling tower blowdown, chemical wastes and boiler blowdown. Id. Process wastewaters will be treated and discharged at three locations. Id. Oil/water separator effluent is, and will continue to be, routed to an onsite percolation pond prior to ground water discharge. Id. Cooling tower blowdown, neutralization basin effluent, and boiler blowdown will be combined and returned to the City of Kissimmee effluent pipeline for additional reuse or disposal at the Imperial Percolation Pond site. Id. Sanitary wastes will be routed to the existing onsite septic tank/tile field system. Id. There is no source of leachate associated with the existing Units I and 2, or proposed Unit 3 and, therefore, no basis for the leaching process to occur. Id.

51. It is estimated that 680,000 gpd of combined wastewater from cooling tower blowdown, neutralization basin effluent and boiler blowdown will be returned to the City of Kissimmee effluent pipeline during natural gas operation of all three Cane Island Power Park units at 100 percent load. Id. at 17.

52. The heat recovery steam generator and preboiler cycle piping will be chemically cleaned during commissioning and cleaned periodically during the life of the plant. Id. The chemical boiler cleaning wastes resulting from this process will be immediately neutralized onsite, thereby avoiding their classification as hazardous wastes. Id. The treated cleaning wastes will be disposed of offsite by a licensed contractor. Id.

WASTE DISPOSAL

53. The Cane Island Power Park does not and will not generate any solid waste, such as combustion ash or flue gas desulfurization (FGD) scrubber waste from the generation process. (SCA, Vol. 2 at 3-19.) The firing of natural gas or fuel oil does not create significant combustion byproducts of this nature. Id. Therefore, the Cane Island Power Park does not have, nor require, any landfills or solid waste disposal areas. Id.

54. Waste oil is the only potentially hazardous substance generated by Cane Island Power Park operation. Id. at 3-20.

The following processes generate waste oil: combustion turbine cleaning, false starts of the combustion turbines and oil/water separator operation. Id. This waste oil is hauled offsite as needed by a licensed contractor for ultimate disposal. Id.

SURFACE WATER HYDROLOGY AND WATER QUALITY IMPACTS

55. The Cane Island Unit 3 project is designed to minimize impacts on surface and ground water resources. (DEP-Ex. 2 at 50.) Unit 3 will use an off-stream, mechanical draft cooling tower with makeup water coming from the City of Kissimmee treated effluent pipeline. Id. Unit 3 will require an additional 2 million gallons of treated wastewater per day (2 MGD) for water lost due to evaporation and drift, and for blowdown. Id. Cooling tower blowdown will be discharged back to the City of Kissimmee effluent pipeline. Id.

56. Cane Island is crowned topographically in the central portion and drains to the east and to the west into Reedy Creek Swamp (SCA, Vol. 2 at 2-38). The elevation at the site is five (5) to fifteen (15) feet higher than that of the surrounding swamp. Id. The Bonnet Creek; Canal is located offsite, one-half mile west of the power block area at its nearest point. Id. at 4-3. Power Park operations do not withdraw or discharge to these waters; therefore, no impacts to these surface waters are expected as a result of Power Park operations. Id. at 5-26.

57. Construction of Unit 3 will have no significant impact on Reedy Creek, the Bonnet Creek Canal or the onsite wetlands. Id. at 4-3. The erosion and sedimentation control measures will control and minimize such impacts beyond the-eight (8) acre construction zone. Id. at 4-3 and 4-4. The Unit 3 storm water pond and temporary drainage ditches will be developed early in the construction sequence to serve as the construction drainage system. Id.

58. Existing stormwater discharges of the Cane Island Power Park are fully permitted by SFWMD and DEP and meet all applicable water quality requirements. (DEP-Ex. 3 at 29.)

GROUNDWATER HYDROLOGY AND IMPACTS FROM WATER WITHDRAWAL

59. During construction, dewatering will be necessary for construction of the new waste treatment facilities, including the neutralization basin and the new oil/water separator. (DEP-Ex. 2 at 51.) Dewatering activity is expected to last no more than 120 days with total withdrawal of less than one (1) MGD.

Id. Discharge from dewatering activities will be sent to the existing storm water pond now serving Units 1 and 2. Id. Most of the dewatering effluent is expected to percolate back into the surficial aquifer. Id. No adverse offsite effects are expected from dewatering activities. Id.

60. The Cane Island Power Park currently uses groundwater withdrawn from two (2), 200 gallon per minute (gpm) Floridan Aquifer wells pursuant to Permit No. 49-00671-W issued by the SFWMD. Units 1 and 2 currently use approximately 95,000 gallons per day of groundwater. Id. at 50. Unit 3 will require an additional 126,000 gpd of groundwater. Id. These approximate water demands are based on the plant operating at 100% load conditions. Id. Actual average annual flows are normally less than this estimate. Id.

61. KUA has also requested authorization from the SFWMD for groundwater to be available for cooling tower makeup water during emergency conditions when the City of Kissimmee sewage treatment plants or treated effluent pipeline are not operating. Id.; SCA, Vol. 2 at 3-9. The maximum emergency cooling water makeup to be pumped from wells will be approximately three (3) MGD. Id.

62. Four (4) new 450 gpm wells will be needed to adequately supply the Power Park Units 1, 2, and 3 in an emergency situation. (D: .P-Ex.2 at 50.) The proposed wells and predicted groundwater drawdown by the Power Park wells will not adversely affect existing domestic, irrigation or other public water supply wells due to Floridan Aquifer ground water withdrawals on the site. The nearest offsite wells are located 3.5 miles from the site. Id. No withdrawals of surficial aquifer groundwater are made during operation. Id. at 51. Power Park impacts on the surficial aquifer during operation are therefore insignificant. Id.

ECOLOGICAL RESOURCES

63. The Cane Island Power Park currently includes approximately 15 acres of land that is developed (including mowed areas) and under regular maintenance. (SCA, Vol. 2 at 4-1). Approximately 860 acres at the Power Park are dedicated as a conservation area and are relatively undisturbed, consisting of upland and wetland components. (DEP-Ex.2 at 12.)

64. Unit 3 will be constructed primarily on a portion of the site that has already been disturbed by earlier development.

(DEP Ex.2 at 8.) A total of up to approximately eight (8) acres will be affected by Unit 3 construction. (SCA, Vol.2 at 4-1.) Construction of Unit 3 will have no significant impact on Reedy Creek, the Bonnet Creek Canal or the onsite wetlands. (SCA, Vol.2 at 4-3.) The Unit 3 project would necessitate clearing five (5) acres of grassland and sand pine scrub vegetation. (SCA, Vol.2 at 4-1.)

65. The proposed new transmission line will connect the Cane Island Power Park with the Florida Power Corporation's Intercession City Plant. (SCA, Vol. 2 at 6-1.) Vegetation in the existing transmission line corridor on Power Park property is maintained essentially as a lawn. (SCA, Vol. 2- at 6-13.) The new construction corridor passes through pine-mesic oak, mixed hardwood swamp, old agricultural field, cypress strand and hydric hammock plant communities. Id. The surface water bodies that are crossed by the corridor are limited to Reedy Creek and its associated wetlands. Id. at 6-16. The anticipated impacts on these waterbodies were minimized to the extent practicable by the siting of the corridor. Id. at 6-21. The line will span Reedy Creek, thereby avoiding direct impacts to it. Id. The proposed linear facilities will, however, have some impact on wetland areas in the new utility corridor. Id. Approximately 14.7 acres of jurisdictional wetlands will be impacted. Id. at 6-22. An Environmental Resource Permit application has been submitted to the U.S. Army Corps of Engineers (USACE) and the SFWMD for construction of the transmission line. Id. Water management district staff have determined that mitigation for such impacts consists of using 8.05 of the applicant's mitigation units established under SFWMD Permit No. 49-00672-S. (DEP-Ex.3 at 50.)

66. The Cane Island Power Park will not discharge effluent from the site into surface waters; no impacts to aquatic life from such discharge are therefore expected. (SCA, Vol. 2 at 5-1-)

67. A- review of potential impacts to threatened and endangered species was conducted based on habitat types that occur at the Cane Island Power Park. Lists of threatened and endangered species obtained from the U.S. Fish and Wildlife Service and from the Florida Game and Fresh Water Fish Commission ("FGFWFC) were reviewed and field surveys were conducted. (SCA, Vol. 2 at 2-43). No federally-listed plant or animal species designated as threatened or endangered were found at the site. Id. at 2-44. Marginal habitat for the Florida scrub jay (federally threatened) was discovered on the

northern half of Cane Island, but no scrub jays were observed on-site during field surveys. Id. According to these agencies, habitat suitable for several state-listed species occur either on Cane Island or in habitats directly adjacent to Cane Island on Power Park property. Id. Only two state-listed animal species, however, have been found onsite. The gopher tortoise (*Gopherus polyphemus*), a state species of special concern; and, the Florida mouse (*Peromyscus floridanus*), a state species of special concern were observed on the site. Id. Six state protected plants were located onsite, but are not found in the impact areas. Id.

68. Site preparation will permanently impact wildlife habitat. Id. at 5-53. All vegetation will be permanently removed from the five acre Unit 3 power block area. Id. As a result, there will be a decrease of wildlife habitat and wildlife will be displaced from the impact areas. Id. However, the FGFWFC determined that facility certification would not cause any significant impacts to fish and wildlife resources under their jurisdiction. (DEP-Ex. 2, at 7.) In addition, the FGFWFC issued Permit No. OSC-6 for the incidental take of gopher tortoises and their burrows during Unit 1 and 2 construction. This permit is still in effect for construction of Unit 3. Id. at 45.

IMPACTS FROM FLOODING AND HURRICANES

69. Pursuant to applicable requirements of the SFWMD, the site access road is located two (2) feet above the ten (10) year, 24 hour storm elevation, which is 69 feet NGVD (National Geodetic Vertical Datum). (SCA, Vol. 2 at 2-6.) The access road centerline is at 71 feet NGVD. Id. Roads in the power block area are located 4.5 feet above the ten (10) year, 24 hour storm elevation which is 76.25 feet NGVD. Id. Road crown elevations on Cane Island are and will continue to be at 80.75 feet NGVD. The SFWMD also required that the finished floor elevations in the power block area be located at least 3.8 feet above the 100 year, 72 hour storm elevation. Id. The finished floor elevations are and will be at 81.75 feet NGVD. Id.

NOISE IMPACTS

70. Noise emissions attributable to construction activities are highly variable, depending upon the location and operating load of the construction equipment. (SCA, Vol. 2 at 4-19.) Noise emissions during site clearing and preparation will be dominated by diesel engine noise. Id. Equipment

installation noise emissions are expected to be less than during other phases of construction. Id. Site clearing and facility startup will generally result in minimal noise emissions. Id. at 4-20. The one significant noise emission associated with facility startup will be steam blowout of the heat recovery steam generator (HRSG) and steam lines. Construction activities will be scheduled during daytime and early evening periods to the fullest extent possible. Id. Any nighttime construction will be limited to low noise activities as much as possible. Id.

71. Noise emissions are regulated under Article IV, Section 9-110 of the Osceola County Code. Id. at 5-51. The predicted A-weighted noise emissions will satisfy the code criteria at the nearest residential locations. Id. at 5-53. However, the criteria will be exceeded at certain property boundary locations. Id. All locations in excess of the criteria are within areas where forested wetlands preclude the possibility of development. Id.

TRAFFIC

72. All roadways serving the construction and operational traffic of Cane Island Power Park have adequate capacity to handle the increase in traffic generated by construction and operation of Unit 3. (SCA, Vol. 2 at 4-27.) No section of roadway will be impacted adversely. Id. at 4-27. No significant impacts on traffic in the Intercession City area are expected. Most employees are expected to use US Highway 1 ' /92 until they are within one (1) mile of the site entrance off Old Tampa Highway. No new of site roads or road improvements will be required as a result of the construction and operation of Unit 3. Id. at 5-54.

73. Traffic control will be maintained during plant construction 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 the Florida Department of Transportation's Specifications for Roads and Bridges, whichever is most stringent. (DEP-Ex.3 at 51.)

CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

74. Cane Island Power Park Units 1-3, once certified, will be affirmatively consistent with all of the applicable subjects, goals, and expressed policies of the State Comprehensive Plan,

Chapter 187, Florida Statutes, and will also implement applicable agency strategic policy plans. (Joint Stipulation at 5.)

SOLID WASTE

75. Solid waste collection and disposal services at the Power Park are handled by a private contractor. (DEP-Ex.2 at 10.)

PUBLIC SERVICES

76. Other public services such as police, fire, and emergency medical services are available and sufficient to meet the needs of the Power Park. (Groatts prefiled test at 7.)

VARIANCES

77. Osceola County will require no variances for operation of the Cane Island Power Park including the construction or operation of Unit 3 and its associated facilities. (DEP-Ex.2 at 53.)

AGENCY POSITIONS AND STIPULATIONS

78. The DEP, Department of Transportation ("DOT"), Department of Community Affairs ("DCA"), and the SFMD have recommended certification of the existing Units 1 and 2 and the proposed Unit 3 project, including construction and operation of Unit 3 and its associated facilities, subject to recommended Conditions of Certification. (DEP-Ex.2 at 5-7.) Those recommended Conditions of Certification are attached hereto and incorporated by reference herein as Appendix One.

79. The FGFWFC determined that Unit 3 will have no significant impact to fish and wildlife resources under its jurisdiction. Id. at 7. The East Central Florida Regional Planning Council ("ECFRPC") determined that use of the site for this industrial use is consistent with the Osceola County future land use plan. Id. at 5. No state, regional or local agency has recommended denial of certification. Id. at 4-7. Osceola County neither requested nor recommended any Conditions of Certification before or during the certification hearing. Id.

CONCLUSIONS OF LAW

80. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, this proceeding. The proceeding was conducted in accordance with Chapter 403.501-518, Part II, Florida Statutes, the "Florida Electrical Power Plant Siting Act," and Chapter 62-17, F.A.C.

81. In accordance with Chapters 120 and 403, Florida Statutes, and Chapter 62-17, Florida Administrative Code, proper notice was accorded all persons, entities and parties entitled thereto, as well as notice being provided to the general public. All necessary and required governmental agencies participated in the certification process. Reports and studies were issued by the DEP, the DCA, the DOT, the SFWMD, the ECFRPC, the Environmental Protection Agency, the FGFWFC, and the DOS DHR, in accordance with their various statutory charges.

82. The PSC has certified the need for the electrical generating capacity, nominally 250 MW, to be supplied by Unit 3 as required by Sections 403.508 and 403.519, Florida Statutes.

83. The Governor and Cabinet sitting as the Siting Board have determined that the Cane Island Power Park, including the proposed Unit 3 project, is consistent and in compliance with the existing land use plan and zoning ordinances of Osceola County as required by Sections 403.5175(3) and 403.508(2), Florida Statutes.

84. Pursuant to Section 403.508(3), Florida Statutes, the Department's determination of BACT for P.S.D. is not at issue in this proceeding.

85. Preponderant evidence produced by the KUA and FMPA, in its Site Certification Application, at the certification hearing, in its pre-filed testimony, in the Joint Stipulation Between the Parties, demonstrates that the Applicant has met its burden of proving that the Cane Island Power Park, including proposed Unit 3 and its associated facilities, is entitled to certification as described more particularly below.

86. Preponderant evidence produced in its Site Certification Application, in its pre-filed testimony, in the Joint Stipulation Between the Parties and at hearing demonstrates that the construction and operational safeguards for the Power Park are technically sufficient for the welfare and protection of citizens, and are reasonable and available methods to achieve that protection. The Cane Island Power Park

including the new Unit 3 and associated facilities, if constructed, maintained and operated in accordance with the conditions and parameters recommended and found herein and in the attached Conditions of Certification, will result in minimal environmental impacts compared to the benefits of the Cane Island Power Park. Such measures will minimize adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic wildlife through the use of reasonable and available methods. Certification of existing Units 1 and 2 and the construction and operation of Unit 3 is consistent with the goal of abundant, low cost energy and will effect a reasonable balance between minimal environmental impacts and an already determined need for Unit 3 at the Cane Island Power Park.

87. The Cane Island Power Park, including proposed Unit 3 and its associated facilities, if constructed and operated in accordance with the findings and conclusions herein and in the attached recommended Conditions of Certification, will be consistent and in compliance with the State Comprehensive Plan and the Osceola County Comprehensive Plan.

88. The Cane Island Power Park, including proposed Unit 3 and associated facilities, if constructed and operated in accordance with the findings and conclusions herein and in the attached recommended Conditions of Certification, will comply with the applicable, nonprocedural requirements of all agencies, including the land development codes of Osceola County, the local government with jurisdiction, pursuant to the Order of the Siting Board Certification of the Cane Island Power Park including Unit 3 and its associated facilities will serve and protect the broad interests of the public.

RECOMMENDATION

Having considered the foregoing findings of fact, conclusions of law, the evidence of record and the Joint Stipulation Between the Parties, it is, therefore,

RECOMMENDED: That the Kissimmee Utility Authority and Florida Municipal Power Agency be granted certification, pursuant to Chapter 403, Part II, Florida Statutes, for the operation of the existing Cane Island Power Park, and including the location, construction, and operation of proposed Unit 3 and its associated facilities, as described in the Site Certification Application and as modified by the preponderant evidence of record supportive of the above findings of fact and

conclusions of law, and in accordance with the attached Conditions of Certification which are incorporated herein and made a part hereof by reference.

DONE AND ENTERED this _____ day of _____ 1999*, in Tallahassee, Leon County, Florida.

_____*
DANIEL MANRY
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this day _____ of, _____ 1999.*

*NOTE: The document filed with DOAH is not dated or signed.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

APPENDIX ONE

CONDITIONS OF CERTIFICATION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
Kissimmee Utility Authority/Florida Municipal Power Agency
CANE ISLAND POWER PARK
PA 98-38

CONDITIONS OF CERTIFICATION

I GENERAL

The following general and specific conditions shall apply to the construction and operation of the Cane Island Power Park. Prior to the completion of Cane Island Unit 3, the Cane Island Power Park may operate in accordance with existing permits. Within 90 days of the commencement of commercial operation on Unit 3, the Kissimmee Utility Authority (KUA) shall surrender any existing non-federal state operating permits for Units 1 and 2 at the Cane Island Power Park.

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 statutes and regulations of any agency. In the event of any dispute over the meaning of a term used in these conditions which is not defined in such statutes or

regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation or, in the alternative, by the use of the commonly accepted meaning as determined by the Department. As used herein:

1. "Application" shall mean the Site Certification Application (SCA) for the Cane Island Units 1-3, as supplemented.

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

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

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

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

6. "GFWFC" shall mean the Florida Game and Fresh Water Fish Commission.

7. "Permittee" shall mean the Kissimmee Utility Authority (KUA) and Florida Municipal Power Agency (FMPA).

8. "Power plant" shall mean the electric power generating plant and appurtenances to be modified or constructed on the Cane Island Power Park site in Osceola County, as generally depicted in the Application.

9. "Project" shall mean the Cane Island Unit 3 and all associated facilities, including but not limited to: the combined cycle unit, fuel and water storage tanks, natural gas delivery pipes, effluent pumping station, air pollution control equipment, storm water control facilities, the cooling tower and related facilities.

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

11. "ROW" shall mean the transmission line right-of-way to be selected within the certified corridor in accordance with the conditions of certification.

B. Applicable Rules

The construction and operation of the Cane Island Power Park shall be in accordance with all applicable provisions of at least the following regulations of DEP: Chapters 62-4, 62-17, 62-814, 62-256, 62-296, 62-297, 62-301, 62-302, 62-531, 62-532, 62-550, 62-555, 62-560, 62-600, 62-601, 62-604, 62-610, 62-620, 62-621, 62-650, 62-699, 62-660, 62-701, 62-762, 62-767, 62-769, 62-770, and 62-814, Florida Administrative Code (F.A.C.), or their successors as 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, 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 led initial generating capacities of the existing units or Unit 3, production increases, or process modifications which may result in new, different, or increased discharges of pollutants, or expansion in steam generation capacity shall be reported by submission of an application for modification pursuant to Chapter 403, F. S.

III. GENERAL CONDITIONS

A. Facilities Operation

1. The KUA shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the KUA 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.

2. In the event of a prolonged [thirty (30) days or more] equipment malfunction or shutdown of air pollution control equipment, operation may be allowed to resume and continue to take place under an appropriate Department order, provided that

the Permittee demonstrates that such operation will be in compliance with all applicable ambient air quality standards and PSD increments, solid waste rules, domestic wastewater rules and industrial wastewater rules. During such malfunction or shutdown, the operation of the Cane Island Power Park 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. The KUA shall comply with the terms and conditions contained in Permit No. PSD-FL-254/PA98-38 and any revisions modifications or reissuances thereof

B. Non-Compliance Notification

If, for any reason, the Permittee (defined as the applicant or its successors and/or assigns) does not comply with or will be unable to comply with any limitation specified in this certification, the Permittee shall notify the Central District office of the DEP by telephone at (407) 894-7555. 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 KUA shall confirm this non-compliance in writing at 3319 Maguire Boulevard, Suite 232, Orlando; Florida 32803-3767 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

The KUA 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 Central District Industrial Wastewater Compliance/Enforcement Section under telephone number (407)893-3308. 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 area] 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.

D. Safety

1. The overall design, layout, and operation of the facilities shall be such as to minimize hazards to humans and the environment. Security control measures shall be utilized to prevent exposure of the public to hazardous conditions. The Federal Occupational Safety and Health Standards will be complied with during construction. The Safety Standards specified under Section 442.20, F.S., by the Division of Safety of the Florida Department of Labor and Employment Security shall also be complied with.

2. The Permittee 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 Permittee 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 Permittee 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 KUA/FMPA 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 this approval may constitute grounds for revocation and enforcement action by the Department.

3. As provided in Subsections 403.087(6), 403.511, and 403.722(5), F.S., the issuance of this approval does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This approval is not a waiver of or approval of any other Department approval that may be required for other aspects of the total project under federally delegated programs which are not addressed in this certification.

4. This certification does not relieve the KUA/FMPA from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this approved source, or from penalties therefore; nor does it allow the KUA to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The Permittees 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 permittee 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 KUA understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this approved source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the approved source arising under the Florida Statutes or Department rules, except where such use is proscribed by Sections 403.111 and 403.73, F.S., or Rule 62-620.302, Florida Administrative Code. 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 KUA 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 KUA shall comply with the following:

a. Upon request, the KUA 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 KUA shall hold at the facility or other location designated by this approval records of all monitoring information (including all calibration and maintenance records

and all original strip chart recordings for continuous monitoring instrumentation) required by the approval, copies of all reports required by this approval, and records of all data used to complete the application for this approval. These materials shall be retained at least three (3) years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule. Data utilized to prepare the application may be maintained at the following locations:

KUA Cane Island Power Park: 6075 Old Tampa Highway Intercession City, Florida

KUA Electric Operations: 1701 West Carroll Street* Kissimmee, Florida 34741

*or subsequent principle office location.

c. Records of monitoring, information shall include:

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

9. These Conditions may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee 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 permittee, 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 Permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under these Conditions;

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

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

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

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

12. Unless specifically stated otherwise in Department rules, the Permittee, in accepting these Conditions, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee 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 Permittee, 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 Permittee 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 Permittee 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, at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with applicable rules for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in the applicable portions of Chapter 62, F.A.C.

16. The Permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The Permittee 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 permittee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

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

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

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.

19. When requested by the Department, the KUA shall within a reasonable time furnish any information required by law which is needed to determine compliance with the certification. If the KUA becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

H. Laboratories and Quality Assurance

1. The Permittee 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 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 Permittee is required to have the samples taken by qualified personnel following EPA and Department approved sampling procedures and chain-of-custody requirements in accordance with Rule 62-160, F.A.C.

3. When an in-house laboratory is used to analyze samples required pursuant to this permit, the Permittee 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 KUA are for the purpose of facilitating DEP's monitoring of the effects arising from the location of the transmission line ROW and the construction and maintenance of the reclaimed water pipeline and the plant facilities. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with the conditions of certification, without any further agency action.

2. Filings

All post-certification submittals of information by the KUA 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 KUA shall be so notified. Failure to issue such a notice within forty-five (45) days after filing of the submittal shall constitute a finding of completeness.

4. Interagency Meetings

Within sixty (60) days of the filing of a complete post-certification submittal, DEP may conduct an interagency meeting with other agencies which received copies of the submittal. The purpose of such an interagency meeting shall be for the agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether reasonable assurance of compliance with the conditions of certification has

been provided. Failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these conditions nor to delay the time frames for review established by these conditions.

5. Reasonable Assurance of Compliance

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

6. Commencement of Construction

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

IV. ADVERSE IMPACT

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

V. RIGHT OF ENTRY

The Permittee 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 Permittee's premises where an emission or effluent source is located or in which records are

required to be kept under the terms and conditions of this certification;

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

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 this certification 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 its conditions pursuant to Section 403 512, F.S.

VII. CIVIL AND CRIMINAL LIABILITY

This certification does not relieve the Permittee from civil or criminal penalties for noncompliance with any conditions of this certification, applicable rules or regulations of the Department or Chapter 403, F.S., or regulations thereunder.

Subject to Section 403.511, F.S., this certification shall not preclude the institution of any legal action or relieve the Permittee 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 of certification 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 Secretary to modify any condition of this certification, except that any proposed modification to burn a fuel other than natural gas or 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 project and the conditions of such permits shall be controlling over these Conditions of Certification.

XII. CONSTRUCTION

A. Standards and Review of Plans

1. The facility shall be constructed pursuant to the design standards presented in the application and the standards or plans and drawings submitted and signed by an engineer registered in the state of Florida. Specific Central District office acceptance of plans will be required based upon a determination of consistency with approved design concepts,

regulations and these conditions prior to initiation of construction of any: industrial waste treatment facilities; domestic waste treatment facilities; potable water treatment and supply systems; ground water monitoring systems and storm water runoff systems; solid waste disposal areas; facilities impacting jurisdictional wetlands, and hazardous or toxic handling facilities or areas. The Applicant shall present specific facility plans for these facilities for review by the Central District office at least ninety (90) days prior to construction of those portions of the facility for which the plans are then being submitted, unless other time limits are specified in the following conditions herein. Review and approval or disapproval shall be accomplished in accordance with Chapter 120, F.S., or these conditions of certification as applicable.

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

3. Ninety (90) days prior to the anticipated date of first operation, the KUA shall provide the Department with an itemized list of any changes made to the facility design and operation plans that would affect a change in discharge as referenced in Condition II since the time of the approval of these conditions. This pre-operational review of the final design and operation shall demonstrate continued compliance with Department rules and standards.

B. Control Measures

1. Storm Water Runoff

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 51-2, F.A.C., Uniform Fire Code Section 33.101 Addendum, and any other applicable county regulation. Any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., shall be approved by the Central District office in conjunction with the Division of Forestry and any other county regulations that may apply. Burning shall not occur unless approved by the appropriate agency or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.

3. Sanitary Wastes

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.

5. Noise

Construction noise shall not exceed noise requirements of the Osceola County Noise Ordinance except as exempted by the Conditional Use Permit CU/SDP 92-86, or as exempted by the Ordinance between 7 a.m. and sunset. KUA and FMPA shall notify area residents in advance of the onset of the steam blowout of the Unit 3 heat recovery steam generator and steam lines phase of construction, which shall be conducted between 7:00 a.m. and sunset.

6. Dust and Odors

The Permittee shall employ proper odor and dust control techniques to minimize odor and fugitive dust emissions. The

applicant shall employ control techniques sufficient to prevent nuisance conditions on adjoining property.

7. Transmission Lines

The directly associated transmission lines from the Cane Island Power Park electric switchyard to the existing Florida Power Corporation Intercession City Plant shall be maintained in accordance with the application and the appropriate state and federal regulations concerning use of herbicides. The KUA shall notify the Central District office of the Department of the type of herbicide to be used at least 60 days prior to its first use.

8. Protection of Vegetation

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

9. Dewatering Operations

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

10. Historical or Archaeological Finds

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

C. Environmental Control Program

An environmental control program shall be established under the supervision of a Florida registered professional engineer or other qualified person to assure that all construction activities conform to applicable environmental regulations and the applicable conditions of certification. If a violation of standards, harmful effects or irreversible environmental damage not anticipated by the application or the evidence presented at the certification hearing are detected during construction, the

Permittee shall notify the Central District office as required by Condition III.B.

D. Reporting

Notice of commencement of construction shall be submitted to the Siting Coordination Office and the Central 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 Central 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 Blainstone Road, Mail Station 23, Tallahassee, Florida 32399-2400 and telephone number (850)488-0114. All documents related to reports, tests, and notifications should be submitted to the DEP Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767 and telephone number 407/894-7555.

2. General Conditions: The owner and operator is subject to and shall operate under the attached General Permit Conditions G.1 through G.15 listed in Appendix GC of this permit. General Permit Conditions are binding and enforceable pursuant to Chapter 403 of the Florida Statutes. [Rule 62-4.160, F.A.C.]

3. Terminology: The terms used in this permit have specific meanings as defined in the corresponding chapters of the Florida Administrative Code.

4. Forms and Application Procedures: The Permittee shall use the applicable forms listed in Rule 62-210.900, F.A.C. and follow the application procedures in Chapter 62-4, F.A.C. [Rule 62-210.900, F.A.C.]

5. Modifications: The Permittee shall give written notification to the Department when there is any modification to this facility. This notice shall be submitted sufficiently in

advance of any critical date involved to allow sufficient time for review, discussion, and revision of plans, if necessary. Such notice shall include, but not be limited to, information describing the precise nature of the change; modifications to any emission control system; production capacity of the facility before and after the change; and the anticipated completion date of the change. [Chapters 62-2 10 and 62-212, F.A.C.]

6. Expiration: Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. [40 CFR 52.21(r)(2)]

7. BACT Determination: In conjunction with extension of the 18 month periods to commence or continue construction, or extension of the December 31, 2002 permit expiration date, the permittee may be required to demonstrate the adequacy of any previous determination of best available control technology for the source. [40 CFR 52.216)(4)]

8. Permit Extension: The Permittee, for good cause, may request that this PSD permit be extended. Such a request shall be submitted to the Bureau of Air Regulation prior to 60 days before the expiration of the permit (Rule 62-4.080, F.A.C.).

9. Application for Title IV Permit: An application for a Title V Acid Rain Permit, must be submitted to the U. S. Environmental Protection Agency Region IV office in Atlanta, Georgia, and a copy to the DEP's Bureau of Air Regulation in Tallahassee, Florida, 24 months before the date on which the new unit begins serving an electrical generator (greater than 25 M00). [40 CFR 72]

10. Application for Title V Permit: An application for a Title V operating permit, pursuant to Chapter 62-213, F.A.C., must be submitted to the DEP's Bureau of Air Regulation, and a copy to the Department's Central District Office. [Chapter 62-213, F.A.C.]

11. New or Additional Conditions: Pursuant to Rule 62-4.080, F.A.C., for good cause shown and after notice and an administrative hearing, if requested, the Department may require the permittee to conform to new or additional conditions. The Department shall allow the permittee a reasonable time to

conform to the new or additional conditions, and on application of the Permittee, the Department may grant additional time.
[Rule 62-4.080, F.A.C.]

12. Annual Reports: Pursuant to Rule 62-210.370(2), F.A.C., Annual Operation Reports, the permittee is required to submit annual reports on the actual operating rates and emissions from this facility. Annual operating reports shall be sent to the DEP's Central District Office by March 1st of each year.

13. Stack Testing Facilities: Stack sampling facilities shall be installed in accordance with Rule 62-297.310(6), F.A.C.

14. Quarterly Reports: Quarterly excess emission reports, in accordance with 40 CFR 60.7 (a)(7) (c) (1997 version), shall be submitted to the DEP's Central District Office.

B. Applicable Standards And Regulations

1. Unless otherwise indicated in this permit, the construction and operation of the subject emission unit(s) shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of Chapter 403, F.S. and Florida Administrative Code Chapters 62-4, 62-17, 62-204, 62-210, 62-212, 62-213, 62-214, 62-296, and 62-297; and the applicable requirements of the Code of Federal Regulations Section 40, Parts 52, 60, 72, 73, and 75.

2. Issuance of this, permit does not relieve the facility owner or operator from compliance with any applicable federal, state, or local permitting requirements or regulations.[Rule 62-210.300, F.A.C.]

3. These emission units shall comply with all applicable requirements of 40 CFR 60, Subpart A, General Provisions including:

- 40 CFR 60.7, Notification and Record keeping
- 40 CFR 60.8, Performance Tests
- 40 CFR 60.11, Compliance with Standards and Maintenance Requirements
- 40 CFR 60.12, Circumvention
- 40 CFR 60.13, Monitoring Requirements
- 40 CFR 60.19, General Notification and Reporting Requirements

4. ARMS Emissions Unit 003. Direct Power Generation, consisting of a nominal 167 megawatt combustion turbine-electrical generator, shall comply with all applicable provisions of 40 CFR 60, Subpart GG, Standards of Performance for Stationary Gas Turbines, adopted by reference in Rule 62-204.800(7)(b), F.A.C. The Subpart GG requirement to correct test data to ISO conditions applies. However, such correction is not used for compliance determinations with the BACT standard(s).

5. ARMS Emission Unit 004. Fuel Storage, consisting of a 1.0 million gallon distillate fuel oil storage tank shall comply with all applicable provisions of 40 CFR 60, Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels, adopted by reference in Rule 62-204.800, F.A.C.

6. ARMS Emission Unit 005. Steam Power Generation, consisting of a supplementally-fired heat recovery steam generator equipped with a natural gas fired 44 mmBTU/hr duct burner (HHV) and 80-90 MW steam electrical generator shall comply with all applicable provisions of 40 CFR 60, Subpart Dc, Standards of Performance for Small Industrial Commercial-Institutional Steam Generating Units Which Construction is Commenced After June 9, 1989, adopted by reference in Rule 62-204.800(7), F.A.C.

7. ARMS Emission Unit 006. Cooling Tower, is an unregulated emission unit. The Cooling Tower is not subject to a NESHAP because Chromium-based chemical treatment is not used.

8. All notifications and reports required by the above specific conditions shall be submitted to the DEP's Central District Office.

C. General Operation Requirements

1. Fuels: Only pipeline natural gas or maximum 0.05 percent sulfur fuel oil No. 2 or superior grade of distillate fuel oil shall be fired in this unit. [Applicant Request, Rule 62-210.200, F.A.C. (Definitions -Potential Emissions)]

2. Combustion Turbine Capacity: The maximum heat input rates, based on the lower heating value (LHV) of each fuel to this Unit at ambient conditions of 190F temperature, 55% relative humidity, 100% load, and 14.7 psi pressure shall not exceed 1,696 million Btu per hour (mmBtu/hr) when firing natural gas, nor 1,910 mmBtu/hr when firing No. 2 or superior grade of

distillate fuel oil. These maximum heat input rates will vary depending upon ambient conditions and the combustion turbine characteristics. Manufacturer's curves corrected for site conditions or equations for correction to other ambient conditions shall be provided to the Department of Environmental Protection (DEP) within 45 days of completing the initial compliance testing. [Design, Rule 62-210.200, F.A.C. (Definitions - Potential Emissions)]

3. Heat Recovery Steam Generator equipped with Duct Burner: The maximum heat input rate of the natural gas fired duct burner shall not exceed 44 mmBtu/hour (HH'V). [Applicant Request, Rule 62-210.200, F.A.C. (Definitions - Potential Emissions)]

4. Unconfined Particulate Emissions: During the construction period, unconfined particulate matter emissions shall be minimized by dust suppressing techniques such as covering and/or application of water or chemicals to the affected areas, as necessary.

5. Plant Operation - Problems. If temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by fire, wind or other cause, the owner or operator shall notify the DEP Central District office as soon as possible, but at least within (1) working day, excluding weekends and holidays. The notification shall include: pertinent information as to the cause of the problem; the steps being taken to correct the problem and prevent future recurrence; and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the permittee from any liability for failure to comply with the conditions of this permit and the regulations. [Rule 624.130, F.A.C.]

6. Operating Procedures: Operating procedures shall include good operating practices and proper training of all operators and supervisors. The good operating practices shall meet the guidelines and procedures as established by the equipment manufacturers. All operators (including supervisors) of air pollution control devices shall be properly trained in plant specific equipment. [Rule 624.070(3), F.A.C.]

7. Circumvention: The owner-or operator shall not circumvent the air pollution control equipment or allow the emission of air pollutants without this equipment operating properly. [Rules 62-210.650, F.A.C.]

8. Maximum allowable hours of operation for the 250 MW Combined Cycle Plant are 8760 hours per year while firing natural gas. Fuel oil firing of the combustion turbine is permitted for a maximum of 720 hours per year. [Applicant Request, Rule 62-210.200, F.A.C. (Definitions - Potential Emissions)]

9. Simple Cycle Operation The plant may be operated in simple cycle mode. Different limits apply depending upon whether simple cycle operation is of an intermittent nature, such as due to maintenance of equipment following the combustion turbine or temporary electrical demand fluctuations, or of a longer term nature, such as a decision to not install the heat recovery steam generator or long term electrical demand situations.

D. Control Technology

1. Dry Low NOx (DLN) combustors shall be installed on the stationary combustion turbine and Low NOx burners shall be installed in the duct burner arrangement to comply with the NOx emissions limits listed in Conditions XIII.E.1. and E.2. [Design, Rules 62-4.070 and 62-212.400, F.A.C.]

2. A water injection system shall be installed for use when firing No. 2 or superior grade distillate fuel oil for control of NOx emissions. [Design, Rules 62-4.070 and 62-212.400, F.A.C.]

3. The permittee may design the heat recovery steam generator to accommodate installation of selective catalytic reduction or oxidation catalyst technologies and comply with the corresponding NOx and CO limits listed in Conditions M.E I., E.2. and E 3.. [Rules 62-212.400 and 62-4.070, F.A.C.]

4. The permittee shall design these units to accommodate adequate testing and sampling locations for compliance with the applicable emission limits (per each unit) listed in Conditions XIII.E.1. through E.6. [Rule 62-4.070, Rule 62-204.800, F.A.C., and 40 CFR 60.40a(b)]

5. The permittee shall provide manufacturer's emissions performance versus load diagrams for the DLN and wet injection systems prior to their installation. DLN systems shall each be tuned upon initial operation to optimize emissions reductions and shall be maintained to minimize NOx emissions and CO

emissions. [Rule 62-4.070, and 62-210.650 F.A.C.] Drift eliminators shall be installed on the cooling tower to reduce PM/PMIO emissions.

6. Drift eliminators shall be installed on the cooling tower to reduce PM/PMIO emissions.

E. Emission Limits And Standards

1. The following table is a summary of the BACT determination and is followed by the applicable specific conditions. Values for NO_x are corrected to 15% O₂. These limits or their equivalent in terms of lb/hr or NSPS units, as well as the applicable averaging times, are followed by the applicable specific conditions. Each Unit shall be tested alone to comply with the applicable NSPS and as a Combined Unit to comply with the BACT limits as indicated below: [Rules 62-212.400, 62-204.800(7)(b) (Subpart GG and Dc), 62-210.200 (Definitions-Potential Emissions) F.A.C.]

POLLUTANT	CONTROL TECHNOLOGY	BACT DETERMINATION
PM/PM,10 VE	Pipeline Natural Gas Good Combustion	10 Percent Opacity 5 ppm Ammonia Slip if SCR is used
VOC	As Above	1.4 ppm (Gas, CT on, Ds otY) 4 ppm (Gas, CT and Ds on)) 10 ppm for F.O.
CO	As Above	12 ppm (Gas, CT on, Ds off) 20 ppm (Gas, CT and Ds on) 30 ppm for F.O.
NO _x (CT on, DB off)	DLN, or DLN & SCR for gas WI or SCR for fuel oil 720 Hours on fuel oil with Ds On or off	9 ppm (DLN) or 4.5 ppm 42 ppm (WI) or 15 ppm (SCR) for fuel oil 12/42 ppm (gas/oil) Intermittent Simple Cycle
NO _x (CT and DB on)	DLN & Low NO _x , or DLN & SCR for gas or SCR for fuel oil Duct burner only fires natural gas	9.4 ppm (DLN) or 4.5 ppm (SCR) for gas 42 ppm (WI) or 15 ppm (SCR) for fuel oil DB limited to 0.41b/MW-hr

2. Nitrogen Oxides (NO_x) Emissions:

a. Combined Cycle and Continuous Simple Cycle Operation

The concentration of NO_x in the stack exhaust gas, with the combustion turbine operating on gas (fuel oil) and the duct burner off shall not exceed 9.4(42) ppmvd at 15% O₂ (24-hr block average), and with the combustion turbine operating and the duct burner on shall not exceed 9.4(42) ppmvd at 15% O₂ (24-hour block average). Compliance will be determined by the continuous emission monitor (CEMS). Emissions of NO_x in the stack exhaust gas (at ISO conditions) with the combustion turbine operating shall not exceed 65 (310) pounds per hour (lb/hr) with the duct burner off and 65 (310) lb/hr with the duct burner on to be demonstrated by initial stack test. [40 CFR 60 Subpart GG and Rule 62-212.400, F.A.C.]

If selective catalytic reduction (SCR) technology is installed, the concentration of NO_x in the stack exhaust gas, with the combustion turbine operating on gas (fuel oil) and the duct burner on or off, shall not exceed 4.5 (15) ppmvd @ 15% O₂ on a 3-hr block average. Compliance shall be determined by the continuous emission monitor (CEMS). Emissions of NO_x calculated as NO₂ in the stack exhaust gas (at ISO conditions) with the combustion turbine operating shall not exceed 33 (118) pounds per hour (lb/hr) with the duct burner on or off to be demonstrated by initial stack test. [40CFR60 Subpart GG and Rule 62-212.400, F.A.C.]

If SCR is installed, the concentration of ammonia in the exhaust gas from each combustion turbine shall not exceed 5 ppm. The compliance procedures will be included in the final permit. [Rules 62-212.400, and 62-4.070, F.A.C.]

Unless SCR is employed, emissions of NO_x from the duct burner shall not exceed 0.4 lb/MW-hr (gross output). [Rule 62-212.400, F.A.C.]

When NO_x monitoring data is not available, substitution for missing data shall be handled as required by Title IV (40 CFR 75) to calculate any specified average time.

b. Intermittent Simple Cycle Operation

The concentration of NO_x in the stack exhaust gas, with the combustion turbine operating on gas (fuel oil) shall not exceed 12 (42) ppmvd at 15% O₂ (24-hr block average). Emissions of NO_x in the stack exhaust gas (at ISO conditions) with the combustion turbine operating shall not exceed 86 (310) pounds per hour (lb/hr). [Rule 62-212.400, F.A.C. and 40CFR60 Subpart GG]

Notwithstanding the applicable NO limit during simple cycle operation, reasonable measures shall be implemented to maintain the concentration of NOX in the exhaust gas at 9 ppmvd at 15% O₂ or lower. Any tuning of the combustors for Dry Low NO., operation while firing gas shall result in initial concentrations of 9, ppmvd @ 15% O₂ or lower. [Rules 62212.400 and 62-4.070, F.A.C.]

When NOx monitoring data is not available, substitution for missing data shall be handled as required by Title IV (40 CFR 75) to calculate any specified average time.

3. Carbon Monoxide (CO) Emissions

Emissions of CO in the stack exhaust gas (at ISO conditions) with the combustion turbine operating on gas (fuel oil) shall exceed neither 12 (20) ppm nor 43 (71) Lb/hr with the duct burner off and neither 20 (30) ppm nor 71 (108) Lb/hr with the duct burner on to be demonstrated by stack test using EPA Method 10. [Rule 62-212.400, F.A.C.]

4. Volatile Organic Compounds (VOC) Emissions

Emissions of VOC in the stack exhaust gas (at ISO conditions) with the combustion turbine operating on gas (fuel oil) shall exceed neither 1.4 (10) ppm nor 3 (21.4) Lb/hr with the duct burner off and neither 4 (10) ppm nor 8.5 (21.4) lb/hr with the duct burner on to be demonstrated by initial stack test using EPA Method 18, 25 or 25A. [Rule 62-212.400, F.A.C.]

5. Sulfur Dioxide (SO₂) emissions

SO₂ emissions shall be limited by firing pipeline natural gas (sulfur content less than 20 grains per 100 standard cubic foot) or by firing No. 2 or superior grade distillate fuel oil with a maximum 0.05 percent sulfur for 720 hours per year. Compliance with this requirement in conjunction with implementation of the Custom Fuel Monitoring Schedule in Specific Conditions XIII I 5 and I.6 will demonstrate compliance with the applicable NSPS SO₂ emissions limitations from the duct burner or the combustion turbine. Emissions of SO₂, shall not exceed 38.1 tons per year. [40 CFR 60 Subpart GG and Rules 62-4.070, 62-212.400, and 62-204.800(7), F.A.C. to avoid PSD Review]

6. Visible emissions (VE)

VE emissions shall serve as a surrogate for PM/PM₁₀ emissions from the combustion turbine operating with or without the duct burner and shall not exceed 10 percent opacity from the stack in use. [Rules 62-4.070, 62-212.400, and 62-204.800(7), F.A.C.]

F. Excess Emissions

1. Excess emissions resulting from startup, shutdown, or malfunction shall be permitted provided that best operational practices are adhered to and the duration of excess emissions shall be minimized. Excess emissions occurrences shall in no case exceed two hours in any 24-hour period except during both "cold start-up" to or shutdowns from combined cycle plant operation. During start-up to simple cycle operation, up to one hour of excess emissions are allowed. During cold start-up to combined cycle operation, up to four hours of excess emissions are allowed. During shutdowns from combined cycle operation, up to three hours of excess emissions are allowed. Cold start-up is defined as a startup to combined cycle operation following a complete shutdown lasting at least 48 hours. [Applicant Request, G.E. Combined Cycle Startup Curves Data and Rule 62-210.700, F.A.C.]

2. Excess emissions entirely or in part by poor maintenance, poor operation, or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction, shall be prohibited pursuant to Rule 62-210.700, F.A.C. These emissions shall be included in the 24-hr average for NO_x.

3. Excess Emissions Report: If excess emissions occur for more than two hours due to malfunction, the owner or operator shall notify DEP's Central District office within (1) working day of the nature, extent, and duration of the excess emissions; the cause of the excess emissions; and the actions taken to correct the problem. In addition, the Department may request a written summary report of the incident. Pursuant to the New Source Performance Standards, all excess emissions shall also be reported in accordance with 40 CFR 60.7, Subpart A. Following this format, 40 CFR 60.7, periods of startup, shutdown, malfunction, shall be monitored, recorded, and reported as excess emissions when emission levels exceed the permitted standards listed in Specific Conditions XIII E.1 and 2. [Rules 62-4.130, 62-204.800, 62-210.700(6), F.A.C., and 40 CFR 60.7 (1997 version)].

G. Compliance Determination

1. Allowable Emission Limiting Standards

Compliance with the allowable emission limiting standards shall be determined within 60 days after achieving the maximum production rate, but not later than 180 days of initial operation of the unit, and annually thereafter as indicated in this permit, by using the following reference methods as described in 40 CFR 60, Appendix A (1997 version), and adopted by reference in Chapter 67-904.800, F.A.C.

2. Initial (I) Performance Tests

Initial performance tests (for both fuels) shall be performed by the deadlines in Specific Condition III G. I. Initial tests shall also be conducted after any substantial modifications (and shake down period not to exceed 100 days after re-starting the CT) of air pollution control equipment such as installation of SCR or change of combustors. Annual (A) compliance tests shall be performed during every federal fiscal year (October 1-September 30) pursuant to Rule 62297.310(7), F.A.C., on these units as indicated. The following reference methods shall be used. No other test methods may be used for compliance testing unless prior DEP approval is received in writing.

EPA Reference Method 9, "Visual Determination of the Opacity of Emissions from Stationary Sources" (I,A)

EPA Reference Method 10, "Determination of Carbon Monoxide Emissions from Stationary Sources" (I, A).

EPA Reference Method 20, "Determination of Oxides of Nitrogen Oxide, Sulfur Dioxide and Dilutant Emissions from Stationary Gas Turbines." Initial test only for compliance with 40 CFR 60 Subpart GG, Dc. NOx BACT limits compliance by CEMs (24-hr average or 3-hr average if SCR is installed).

EPA Reference Method 18, 25 and/or 25A, "Determination of Volatile Organic Concentrations." Initial test only.

3. Continuous Compliance with the NOx Emission Limits

Continuous compliance with the NOx emission limits shall be demonstrated with the CEM system based on the applicable averaging time of 24-hr block average (DLN) or a 3-hr average

(if SCR is used). Based on CEMS data, a separate compliance determination is conducted at the end of each operating day (or 3-hour period when applicable) and a new average emission rate is calculated from the arithmetic average of all valid hourly emission rates from the previous operating day (or 3-hr period when applicable). Valid hourly emission rates shall not include periods of start up, shutdown, or malfunction unless prohibited by 62-210.700 F.A.C. A valid hourly emission rate shall be calculated for each hour in which at least two NO_x concentrations are obtained at least 15 minutes apart. These excess emissions periods shall be reported as required in Condition XIII.F.3. [Rules 62-4.070 F.A.C., 62-210.700, F.A.C., 40 CFR 75 and BACT]

4. Compliance with the SO₂ and PM/PM₁₀ Emission Limits

Notwithstanding the requirements of Rule 62-297.340, F.A.C., the use of pipeline natural gas is the method for determining compliance for SO₂ and PM₁₀. For the purposes of demonstrating compliance with the 40 CFR 60.333 SO₂ standard, ASTM methods D4084-82 or D3246-81 (or equivalent) for sulfur content of gaseous fuel shall be utilized in accordance with the EPA-approved custom fuel monitoring schedule or natural gas supplier data may be submitted or the natural gas sulfur content referenced in 40 CFR 75 Appendix D may be utilized. However, the applicant is responsible for ensuring that the procedures in 40 CFR 60.335 or 40 CFR 75 are used when determination of fuel sulfur content is made. Analysis may be performed by the owner or operator, a service contractor retained by the owner or operator, the fuel vendor, or any other qualified agency pursuant to 40 CFR 60.335(e) (1997 version).

5. Compliance with CO Emission Limit

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

6. Compliance with the VOC Emission Limit

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

7. Testing Procedures

Testing of emissions shall be conducted with the combustion turbine operating at permitted capacity. Permitted capacity is defined as 95-100 percent of the maximum heat input rate allowed by the permit, corrected for the average ambient air temperature during the test (with 100 percent represented by a curve depicting heat input vs. ambient temperature). If it is impracticable to test at permitted capacity, the source may be tested at less than permitted capacity. In this case, subsequent operation is limited by adjusting the entire heat input vs. ambient temperature curve downward by an increment equal to the difference between the maximum permitted heat input (corrected for ambient temperature) and 105 percent of the value reached during the test until a new test is conducted.. Once the unit is so limited, operation at higher capacities is allowed for no more than 15 consecutive days for the purposes of additional compliance testing to regain the permitted capacity. Procedures for these tests shall meet all applicable requirements (i.e., testing time frequency, minimum compliance duration, etc.) of Chapters 62-204 and 62-297, F.A.C.

8. Test Notification

The DEP's Central District office shall be notified, in writing, at least 30 days prior to the initial performance tests and at least 15 days before annual compliance test(s).

9. Special Compliance Tests

The DEP may request a special compliance test pursuant to Rule 62-297.310(7), F.A.C., when, after investigation (such as complaints, increased visible emissions, or questionable maintenance of control equipment), there is reason to believe that any applicable emission standard is being violated.

10. Test Results

Compliance test results shall be submitted to the DEP's Central District office no later than 45 days after completion of the last test run. [Rule 62-297.310(8), F.A.C.].

H. Notification, Reporting, And Record Keeping

1. Records

All measurements, records, and other data, required to be maintained by KUA shall be recorded in a permanent form and retained for at least five (5) years following the date on which such measurements, records, or data are recorded. These records shall be made available to DEP representatives upon request.

2. Compliance Test Reports

The test report shall provide sufficient detail on the tested emission unit and the procedures used to allow the Department to determine if the test was properly conducted and if the test results were properly computed. At a minimum, the test report shall provide the applicable information listed in Rule 62-297.310(8), F.A.C.

I. Monitoring Requirements

1. Continuous Monitoring System

The Permittee shall install, calibrate, maintain, and operate a continuous emission monitor in the stack to measure and record the nitrogen oxides emissions from these units. Periods when NO_x emissions (ppmvd @ 15% oxygen) are above the BACT standards, listed in Specific Condition XIII.E. 1. and 2, shall be reported to the DEP Central District Office within one working day (verbally) followed up by a written explanation not later than three (3) working days (alternatively by facsimile within one working day). [Rules 62-204.800, 62-210.700, 62-4.130, 62-4.160(8), F.A.C. and 40 CFR 60.7 (1997 version)].

2. CEMS for reporting excess emissions

Subject to EPA approval, the NO_x CEMS shall be used in lieu of the requirement for reporting excess emissions in accordance with 40 CFR 60.334(c)(1), Subpart GG (1997 version). Upon request from DEP, the CEMS emission rates for NO_x on the CT shall be corrected to ISO conditions to demonstrate compliance with the NO_x standard established in 40 CFR 60.332.

3. CEMS in lieu of Water to Fuel Ratio

Subject to EPA approval, the NO_x CEMS shall be used in lieu of the water/fuel monitoring system for reporting excess

emissions in accordance with 40 CFR 60.334(c)(1), Subpart GG (1997 version). Subject to EPA approval, the calibration of the water/fuel monitoring device required in 40 CFR 60.335 (c)(2) (1997 version) will be replaced by the 40 CFR 75 certification tests of the NO_x CEMS. Upon request from DEP, the CEMS emission rates for NO_x on this Unit shall be corrected to ISO conditions to demonstrate compliance with the NO_x standard established in 40 CFR 60.332.

4. Continuous Monitoring System Reports

The monitoring devices shall comply with the certification and quality assurance, and any other applicable requirements of Rule 62-297.520, F.A.C., 40 CFR 60.13, including certification of each device in accordance with 40 CFR 60, Appendix B, Performance Specifications and 40 CFR 60.7(a)(5) or 40 CFR Part 75. Quality assurance procedures must conform to all applicable sections of 40 CFR 60, Appendix F or 40 CFR 75. The monitoring plan, consisting of data on CEM equipment specifications, manufacturer, type, calibration and maintenance needs, and its proposed location shall be provided to the DEP Emissions Monitoring Section Administrator and EPA for review no later than 45 days prior to the first scheduled certification test pursuant to 40 CFR 75.62.

5. Natural Gas Monitoring Schedule

A custom fuel monitoring schedule pursuant to 40 CFR 75 Appendix D for natural gas may be used in lieu of the daily sampling requirements of 40 CFR 60.334 (b)(2) provided the following requirements are met:

a. The Permittee shall apply for an Acid Rain permit within the deadlines specified in 40 CFR 72.30.

b. The Permittee shall submit a monitoring plan, certified by signature of the Designated Representative, that commits to using a primary fuel of pipeline supplied natural gas (sulfur content less than 20 gr/100 scf pursuant to 40 CFR 75.11(d)(2)).

c. Each unit shall be monitored for SO₂ emissions using methods consistent with the requirements of 40 CFR 75 and certified by the USEPA.

This custom fuel monitoring schedule will only be valid when pipeline natural gas is used as a primary fuel. If the primary fuel for these units is changed to a higher sulfur fuel,

SO₂ emissions must be accounted for as required pursuant to 40 CFR 75.11 (d).

6. Fuel Oil Monitoring Schedule

The following monitoring schedule for No. 2 or superior grade fuel oil shall be followed: For all bulk shipments of No. 2 fuel oil received at this facility an analysis which reports the sulfur content and nitrogen content of the fuel shall be provided by the fuel vendor. The analysis shall also specify the methods by which the analyses were conducted and shall comply with the requirements of 40 CFR 60.335(d).

7. Determination of Process Variables

The permittee shall operate and maintain equipment and/or instruments necessary to determine process variables, such as process weight input or heat input, when such data is needed in conjunction with emissions data to determine the compliance of the emissions unit with applicable emission limiting standards.

Equipment and/or instruments used to directly or indirectly determine such process variables, including devices such as belt scales, weigh hoppers, flow meters, and tank scales, shall be calibrated and adjusted to indicate the true value of the parameter being measured with sufficient accuracy to allow the applicable process variable to be determined within 10% of its true value [Rule 62-297.310(5), F.A.C.]

8. Subpart Dc Monitoring and Record keeping Requirements

The permittee shall comply with all applicable requirements of this Subpart [40CFR60, Subpart Dc], ARMS Emissions Unit 003. Direct Power Generation, consisting of a nominal 167 megawatt combustion turbine-electrical generator, shall comply with all applicable provisions of 40 CFR 60, Subpart GG, Standards of Performance for Stationary Gas Turbines, adopted by reference in Rule 62-204.800(7)(b), F.A.C. The Subpart GG requirement to correct test data to ISO conditions applies. However, such correction is not used for compliance determinations with the BACT standard(s).

J. Cane Island Power Park Units 1& 2 Conditions

For Cane Island Power Park Units 1 & 2 operation shall be in compliance with existing PSD Permit No. FL 182 until the new air operating conditions for Unit 3 are incorporated in the

overall Title V Air Operation Permit, Permit No. FL 254 attached as Appendix I (Reserved).

XIV. Stormwater Discharge

A. The existing Cane Island Generating Station surface water management system is permitted to discharge storm water under the terms and conditions imposed by EPA's storm water multi-sector general permit issued for use in the state of Florida. The facility's permit number is FLR05B777. The KUA is required to continue to update the Cane Island Power Park's Storm Water Pollution Prevention Plan (SWPPP) annually, as required by the general permit, and to implement the annual revisions to the SWPPP.

B. New construction on the Cane Island site must meet the requirements of Chapter 40E-4 of the Florida Administrative Code, as well as the design requirements presented in the Site Certification Application (SCA). The new stormwater facilities associated with Cane Island Unit 3 will not become operational until an engineer practicing in the State of Florida in compliance with Section 471.003(2)(d) Florida Statutes, and with the appropriate experience in surface water design, certifies that these facilities have been constructed in accordance with the design as approved by the Florida Department of Environmental Protection (FDEP).

C. This certification is predicated on the KUA's submitted information to IDEP which reasonably demonstrates that adverse off-site water resource related impacts will not be caused by the authorized activities.

D. FDEP representatives shall be allowed reasonable escorted access to the power plant site to inspect and observe any activities associated with the Cane Island Unit 3 Project construction and/or the operation and/or maintenance of the surface water management system in order to determine compliance with the conditions of this certification. The KUA shall not refuse immediate entry or access, upon reasonable notice, to any FDEP representative who requests entry for the above noted inspection and presents appropriate credentials.

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

XV. Domestic Wastewater

The KUA is authorized to continue disposing of domestic wastewater in the Cane island septic tank/drainfield sewerage treatment system. Any future request for onsite treatment will require approval to construct and operate any such new facility and will be subject to the non-procedural provisions of Chapter 403, F.S., and F.A.C. Chapters 62-3, 62-4, and pertinent chapters within the 62-300, 62-500 and 62-600 Series.

XVI. Drinking Water Facilities

A. Use of Existing Facilities

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

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

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

B. Prior Approval

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

without the prior written approval of the Department will be considered a violation of the conditions of certification.

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

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

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

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

d. Signed and sealed comprehensive engineering report on the new potable water supply system which fully describes that project and basis of design. The report must include design data and such pertinent data to give an accurate understanding of the work to be undertaken and must provide supporting documentation that the new potable water system as proposed will comply with all applicable nonprocedural rules and regulations of the Department in effect as of the date that the request for

approval to construct the water supply system is made to the Department. Reference: F.A.C. Rules 624.050, 62-555.520, 62-555.530, and 21H-23.

e. Documentation that the public water supply system supplying the water has the capacity in its water treatment system to serve the project and that the existing water transmission line from that system's water treatment plant to the point of connection with water supply system the KUA is proposing to construct has been designed and sized to provide sufficient water to meet the demand of the KUA project. Reference: F.A.C. Rules 624.050, 62-555.350, 62-555.520, and 62-555.530.

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

C. Construction

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

2. The approval to construct a new or modify the existing potable water supply system will be in effect for two (2) years from the date of issuance. All construction of the potable water supply system must be completed within this two (2) year period unless a written request for an extension of this date is made to the Department at least sixty (60) days prior to the expiration of the construction approval, and written approval for an extension of the expiration date is issued by the Department. The expiration date of the construction approval may be extended on a year-by-year basis. The maximum length of time that the approval or each subsequent approval for the construction of the potable water system may be in effect is five (5) years from the date of the original approval or for subsequent approvals from the date of issuance of each approval.

Should the construction of the water supply system not be completed within that five (5) year period, should the KUA have failed to request a timely extension of the approval expiration date, or should any water quality analysis submitted with the request for an extension of the expiration date demonstrate the presence of a contaminant for which the water treatment plant was not originally designed to handle, or as additional wells are installed on-site and proposed for connection to the potable water system, the KUA will have to make a new request to the Department for approval to construct the potable water system. That request must meet the submittal and approval requirements of the rules of the Department in effect as of the date that the request for approval is submitted and will be subject to the same review schedule as the original request.

3. No future, modified portion of the potable water supply system may be placed into service without the prior written approval of the Department except as authorized herein for extension of the potable water distribution system. Placing any portion of a modified potable water supply system into service prior to receipt of this written approval will be considered as a violation of the conditions of certification.

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

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

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

the Department in effect as of the date that the request for clearance was made.

XVII. NPDES

A. Surface Water Discharge

This Condition of Certification is issued under the provisions of Chapter 403, Florida Statutes, and applicable rules of the Florida Administrative Code and constitutes authorization to discharge to waters of the state under the National Pollutant Discharge Elimination System. The KUA is hereby authorized to operate the facilities shown in the Cane Island Unit 3 Site Certification Application and other documents on file with the Department and made a part hereof and as specifically described in Permit No. FLA010961. Until Permit No. FLA0 10961 is updated to address Unit 3, the Cane Island Power Park will be allowed to operate as follows:

1. Operation: Of an industrial wastewater treatment and disposal system to serve the referenced Cane Island Power Park which includes a steam electric power generation plant and combustion turbine units. The facility presently includes two fossil-fueled electric generating units, Unit 1, a simple-cycle gas turbine rated at 40 MW (nominal) and Unit 2, a gas-fired combined cycle unit rated at 120 MW (nominal). The existing facility discharge consists of cooling water blowdown, low volume wastes, and chemical and non-chemical metal cleaning wastes.

2. Disposal: Effluent is presently discharged to the City of Kissimmee treated sewage effluent pipeline or to the approved land application system.

B. Other Limitations and Monitoring Requirements

1. The approved analytical methods and corresponding Department established MDL (method detection limits) and PQL (practical quantification limit) shall be used when conducting monitoring at sampling points G001, G009, INT-01, and INT-02 as required by Permit No. FLA010961.

a. Results greater than or equal to the PQL shall be reported as the measured quantity.

b. Results less than the PQL and greater than or equal to the MDL shall be reported as the PQL followed by the lab code

"in", and shall be deemed equal to the MDL when necessary to calculate an average for that parameter.

c. Results less than the MDL shall be reported as the MDL followed by the lab code "u". A value of one half the MDL or half the effluent limit, whichever is lower, shall be used for that sample when necessary to calculate an average for that parameter. Values less than the MDL are considered to demonstrate compliance with an effluent limit or monitoring requirement. [62-4.246, 6-13-96]

2. Monitoring results obtained for each calendar month shall be summarized for that month and reported on a Discharge Monitoring Report (DMR), Form 62-620.910(10), postmarked no later than the 28th day of the month following the completed calendar month. For example, data for January shall be submitted by February 28. Signed copies of the DMR shall be submitted to the address specified below:

Florida Department of Environmental Protection
Wastewater Facilities Regulation Section Mail Station 3550
Twin Towers Office Building, 2600 Blair Stone Road
Tallahassee, Florida 32399-2400

If no discharge occurs during the reporting period, sampling requirements of this certification do not apply. The statement "No Discharge" shall be written on the DMR form. If, during the term period of this certification, the facility ceases to discharge, the Department shall be notified immediately upon cessation of discharge. Such notification shall be in writing. Additionally, the KUA shall notify the Department within 30 days, in writing, of the permanent shutdown of Units 5 and 6, and of the commencement of Commercial Operation of Unit 3.

3. Unless specified otherwise in this certification, all other reports and notifications required by these Conditions, including twenty-four hour notifications, shall be submitted to or reported to, as appropriate, the Department's Central District Office at the address specified below:

Florida Department of Environmental Protection
Industrial Wastewater Section
Central District Office
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767
Phone number 407/894-7555.

4. There shall be no discharge of polychlorinated biphenyl compounds (PCBs) such as those commonly used for transformer fluid.

5. The KUA shall provide safe access points for obtaining representative samples which are required by this certification.

6. The KUA shall ensure that all laboratory analytical data submitted to the Department is 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 69-160, Florida Administrative Code.

7. Discharge of hydrazine in boiler blowdown is authorized without limitation or monitoring requirements.

C. Reopener Clause

1. This certification shall be modified to comply with any applicable effluent standard or limitation issued or approved under Sections 301 (b)(23)(C) and (D), 304(b)(2) and 307(a)(2) of the Clean Water Act (the Act), as amended, if the effluent standard or limitation so issued or approved:

a. Contains different conditions or is otherwise more stringent than any condition in the permit/or;

b. Controls any pollutant not addressed in the certification. The certification, as modified under this paragraph shall contain any other requirements of the Act then applicable.

2. The certification may be reopened to adjust effluent limitations or monitoring requirements should future wasteload allocation determinations, water quality studies, DEP approved changes in water quality standards, or other information show a need for a different limitation or monitoring requirement.

D. Stormwater from Diked Petroleum Storage or Handling Area

The KUA is authorized to discharge stormwater from diked petroleum storage or handling areas, provided the following conditions are met:

1. The facility shall have a valid SPCC Plan pursuant to 40 CFR 112.

2. In draining the diked area, a portable oil skimmer or similar device or absorbent material shall be used to remove oil and grease (as indicated by the presence of a sheen) immediately prior to draining.

3. Monitoring records shall be maintained in the form of a log and shall contain the following information, as a minimum:

- a. Date and time of discharge,
- b. Estimated volume of discharge,
- c. Initials of person making visual inspection and authorizing discharge, and
- d. Observed conditions of storm water discharged.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of a visible oil sheen at any time.

E. Operation and Maintenance Requirements

1. Operation of Treatment and Disposal Facilities

a. The KUA shall ensure that the operation of this facility is as described in the application and supporting documents.

b. The operation of the pollution control facilities described in this certification 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 appropriate for those facilities.

2. Record-Keeping Requirements

The KUA 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 item 1. above, required by the permit 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 this certification at least three years from the date the application was filed, unless otherwise specified by Department rule;

d. A copy of the Site 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.

F. Compliance Schedule

The KUA shall achieve compliance on start of discharge.

G. Specific Conditions Applicable to All Permits

1. Drawings, plans, documents or specifications submitted by the KUA, not attached hereto, but retained on file with the Department, are made a part hereof.

2. If significant historical or archaeological artifacts are discovered at any time within the project site, the KUA shall immediately notify the Department at the address shown in I B 3 above and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, 500 South Bronough, Tallahassee, Florida, 32399-0250.

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

4. This certification satisfies industrial wastewater program permitting requirements only and does not authorize

operation of this facility prior to obtaining any other permits required by federal agencies.

H. Duty to Reapply

This condition is not applicable under Site Certification.

I. Specific Conditions Related to Best Management Practices

The KUA shall comply with the Best Management Practices portion of the Cane Island Power Park Storm Water Pollution Prevention Plan (SWPPP).

J. Specific Conditions Relating to Existing Manufacturing, Commercial, Mining, and Silviculture Wastewater Facilities or Activities

1. Existing manufacturing, commercial, mining, and silvicultural wastewater facilities or activities that discharge into surface waters shall notify the Department as soon as they know or have reason to believe: [62-6 20.624(1)]

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the certification, if that discharge will exceed the highest of the following levels:

(1) One hundred micrograms per liter

(2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony, or

(3) Five times the maximum concentration value reported for that pollutant in the permit application.

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following levels

- (1) Five hundred micrograms per liter;
- (2) One milligram per liter for antimony;
or
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application.

VIII. Groundwater

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

XIX. 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 KUA shall continue to implement its current plan for handling and disposing of hazardous wastes.

XX. 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 disposal facility. By-products that are to be sold for reuse are not considered solid waste.

B. By-Product & Solid Waste Site Specific Standards

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

2. All engineering plans, reports, and related information shall be provided by the engineer of record with professional certification and shall be approved by the Central 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 Central District office of the DEP prior to operation of each by-product or solid waste storage and disposal area.

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 Cane Island Power Park developing conditions of certification requiring submission of annual operating permit information and annual pollutant emission fees in accordance with federal law and federal regulations and sections 403.0885, 403.0872, 403.5055, 403.509, and 403.511, F.S.

B. KUA Responsibilities

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

XXII. Linear Facilities

Construction and operation of the proposed 230 KV transmission line or other future linear facilities shall be in conformance with Best Management Practices for linear facilities and with the provisions of Rule 62-814, Electric and Magnetic Fields. KUA shall provide a final ROW alignment and updated wetland impact information to the Central District Office of the DEP and to the South Florida Water Management District at least 90 days before the start of clearing of the ROW.

XXIII. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

A. Legal/Administrative Conditions

1. General

a. Responsible Entity

The Permittee 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 SF~YMD by the previous certification holder (Permittee) and the Assignee. Any assignment or transfer shall carry with it the full responsibility for the limitations and conditions of this Certification. The previous Permittee shall be responsible for informing the Assignee of all authorized facilities and uses and the conditions under which they were authorized. The previous Permittee 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. Reference: Sections 373.223, 373.342, and 373.413, F.S.; Rules 40E-2.091(1)(a), 40E-2.301, 40E-2.381, 40E-3.101(1), 40E-4.091(1)(a), and 40E-4.301 (I), F.A.C.

b. Minimum Standards

This Certification is based on the Permittee's submitted information to the SFWMD which 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 Permittee shall be considered the minimum standards for compliance. Reference: Sections 373.219, 373.223, 373.229, 373.308, 373.316, 373.413(1) and 373.416(1), F.S.; Rules 40E-2.091(1), 40E-2.301, 40E-2.381, 40E-3.500-531, 40E-4.091 (1)(a), 40E-4.301 (1), and 40E-4.301, F.A.C.

c. Compliance Requirements

This project must be constructed, operated and maintained in compliance with and meet all non-procedural requirements set forth in Chapter 373, F.S., and Chapters 40E-2 (Consumptive Use), 40E-3 (Water Wells), 40E-4 (Environmental Resource Permits), and 40E-20 (General Water Use Permits), F.A.C.

d. Off-site Impacts

It is the responsibility of the Permittee to ensure that harm to the water resources does not occur during the

construction, operation, and maintenance of the project.
Reference: Sections 373.223, 373.309, and 373.413(1); Rules 40E-2.091(i), 40E-2.381, 40E-3.301(:), 40E-3.301(4), 40E-4.091(1)(a), 40E-4.301(1), and 40E-4.381(1)(c), F.A.C.

e. Liability

The Permittee shall hold and save the SFWMD harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment and/or use of any system authorized by this Certification, to the extent allowed under Florida law.
Reference: Sections 373.223, 373.443, F.S.; Rules 40E-2.091(1) 40E-2.381, 40E-4.091(1)(2), and 40E-4.381(1)(h), F.A.C.

f. Construction, Operation, and Maintenance Responsibilities

The Permittee shall be responsible for the construction, operation, and maintenance of all facilities installed for the proposed project. Reference: Sections 373.309, 373.413(1) and 373.416(1), F.S.; Rules 40E-3.301, 40E-4.091(1)(a), 40E-4 301(1), and 40E-4.381, 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 linear facilities to inspect and observe any activities associated with the construction of the proposed project and/or the operation and/or maintenance of the on-site wells and/or the surface water management system and/or the mitigation areas in order to determine compliance with the conditions of this Certification. The Permittee 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.
Reference: Sections 373.223, 373.319, and 373.423, F.S.; Rules 40E-2.091(1), 40E-2.301, 40E-2.381, 40E-3.461, 40E-4.091(1)(a), and 40E-4.301, F.A.C.

h. Post Certification Information Submittals

Information submitted to the SFWMD subsequent to Certification, in compliance with the conditions of this Certification, shall be for the purpose of the SFWMD determining the Permittee's compliance with the Certification conditions and

the non-procedural criteria contained in Chapters 40E-2, 40E-3, and 40E-4, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder. Reference: Rule 62-17.191, F.A.C.

i. Post Certification Construction Notifications

At least 30 days prior to the commencement of construction, the Permittee or Project Engineer shall notify SFWMD staff in the Orlando Service Center Environmental Resource Compliance Division (using the appropriate SFWMD Form) of the actual or anticipated construction start date and the expected completion date/duration of construction. Annual construction status reports shall be submitted by the Permittee to the SFWMD Environmental Resource Compliance Division (using the appropriate SFWMD Form) beginning one year after the initial construction start date. Reference: Sections 373.413(1) and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381(d)&(e), F.A.C.

j. Operation Authorization

Authorization for Unit 3 to begin operations shall not be granted by the Florida Department of Environmental Protection until it has received and approved an executed contract between the Permittee and an entity capable of receiving and disposing of any waste products generated by the proposed facility. Reference: Sections 373.043 and 403.504, F.S.

k. Enforcement

The SFWMD may 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. Prior to initiating such action, the SFWMD shall notify the Secretary of DEP of the proposed action. Reference: Sections 373.223, 373.319, 373.423, and 373.603, F.S.; Rules 40E-2.091(1), 40E-2.301, 40E-2.381, 40E-3.461, 40E-4.091(1)(a), and 40E-4.301, F.A.C.

1. Existing Surface Water Management Permit

Surface Water Management Permit No. 49-00672-S is incorporated herein only insofar as such conditions and terms are applicable to the activities approved in this Certification. Such permit shall remain in full force and effect for activities

approved in the permit that are not authorized within this Certification.

2. Processing of Informational Requests

a. Completeness and Sufficiency Review

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

b. Compliance Review and Confirmation

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

c. Revisions to Site Specific Design Authorizations

The Permittee shall submit, consistent with the provisions of Condition A.2., any proposed revisions to the site specific design authorizations specified in this Certification to the SFWMD for review and approval prior to implementation. The submittal shall include all the information necessary to support the proposed request, including detailed drawings, topographic maps, average wet season water table elevations, calculations and/or any other applicable data. Such requests may be included as part of the appropriate additional information submittals required by this Certification provided they are clearly identified as a requested modification to the previously authorized design. Reference: Sections 373.413 and 373.414, F.S.; Rules 40E-2.091, 40E-2.301, 40E-3.461, 40E-4.091, 40E-4.301, and 40E-4.381, F.A.C.

d. Dispute Resolution

Since this Certification is the only form of permit required from any agency, it is understood that the Permittee and the SFWMD shall strive to resolve disputes by mutual agreement. Reference: Sections 373.413 and 373.429, F.S.; Rules 40E-1 601 and 40E-4 331, F.A.C.

e. Objections

Objections to modifications of the terms and conditions of this Certification shall be resolved through the process established in Section 403.516, F.S.

f. Changes to Information Requirements

The SFWMD and the Permittee may jointly agree to vary the informational requirements. Reference: Sections 373.085, 373.229, and 373.413(2), F.S.; Rules 40E-2.101(1), 40E-3.101(2), and 40E-4.101(1), F.A.C.

B. Water Use Conditions

1. General

a. Water Shortage Compliance

In the event of a declared water shortage, the Permittee must comply with any water withdrawal reductions ordered by the SFWMD in accordance with the Water Shortage Plan, Chapter 40E-2.1, F.A.C. Reference: Section 373.246, F.S.; Rule 40E-2.381, F.A.C.

b. Impacts on Existing Legal Users

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

- (1) A reduction in well water levels that impairs the ability of an adjacent well, including a domestic well, lawn irrigation

well, or public water supply 'well, to produce by 10% or greater;

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

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

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

Reference: Section 373.223, F.S.; Rules 40E-2 091(1), 40E-2.301, and 40E-2.381, F.A.C.

c. Impacts on Existing Off-Site Land Uses

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

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

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

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

Reference: Sections 373.223, F.S.; Rules 40E-2 091(1), 40E-2.301, and 40E-2.381, F.A.C.

d. Impacts to Natural Resources

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

- (1) A reduction in ground water levels that results in significant lateral movement of the fresh water/salt water interface;
- (2) A reduction in water levels that adversely impacts the hydroperiod of protected wetland environments;
- (3) A significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;
- (4) Induced movement or induction of pollutants into the water supply resulting in a significant reduction in water quality; and/or
- (5) Harm to the natural system including damage to habitat for rare or endangered species.

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

e. Well System Operation

At any time, if there is an indication that the well casing, valves, or controls associated with the on-site backup well system leak or have become inoperative, the Permittee shall be responsible for making the necessary repairs or replacement to restore the well system to an operating condition acceptable to the SFWMD. Failure to make such repairs shall be the cause for requiring that the well(s) be filled and abandoned in accordance with the procedures outlined in Chapter 40E-3 (Water Wells), F.A.C. Reference: Sections 373.308 and 373.316, F.S.; Rules 40E-3.04 1, 40E-3.101, 40E-3.41 1, and 40E-3 51 10-53 1, F.A.C.

2. Site Specific Design Authorizations

a. Authorized Daily Withdrawals

When Units 1, 2 and 3 are operating under normal operating conditions on the primary fuel supply (natural gas), this Certification authorizes a maximum daily withdrawal of 0.22 MGD from the Floridan aquifer for potable water, service water, and process water. When Units 1 and 2 are operating on the backup fuel supply (No 2 oil), this Certification authorizes a maximum daily withdrawal of 0.55 MGD for a maximum of 12 days per year. When Units 1, 2 and 3 are operating on backup (No. 2 oil) fuel supply, this certification authorizes a maximum daily withdrawal of 0.78 MGD for a maximum of 30 days per year.

b. Emergency Cooling Tower Makeup Water

This certification authorizes a maximum daily withdrawal of 2.865 MGD from the Florida Aquifer for emergency cooling tower makeup water for a period not to exceed 30 days per year. Withdrawals in excess of 30 days per year shall require prior written approval from SFWMD's Water Use Division. These withdrawals shall only occur during those times when reclaimed water supply from the City of Kissimmee is temporarily interrupted.

c. Authorized Annual Withdrawals

This Certification authorizes a maximum annual withdrawal of 186.8 MGY from the Floridan Aquifer for potable water, service water, and process water. This authorization includes the emergency cooling tower makeup water for a maximum 30 days, operation of Units 1 and 2 on the backup fuel (No. 2 oil) for a maximum of 12 days, and operation of Units 1, 2 and 3 on the backup fuel (No. 2 oil) for a maximum of 30 days.

d. Authorized Withdrawal Facilities

2-6" X 400'X 200 GPM wells cased to 150 feet

4-6" X 400'X 450 GPM wells cased to 150 feet.

e. Modification of Authorized Withdrawals

Within five years of Certification and every five years thereafter, unless extended by mutual agreement between the Permittee and the SFWMD, the Permittee shall submit to the SFWMD a report on the projects consumptive water use which contains the information required by Chapter 40E-2, F.A.C. in effect at that time. Within 90 days after receipt of the completed report, the SFWMD shall evaluate the information contained therein and issue a written notification to the Department and the Permittee as to whether the groundwater withdrawals for consumptive use authorized by this Certification remain in compliance with the provisions of Chapter 373, F.S., and Chapter 40-2, F.A.C., in effect at that time. If the notification indicates that the withdrawals are not in compliance with these provisions, it shall recommend possible alternatives for bringing the withdrawals into compliance or otherwise meeting the minimum consumptive water use needs of the Certified project. If mutual agreement cannot be reached within 90 days after issuance of the written notification on whether the withdrawals of groundwater for consumptive use remain in compliance, then the written notification shall be immediately referred to the Division of Administrative Hearings (DOAH) for resolution in accordance with the procedural provisions of Sections 403.516(1)(c) and 120.569, F.S. (1997).

f. Right to Petition for Modification of Withdrawals

The SFWMD retains the right to petition for a modification of the groundwater withdrawals for consumptive use authorized by this Certification, in accordance with the provisions of Section 403.516, F.S. (1996). Any request for an increase in water withdrawals shall be made pursuant to the provisions of Section 403.516, F.S.

g. Dewatering Operations

Prior to the commencement of construction of those portions of the project which involve dewatering activities, the Permittee shall submit a detailed plan for the proposed dewatering activities to the SFWMD, consistent with the provisions of Conditions A.2, for a determination of compliance with the non-procedural requirements of Chapter 40E-2, 40E-3, 40E-4, and 40E 20, F.A.C., in effect at the time of submittal. The following information, referenced to NGVD where appropriate, shall be submitted:

- (1) A detailed site plan which shows the location(s) for each proposed dewatering area;
- (2) The method(s) used for each dewatering operation;
- (3) The maximum depth for each dewatering operation;
- (4) The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;
- (5) The duration of each dewatering operation;
- (6) 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);
- (7) 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;
- (8) The location of any infiltration trench(es) and/or recharge barriers; and
- (9) All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

Reference: Sections 373.229, 373.308, and 373.413, F.S.; Rules 40E-2.091(1), 40E2.301, 40E-3.500-53 1, and 40E-4.3 8 1 (l)(m), F.A.C.

h. Reporting Requirements

The Permittee shall maintain records of the calibrated daily withdrawals from each pump. These records shall be available for review upon request by District staff. Monthly

withdrawals for each pump shall be submitted to the District quarterly. Maximum daily withdrawals for each month for the entire system shall be submitted to the District quarterly. The water accounting method and means of calibration shall be stated on each report. Every two years from the date of Certification, the Permittee shall submit re-calibration data on each water pumping accounting facility if the accounting method(s) require re-calibration. Reference: Section 373.223, F.S.; Rules 40E-2.091(1), 40E-2.301, and 40E-2.381, F.A.C.

i. Existing Well Repair, Replacement, Abandonment

If any of the existing on-site wells require repair, replacement, and/or abandonment in the future, the Permittee shall submit the information described in Chapter 40E-3, F.A.C. for review by the SFWMD prior to initiating such activities. Reference: Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.101, 40E-3.411, and 40E-3.100-531, F.A.C.

j. Well Construction

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

k. Water Conservation Plan

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

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

- (1) Implementation of a leak detection and repair program;
- (2) Implementation of a recovery/recycling or other program providing for technological, procedural or programmatic improvements to the Permittee's facilities; and
- (3) Use of processes to decrease water consumption.

Development and implementation of an employee awareness program concerning water conservation. Reference: Sections 373.223, F.S.; Rules 40E-2.091(1), 40E-2.301, and 40E-2.381, F.A.C.

C. Surface Water Management Conditions

1. General Conditions

a. Professional Engineer Certificate

The operation of the surface water management system authorized under this Certification shall not become effective until a Florida Registered Professional Engineer certifies, upon completion of each phase, that these facilities have been constructed in accordance with the design approved by the SFWMD. Within 90 days after completion of construction of the surface water management system, the Permittee or authorized agent shall submit the engineer's certification and notify SFWMD staff in the Orlando Service Center Environmental Resource Compliance Division that the facilities are ready for inspection and approval. As part of such notification, the Permittee or authorized agent shall submit as-built drawings of the site. The as-built drawings shall include elevations, locations, and dimensions of components of the surface water management system. Reference: Sections 373.117 and 373.419, F.S.; Rules 40E-4.091(1)(a), 40E-4.301(1), and 40E-4.381(1)(f), F.A.C.

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

The Permittee shall prosecute the work authorized under this Certification in a manner so as to minimize any adverse impacts of the authorized works on fish, wildlife, natural environment values, and water quality. The Permittee shall institute

necessary measures during the construction period, including necessary compaction of any fill materials placed around newly installed structures and/or the use of silt screens, hay bales, seeding and mulching, and/or other similar techniques, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters. Reference: Sections 373.413(1) and 373.416(1) F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

c. Access Roads

The Permittee shall, whenever available, utilize adjacent existing roads for access to the transmission line right-of-way for construction, operation and/or maintenance purposes. Finger roads connecting the existing roads to the structure pads and access roads which must be constructed in areas where an existing road is not available shall be constructed in a manner which does not impede natural drainage flows and minimizes impacts to on-site and adjacent wetlands. Reference: Sections 373.413(1), 373.414, 373.416(1); Rules 40E-4.301 and 40E-4.381, F.A.C.

d. Discharge Structures

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

e. Off-Site Discharges

Off-site discharges during construction and development shall be made only through the discharge facilities authorized by this Certification. No roadway or structure pad construction shall commence on-site until completion of the permitted discharge structure and detention areas. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream water stages. Stages may be subject to operating schedules satisfactory to the SFWMD. Reference: Sections 373.413(1) and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

f. Correction of Water Quality Problems

The Permittee shall be responsible for the correction of any sedimentation, turbidity, erosion, shoaling and/or other water quality problems that result from the construction, operation, and/or maintenance of the works authorized under this Certification. Reference: Sections 373.413(1) and 373.416(1); Rules 40E-4.091(1)(a), 40E-4 301, and 40E-4.381, F.A.C.

g. Additional Water Quality Requirements

The Permittee may be required to incorporate additional water quality treatment methods into the surface water management system if such measures are shown to be necessary. Reference: Sections 373.413(1), and 373.416(1); Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4 381, F.A.C.

h. Dike Designs for Minor Impoundments

Dike designs for minor impoundments shall be in accordance with commonly accepted engineering principles and State laws. Side slopes shall be no steeper than 2:1 (horizontal to vertical) and top widths no less than five feet. Reference: Sections 373.413(1), 373.414, and 373.416(1); Rules 40E-4 301 and 40E-4 091(1)(a), F.A.C., including Appendix 6.

i. Minimum Freeboard for Minor Impoundments

The minimum freeboard for minor impoundments above the maximum water depth shall be equal to the maximum water depth dimensions but not less than two feet nor more than three feet. Reference: Sections 373.413(1), 373.414, and 373.416, F.S.; Rules 40E-4.301 and 40E4.091(1)(a), F.A.C., including Appendix 6.

j. Modifications

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

2. Site Specific Design Requirements

a. Design Storm Event

The Design storm event shall be the 10 year/72 hour storm event for peak discharge, the 10 year/24 hour storm event for minimum road and parking lot elevations, and the 100 year/72 hour storm event for minimum finish floor elevations.

b. Water Quality Treatment

Water quality treatment shall be provided for the greater of the first inch of runoff or 2.5 inches times the percentage of impervious coverage.

c. Wet Detention Ponds

Wet detention ponds shall comply with minimum District area and dimensional criteria as measured at the normal control elevation.

d. Wetland Discharges

Discharges to wetlands shall be via a spreader swale sized to reduce discharge velocities to non-erosive rates. Reference: Sections 373.413 and 373.414, F.S.; Rules 40E-4 091, 40E4 301, and 40E-4.3 8 1, F.A.C.

3. Additional Information Requirements

a. Expansion Area Construction Plans

Prior to the commencement of construction of any portion of the proposed project within the expansion area, all construction activities for that portion of the proposed project that may obstruct, divert, control, impound or cross water's of the state must be reviewed by the SFWMD for a determination of compliance with Chapters 40E-2 and 40E-4, F.A.C. All plans, documents, and calculations shall be signed and sealed by a Professional Engineer registered in the State of Florida. For all construction activities, the following information shall be submitted:

- (1) If control elevations are revised for any portion of the proposed surface water management system, revised soil storage calculations;
- (2) Detailed plans of all proposed roads, parking lots and building pads which

demonstrate compliance with Osceola County and SFW-I1) flood protection criteria;

(3) Cross-sections of all proposed control structures which demonstrate compliance with SFWMD water quality and quantity criteria. Reference: Sections 373.413(1), 373.413(2), and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

b. Transmission Line Construction Plans

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

- (1) A centerline profile of existing topographic features along the proposed access/maintenance road(s);
- (2) A preliminary design of the proposed access/maintenance and finger road(s) with elevations marked;
- (3) A typical cross-section of the proposed access/maintenance and finger road(s);
- (4) Specifications showing the location of each transmission tower, finger and access/maintenance road, culvert, and/or other related structure or facility to be constructed, including all areas to be filled or excavated,
- (5) Specifications, including supporting assumptions and calculations, showing the type and size of water control structures

(pipe, culvert, equalizer, etc.) to be used, with proposed flowline elevations marked, drainage areas identified and design capacity verified;

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

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

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

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

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

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

c. Surface Water Quality Monitoring Program

(1) Within three months of issuance of this Certification, the Permittee shall submit for review and approval by the SFWMD, a surface water quality monitoring program which monitors all off-site discharges from

the surface water management system into the on-site wetlands.

(2) While the program may incorporate additional monitoring requirements and parameters required by other agencies, it shall include the following parameters and time frames at a minimum:

<u>SCHEDULE</u>	<u>PARAMETERS</u>
A. General (Every Other Month)	Total Organic Carbon, Dissolved Oxygen, pH, Turbidity, Specific Conductance, Chemical Oxygen Demand, Total suspended Solids, and Alkalinity.
B. Organics (Semi-annual)	Oil and Grease, Detergents, Epa Methods 601 and 602.
C. Metals (Semi-annual)	Aluminum, Antimony, Arsenic, Beryllium, Cadmium, Copper, Cyanide, Iron, Lead, Mercury, Nickel, Selenium, Silver, Zinc.

(3) Water quality samples shall be taken at the above noted locations in accordance with the above schedule during periods of discharge. The Permittee shall provide such data to the SFWMD as volumes of water discharged, including total volume discharged during the days of sampling, and total discharges from the property or into surface waters of the state. A laboratory certified by the State of Florida shall be responsible for all water quality analysis under (1)B and (1)C above. Reports shall be submitted to the SFWMD on a semi-annual basis. Initial sampling results shall be reported to the SFWMD no later than six months following the issuance of this Certification.

(4) The SFWMD will evaluate monitoring requirements to determine whether the discharge degrades receiving waters and conforms to State water quality standards as

defined in Chapter 62-17.302, F.A.C. If water quality problems develop, the SFWMD reserves the right to require more frequent sampling and more thorough analyses in order to provide assurances that the discharges will not cause additional off-site water quality impacts.

Reference: Section 373.413(1), 373.413(2), and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4 301, and 40E-4.381, F.A.C.

d. Hazardous Materials Management

Prior to the commencement of construction of this project, the Permittee shall submit a copy of the Comprehensive Hazardous Materials and Waste Management Plan for the Cane Island Power Park to the SFWMD for a determination of compliance with the requirements of Chapter 40E-4, F.A.C. The plan shall provide an adequate level of detail for early warning and detection of hazardous materials within the shallow groundwater. At a minimum, the plan shall include a groundwater monitoring network (including proposed up-gradient and down-gradient locations of monitoring, wells) and shall be prepared by a hydrogeology consultant. The plan shall provide an adequate level of detail for early warning and detection of hazardous materials within the shallow groundwater. Reference: Section 373.413(1), 373.413(2), and 371.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

D. Environmental Conditions

1. General

a. Wetland Avoidance

The Permittee shall avoid impacting wetlands within the power plant site and transmission line corridor wherever practicable. Where necessary and feasible, the location of the facilities shall be varied to eliminate or reduce wetland impacts. Reference: Sections 373.413(1), 373.414, and 373.416(1) F.S.; Rules 40E-4 09 I (l)(a), 40E-4-301, and 40E-4 38 1, F.A.C.

b.. Fill Materials

No fill materials shall be obtained from excavated wetlands within the project site, unless in accordance with a mitigation

plan submitted in compliance with the conditions of this Certification. Reference: Sections 373.413(1), 373.414, and 373.416(1) F. S.; Rules 40E-4.191 (1)(a), 40E-4.301, and 40E-4.381, F.A.C.

c. Additional Wetlands Mitigation

The Permittee may be required to provide additional mitigation and/or other measures if wetland and/or upland monitoring and/or other information demonstrates that adverse impacts to protected, restored, conserved, incorporated, and/or mitigated wetlands have occurred as a result of project-related activities. Reference: Sections 373.413, 373.414, and 373.416, F.S.; and Rules 40E-4.091, 40E-4.301, and 40E-4.381, F.A.C.

d. Additional Environmental Review

The Permittee shall submit any proposed changes in land use, project design, and/or the treatment of on-site wetlands for additional environmental review in order to determine whether any additional mitigation activities will be required. Reference: Sections 373.413, 373.414, and 373.416, F.S.; and Rules 40E-4.091, 40E-4.301, and 40E-4.381, F.A.C.

2. Additional Information Requirements

a. Wetlands Protection

Prior to the commencement of construction of any facilities located adjacent to the wetlands identified for preservation, the Permittee shall:

(1) Field stake and rope off the perimeter of the protected wetlands and buffer zones to prevent encroachment into the wetlands. The Permittee shall notify the SFWMD's Environmental Compliance staff in writing upon completion of roping and staking, and schedule an inspection of this work. The staking and roping shall be subject to SFWMD staff approval. The Permittee shall modify the staking and roping if SFWMD staff determines it is insufficient or is not in conformance with the intent of this Certification. Staking and roping shall remain in place until all adjacent construction activities are complete; and

(2) Install silt screens, hay bales or other such sediment control measures during construction. The selected sediment control measures shall be installed landward of the upland buffer zones around all protected wetlands. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the wetlands and upland buffer zones.

Reference: Sections 373.413, 373.414, and 373.416 F.S.; Rules 40E-4.091, 40E4.301, and 40E-4.381, F.A.C.

b. Preserved Wetlands Monitoring Plan

Prior to the commencement of construction, the Permittee shall submit to the SFWMD for review and approval, a monitoring plan designed to document the condition of the wetlands designated for preservation/enhancement on the project site. This plan may be part of a monitoring program designed to document the condition of all preserved on-site areas. However, at a minimum, the plan shall include the following:

- (1) Provisions for both quantitative and qualitative observations of wildlife and macro invertebrate utilization;
- (2) Monthly water level readings;
- (3) Panoramic photographs documenting the condition of the wetlands;
- (4) An evaluation of the success of the preservation/enhancement effort; and
- (5) An annual report which includes the above and any other relevant information.

Reference: Sections 373-413(1), 373.413(2), 373.414 and 373.416(1) F.S.; Rules 40E4 091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

c. Transmission Line Wetland Impacts

Prior to the construction of any portion of the proposed transmission line, the details of the proposed wetland impacts

must be submitted to the SF\VMD for a determination of compliance with Chapters 40E-2 and 40E-4, F.A.C. All plans, documents, and calculations shall be signed and sealed by a Professional Engineer registered in the State of Florida. For all activities, the following information shall be submitted:

- (1) Specific acreage figures, locations, and jurisdictional limits of all wetlands, both within the transmission line right-of-way and adjacent to it, impacted by the proposed construction activities, including an explanation as to why there are no feasible alternatives to the proposed design if wetland impacts are unavoidable;
- (2) Identification of all proposed clearing activities, both horizontal and vertical;
- (3) Aerial photographs, at a minimum scale of 1"=200', which show the locations of the proposed facilities/alignments and all of the wetlands, including those within and adjacent to the project site and the access road right-of-way that would be impacted by the proposed construction activities;
- (4) Design drawings showing the plan view and cross-sectional details for the proposed crossing of Reedy Creek, including the wetland limits, the creek channel limits, the normal high water elevation, and seasonal high water elevation; and
- (5) Documentation that the proposed excavation activities will not adversely impact off-site wetlands.

Reference: Sections 373.413(1), 373.413(2), 373.414, and 373.416(1) F.S.; Rules 40E4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.

d. Transmission Line Mitigation Plan

Prior to the construction of any portion of the proposed transmission line, a mitigation plan to offset any wetland impacts associated with the proposed transmission line must be submitted to the SFWMD for a determination of compliance with

Chapters 40E-2 and 40E-4, F.A.C. The plan shall include the following:

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

(2) A timetable for accomplishing the proposed mitigation activities concurrently with the construction of the transmission line and any associated wetland impacts, unless documentation for doing otherwise is submitted and approved in writing prior to the commencement of construction;

(3) A detailed monitoring and maintenance program designed to ensure the survival and success of any created, restored, or enhanced wetlands, which is predicated on a guaranteed survival or coverage of 80% of the appropriate wetland vegetation. At a minimum, the monitoring plan shall be conducted for a period of 5 years, with reports submitted to SFWMD staff annually, and all monitoring stations identified on a plan view; and

(4) A letter requesting deduction of mitigation credits from the mitigation credit account established under Surface Water Management Permit No. 49-00672-S. The letter shall include a complete list of the applicant's names, application numbers and credits withdrawn of each of the previously-issued permits for which credits were withdrawn to offset adverse wetland impacts. In addition, the letter shall include the applicant's name, project name, application number and number of credits for which application is made to deduct under the current application. The letter shall also include the subtotal of credits remaining prior to the applied for deduction and the total remaining credits subsequent to the

proposed deduction. The SFWMD's construction authorization letter will acknowledge and confirm the remaining balance of available credits after the proposed and approved deduction.

Reference: Sections 373.413(1), 371.413(2), 373.414, and 373.416(1) F.S.; Rules 40E-4.091(1)(a), 40E-4.301, 40E-4.331(2)(b), and 40E-4.381, F.A.C.

3. Water Supply and Development

a. All process, service, and potable water requirements (except for cooling tower makeup water) will be supplied by the two existing and four proposed onsite wells. The wells withdraw from the Floridan aquifer. The two existing wells are currently permitted under SFWMD Water Use Permit 49-00671 -W with an annual allocation of 74.8 million gallons (MG), and a maximum daily allocation of 0.26 MG. With the addition of Unit 3 to the Power Park, the estimated total usage of ground water is 0.22 MGD under normal operating conditions using the primary fuel (natural gas) and up to 0.78 MGD when additional process water is required for control of nitrogen oxides associated with the use of the backup fuel (No. 2 oil).

b. The maximum daily allocation from the Floridan aquifer wells, under normal operating conditions, is 0.22 MG. The annual allocation from the Floridan aquifer wells, emergency cooling tower makeup water and the additional process water required for the use of the backup fuel (No. 2 oil), is 186.8 M&.

c. Cooling tower makeup water will be obtained from the City of Kissimmee reclaimed water pipeline. The cooling tower makeup water requirement is 2.9 MGD with all units at full load. During those times when reclaimed water is unavailable (due to treatment plant breakdowns, reclaimed water conveyance line breaks, etc.), the backup water supply will be from the six Floridan aquifer wells. This use will be on an emergency basis, pending the repair of the reclaimed supply system. These interruptions are not expected to exceed 30 days per year.

d. The applicant has indicated that the construction of the neutralization basin and the oil-water separator will require temporary dewatering for a period of up to four months. The applicant estimates that the dewatering volume will be less than 1 MGD and has proposed the use of a wellpoint system with

the dewatering water being discharged 'into the existing surface water management system. Staff agrees with the applicant that the potential for adverse impacts resulting from the proposed dewatering activity is minimal.

5. Surface Water Management

a. Prior to the commencement of construction, detailed paving, grading and drainage plans must be provided which specify the final locations of the proposed water management areas, indicate the on-site and perimeter site grade, and confirm the internal routing of surface water discharges within the project site as well as the location of the proposed discharge facilities to Reedy Creek Swamp.

b. Prior to the commencement of construction, final control elevations and supporting calculations, certified by a Florida Registered Professional Engineer must be provided. Supporting plans and detail sheets, including cross-sections of the proposed control structures, shall demonstrate compliance with the SFWMD's water quality and quantity criteria.

c. Prior to the commencement of construction, final calculations must be provided which confirm that the roads and buildings planned as part of this project will meet the 10 year/1 day and 100 year/3 day design storm events, respectively.

d. Prior to the commencement of construction, a detailed drainage analysis of the contributing drainage area and culvert sizing calculations shall be submitted for all culvert crossings of the transmission line access/service roadway.

6. Wetlands Impact and Mitigation

a. Mitigation is required to offset 1.8 acres of direct, permanent dredge and fill impacts and 12.9 acres of hand clearing, light track shear-machine clearing, and topping in mixed hardwood and cypress strand forest. Mitigation to offset the above-described impacts will be partially accomplished through the hydrologic enhancement of approximately 3 acres of cypress. A 3-acre lobe of a strand system has been historically severed from the downstream portion by the establishment of a ditched and bermed access trail. A hydrologic connection will be re-established with the installation of culverts and filling of the ditches that run parallel to the trail. These activities are estimated to offset 1 acre of direct impact.

b. In addition to the above described enhancement activities, 1.6 credits (to offset the remaining 0.8 acre of direct impact), and 6.45 credits (to offset the 12.9 acres of hand-clearing and topping impacts) will be deducted from the mitigation credit account established under previous permitting, thus leaving a balance of 36.95 credits.

c. A letter requesting deduction of the credits shall be submitted by the Permittee and approved by the SFWMD prior to initiation of construction.

XXIV. DEPARTMENT OF COMMUNITY AFFAIRS

A. Hurricane Preparation Plan

KUA and FMPA shall develop a comprehensive hurricane preparation and recovery plan for the Cane Island Power Park. The plan shall be submitted to the Department of Community Affairs and the Osceola County Office of Emergency Management no later than commencement of construction for Unit 3. KUA and FMPA shall formally update the plan every 5 years following commercial operation of Unit 3 or whenever an additional power generating unit is brought into commercial service at the Power Park and shall submit these updated versions of the plan to the Department of Community Affairs and the Osceola County Office of Emergency Management.

B. Plan Compliance

If the Department of Community Affairs deems the plan or any of its periodic updates not to be in compliance with the requirements of this condition, it may petition for enforcement of this condition pursuant to the Florida Electrical Power Plant Siting Act.

XXV. DEPARTMENT OF TRANSPORTATION

A. Access to State Highways

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. Historical or Cultural Resources

The applicant will ensure that the weights and heights of construction and/or tanker trucks will not exceed the limits for the SR 600 bridge over Reedy Creek (which has been determined to have cultural value) and the South Orange Blossom Trail Bridge (which has been determined to have historical value). If any overweight or overdimensional vehicles are operated by the applicant, the applicant shall comply with the appropriate provisions of Sections 316.535 and 316.550, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permitting Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code, including submission of information and fees.

C. Transmission Line Construction

If any use of State of Florida right-of-way or transportation facilities is later proposed, such usage will be subject to the requirements of the Department of Transportation's Utility Accommodation Guide, Rule Chapter 14-46, Railroad/Utility Installation or Adjustment, Florida Administrative Code.

D. BEST MANAGEMENT PRACTICES

1. It is recommended that the applicant encourage transportation demand management techniques by doing the following Placing a bulletin board on site for car pooling advertisements. Requiring that heavy construction vehicles remain onsite for the duration of construction except as may be necessary to facilitate delivery of heavy machinery or equipment transported by rail.

2. It is anticipated that 25% of the construction work force associated with construction of Cane Island Unit 3 is expected to car pool each day. In an effort to minimize level of service impacts on the State Highway System resulting from this project, the incoming route recommended for the construction workers is through Intercession City to the junction of Old Tampa Highway and U.S. Highway 17/92, then east on Old Tampa Highway to the site entrance. The applicant is encouraged to inform employees and contractors of this preferred route.

3. 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.

4. While the applicant has stated an intent to use contractors for the delivery of any overweight or overdimensional loads to the site during the construction of the additional unit, the applicant should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Sections 316.535 and 316.550, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permitting Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.