

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**IN RE: FLORIDA POWER & LIGHT
COMPANY CAPE CANAVERAL ENERGY
CENTER POWER PLANT SITING
APPLICATION NO. PA08-53**

**DEP OGC Case No. 08-2971
DOAH Case No. 09-0039EPP**

FINAL ORDER APPROVING SITE CERTIFICATION

This matter is before me as Secretary of the Department of Environmental Protection ("FDEP" or "Department") for the purpose of entering a Final Order under Sections 403.508(6), 403.509(1)(a), and 403.509(3), Florida Statutes.

BACKGROUND

On September 2, 2009, the Administrative Law Judge ("ALJ") assigned by the Division of Administrative Hearings ("DOAH") issued an order canceling hearing, relinquishing jurisdiction, and closing file. The order granted the parties' request to cancel the certification hearing and relinquish jurisdiction in accordance with Section 403.508(6), Florida Statutes. The order was issued pursuant to a Joint Stipulation and Motion of the Parties to Cancel Certification Hearing and to Relinquish Jurisdiction ("Joint Stipulation"). The Joint Stipulation stated that no disputed issues of fact or law remain to be raised at the site certification hearing. The Joint Stipulation stated that the parties' requested cancelation of the site certification hearing originally scheduled to begin on September 21, 2009, and did not object to entry of a Final Order by the Department. Therefore, under Section 403.509(1)(a), Florida Statutes, the Department is required to prepare and enter a Final Order.

PARTIES

The following are the parties to this site certification proceeding, pursuant to Section 403.508(3)(a), Florida Statutes: Florida Power & Light Company ("FPL"), FDEP, Department of Community Affairs ("DCA"), Florida Department of Transportation ("FDOT"), the St. Johns River Water Management District ("SJRWMD"), Brevard County, the East Central Florida Regional Planning Council ("ECFRPC") and the Florida Fish and Wildlife Conservation Commission ("FWC"). Those parties have been granted party status by statute or have timely filed a Notice of Intent to be a Party pursuant to Section 403.508(2)(b), Florida Statutes. No other agency filed a Notice of Intent to be a Party before the 90th day prior to the scheduled certification hearing. Further, no third person has intervened in this proceeding as of the statutory deadline for intervention.

STATEMENT OF THE ISSUE

The issue to be decided in this proceeding is whether FDEP, acting in lieu of the Siting Board, should approve certification in accordance with the Florida Electrical Power Plant Siting Act ("PPSA"), Sections 403.501, *et seq.*, Florida Statutes, authorizing FPL to convert the existing 43-year-old Cape Canaveral Plant [two nominal 400-megawatt ("MW") conventional dual-fuel fired generating units and support facilities] into a more efficient energy facility using combined cycle technology. The existing Cape Canaveral Plant will be renamed the Cape Canaveral Energy Center ("CCEC"). The certification would be subject to the agencies' proposed Conditions of Certification set forth in Exhibit A to the Joint Stipulation.

PRELIMINARY STATEMENT

On December 30, 2008, FPL filed its application for site certification for the CCEC Project. On February 9, 2009, the Department filed a determination of

incompleteness for the Project application. On March 11, 2009, FPL submitted its responses to the determination of completeness issued by DEP. On April 2, 2009, DEP determined the application to be complete.

Under Section 403.519, Florida Statutes, the PSC issued its determination of need for the Project on September 12, 2008. On August 10, 2009, DEP issued its Staff Analysis Report ("SAR"), under Section 403.507, Florida Statutes. The SAR contains a compiled set of recommended Conditions of Certification for the Project from FDEP, SJRWMD, FWC, DCA, FDOT, ECFRPC, Florida Department of State – Division of Historical Resources ("FDHR"), and Brevard County. Based on further discussions between the parties, a final set of Conditions is attached as Exhibit A hereto (also attached as Exhibit A to the Joint Stipulation).

A site certification hearing was scheduled to be held in Brevard County, beginning on September 21, 2009. As required by Section 403.5115(1)(e) and (4)(f), Florida Statutes, notice of that hearing was timely published by FPL in the Florida Today in Brevard County and by DEP in the Florida Administrative Weekly. No party to this proceeding is objecting to, or recommending denial of, final certification for the Project, subject to the proposed Conditions of Certification.¹ The purpose of the site certification hearing would have been to allow FPL and the other agency parties to establish an evidentiary record to support the ALJ's issuance of a Recommended Order to the Siting Board. However, since no party to this proceeding objected to or recommended denial of final certification for the Project, the parties submitted a Joint Stipulation to the ALJ addressing certification issues and recommending the cancellation of the certification

1. In the Joint Stipulation, the agency parties stipulated to the facts set forth within the respective agency subsections, headed by the agency name, which address matters within that agency's knowledge or subject matter jurisdiction.

hearing. In the Joint Stipulation, all parties agreed that FPL's CCEC Project should be certified subject to the proposed Conditions of Certification set forth in Exhibit A to the Joint Stipulation. The parties also recommended that the ALJ relinquish jurisdiction and return the case to FDEP for entry of a Final Order pursuant to Section 403.509(1)(a), Florida Statutes. The ALJ timely issued an order relinquishing jurisdiction on September 2, 2009, granting the parties' request to cancel the certification hearing. As required by Section 403.5115(1)(g) and (4)(h), Florida Statutes, notice of cancelation of the certification hearing was published by FPL in the Florida Today in Brevard County on September 18, 2009, and by DEP in the Florida Administrative Weekly on September 11, 2009.

FINDINGS OF FACT²

The Applicant & Proposed Project

1. FPL, a subsidiary of FPL Group, Inc., is the largest electric utility in the State of Florida. FPL serves approximately 4.5 million customer accounts, and approximately 8 million customers, in all or parts of 35 Florida counties.

The Existing Cape Canaveral Plant

2. The existing Cape Canaveral Plant ("PCC") Site is located between Cocoa and Titusville, in unincorporated Brevard County, Florida. The commercial in-service dates for Units 1 and 2 were April 1965 and May 1969, respectively. The PCC Site is bounded on the east by the Indian River Lagoon ("Intracoastal Waterway"), on the west by U.S. Highway 1, on the south by Cottrell Avenue, and on the north by a private

² The parties stipulated or did not object to the factual findings. These factual findings are supported by reference to the Site Certification Application (SCA), FPL's Responses to Completeness Comments (Completeness Responses), and the DEP's SAR dated August 10, 2009, and attachments thereto.

medical/office facility. The PCC Site includes the land that extends east into the Intracoastal Waterway, which is also referred to as "the peninsula." This man-made peninsula is a functioning and integral component of the Site and the PCC operations; specifically, the peninsula was constructed by FPL to serve as a barrier for thermal discharge between the Plant intake and discharge structures. In addition, the peninsula has a functioning barge slip that serves the Plant and that includes leased sovereign submerged lands.

The Cape Canaveral Energy Center Project

3. FPL proposes to convert the existing 43-year-old Cape Canaveral Plant [two nominal 400- megawatt (MW) conventional dual-fuel fired generating units and support facilities] into a more efficient energy facility using combined cycle technology. The converted plant will be located within the existing Plant Site boundaries. The conversion is intended to result in increased power generation without using additional land and water sources. The converted plant will be more energy efficient than the existing plant and provide cleaner energy to FPL's customers. The converted plant is expected to use at least 33 percent less fuel than the existing plant, for an equivalent amount of electricity production. It should be capable of producing nearly 54 percent more electricity (i.e., 1,250 MW vs. current 800 MW). The CCEC is projected to have an in-service date of about June 2013. The project includes the certification of CCEC, a construction laydown and parking area, and a minor upgrade to existing transmission.

4. CCEC will be a 3-on-1 combined cycle unit, which will consist of three new advanced combustion turbines ("CT") and one steam turbine/electric generator. Each CT will be connected to a heat recovery steam generator ("HRSG"). The HRSG will use the waste heat energy from the CTs to produce steam to be utilized in a new steam

turbine/electric generator. The CTs are similar to, but much larger and more efficient than, traditional jet engines. The CTs produce electrical energy by direct connection to an electric generator. The exhaust heat from the CTs, which would otherwise be wasted energy released to the atmosphere, will be routed through the HRSG.

5. HRSGs act as boilers to produce steam for the new turbine generator to produce additional electricity. The HRSGs will have duct burners to maximize the converted plant's generating capacity. Natural gas will be the primary fuel for the converted plant. Ultra low-sulfur light oil will be used as a backup fuel for the CTs. The primary cooling water source for CCEC will be the Intracoastal Waterway, which will continue to provide once-through cooling water. The existing municipal water supply will continue to be used for process water. By using natural gas as a primary fuel, the converted plant will tend to minimize air emissions and should be among the cleanest and most efficient fossil fuel-fired electric power generating plants of its type in the State of Florida.

6. Decommissioning and dismantling of the existing generating units will be part of the project and will be required prior to the construction of CCEC. Certain components, such as the cooling water intake and discharge infrastructure and the transmission facilities, will remain intact for use with the converted plant.

Architectural or Historical Sites

7. The Florida Master Site File ("FMSF") lists no previously recorded archaeological resources within or adjacent to (within 500 feet) the Site boundaries. The FMSF does list one previously recorded archaeological site (Jones Point) within 5 miles of the Project. Jones Point contains a low-density artifact scatter of lithics and ceramics, but the site has not been evaluated for eligibility on the National Register.

The FMSF search did not discover any previously recorded historic structures, historic districts, historic cemeteries, historic bridges, or historic linear resources within 500 feet of the Project.

8. A historic resources reconnaissance investigation was conducted in September 2008 that included a pedestrian survey of the FPL Cape Canaveral Plant Site and a windshield survey of properties within 500 feet of the Site. An architectural historian and one technical assistant identified and mapped any significant historic buildings, structures, objects, and districts built before or during 1960. The historic resources investigation did not identify any historic resources eligible for listing on the National Register.

9. The FMSF lists no previously recorded archaeological sites within or adjacent to (within 500 feet) the offsite construction laydown and parking area. There are no previously recorded historic structures, bridges, cemeteries, districts, or linear resources identified within 1 mile of the offsite construction laydown and parking area.

Construction

10. Project dismantlement and construction will last approximately 3 years with a peak period of about 12 months (mid-2012). Dismantlement of the existing plant is anticipated to begin in the spring of 2010 and project construction to conclude in the summer of 2013. During the dismantlement of the existing plant, workers will be employed that are specialized in removing recyclable materials and dismantling equipment, removing insulation, preparing structures for demolition and material removal.

Determination of Need

11. Based upon the Florida Public Service Commission's Final Order (PSC-

08-0591-FOF-EI), issued on September 12, 2008, the conversion of the Cape Canaveral Energy Center with an in-service date of 2013 is the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes. The Commission found that there was a need for the conversion of the existing Cape Canaveral Plant because it will result in a reduction of dependence on natural gas and fuel oil. Building coal or nuclear generation by 2013 is not feasible because of the construction and permitting lead times for those types of generation. The conversion will also lead to an overall increase in FPL's generating system efficiency of 1.1 percent. See Order No. PSC-08-0591-FOF-EI (Fla. P.S.C. Sept. 12, 2008).

Brevard County

Land Use

12. The CCEC Site is located on the same approximately 43 acres now occupied by the existing Cape Canaveral Plant. The Site is located between Cocoa and Titusville in unincorporated Brevard County, Florida. The Site is situated in a portion of Section 19, Township 23, and Range 36 and bounded on the east by the Intracoastal Waterway, on the west by U.S. Highway 1, on the south by Cottrell Avenue, and on the north by a private medical/office facility. The Site consists of about 41.4 acres of FPL-owned property that includes the land which extends east into the Intracoastal Waterway, which is also referred to as the peninsula. The peninsula is a functioning and integral component of the Cape Canaveral Plant operations; specifically, the peninsula was constructed by FPL in the mid-1960s to serve as a barrier between the Plant intake and discharge structures. The peninsula includes a fuel oil barge unloading facility. The Site also includes a barge slip comprised of about 1.5 acres of submerged land leased from the State of Florida.

13. The existing Cape Canaveral Plant consists of two nominal 400-MW electrical generating units with conventional dual-fuel fired steam boilers and steam turbine generators. Each of these conventional steam boilers can burn No. 6 fuel oil or natural gas. Unit 1 entered service in 1965 and Unit 2 entered service in 1969. Existing onsite support facilities include service buildings, an administration building, fuel oil tanks, water treatment facilities, once-through cooling water intake and outfall structures, wastewater treatment basins and an onsite gas pipeline and gas yard leased by Florida Gas Transmission ("FGT"). Offsite support facilities to be certified that are located on the west side of U.S. Highway 1 include a well field, transmission lines, and a substation. The Project will be located on the existing Cape Canaveral Plant Site.

14. The CCEC site is designated as Public Facility under the existing future land use map of the Brevard County Comprehensive Plan's future land use element. Pursuant to Section 403.5175(3), Florida Statutes, the land use and zoning requirements are not applicable to CCEC. Therefore Brevard County did not conduct a land use determination. The County represents that there are no County nonprocedural requirements not specifically listed in the Application from which a variance, waiver, exemption or other relief is necessary in order for the proposed site and associated facilities to be certified.

15. In its July 13, 2009, agency report, the County recommended approval of the certification of the Site and associated facilities proposed, subject to compliance with the recommended Conditions of Certification incorporated into DEP's SAR.

Noise

16. Taking together the baseline noise levels (dominated by traffic on U.S. Highway 1) and the construction time periods, estimated construction noise levels are

not expected to adversely impact the residential and commercial land use areas identified in the vicinity of the Site.

17. Noise from construction activities also is not anticipated to significantly affect wildlife in the vicinity of the Site. Presently, the area experiences noise from U.S. Highway 1, human activity, and the operation of the existing Plant. Wildlife that occurs in the vicinity of the Site is acclimated to such activities. No noise-sensitive wildlife is known to occur on the Site or in its vicinity since wildlife in the area would have been acclimated to noise associated with the existing Plant operations.

18. There are no State of Florida noise regulations that are applicable for the operation of CCEC. However, based on the results of the computerized noise modeling analysis, the maximum sound levels predicted to be emitted from CCEC operation will not exceed the maximum permissible sound levels in Section 62-2271(c) of Brevard County's Land Development Regulations.

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Threatened or Endangered Species

19. Manatees, which are protected under the Endangered Species Act and the Marine Mammal Protection Act, have regularly been observed in the vicinity of the existing Plant's cooling water intake and discharge system. The converted CCEC will continue to provide a wintertime thermal refuge for manatees. With the converted CCEC having a higher capacity factor than the existing Plant, the thermal refuge is expected to be more consistent than the existing Plant and will continue long into the future.

20. Operation of the existing Plant will cease prior to dismantlement and construction activities associated with the conversion Project. Consequently, there will

be a 3-year period until operation of CCEC commences, during which the normal warm water discharge will not occur. FPL has developed a plan, pursuant to the requirement of the DEP Industrial Wastewater Permit for the Plant, the PPSA and the FWC's authority, to avoid potential impacts to manatees during this 3-year period. Specifically, FPL will install an electric heater to act as a temporary "manatee heating system" to discharge warm water while the Plant is offline for conversion to CCEC. Warm water will be discharged from November 15 through March 31 (to coincide with the time of greatest manatee abundance), if the ambient water temperature falls below a specified trigger temperature. Under the FWC's final recommended Conditions of Certification, which have been included in Exhibit A hereto, the manatee protection ambient water trigger temperature, during the period the interim heating system is required, shall be 65°F. The interim heating system shall provide a water temperature at or above 68°F within the identified warm water refuge until the ambient temperature again reaches 65°F. FPL is required to develop and implement a Best Management Plan applicable to the interim heating system, and also must meet new environmental and biological monitoring requirements during the interim period.

21. Gopher tortoises, a state-listed threatened species, were identified at the construction laydown and parking area during the ecological assessment in April and December 2008. Gopher tortoises are protected under Chapter 68A-27.004, Florida Administrative Code. If a setback of 25 feet from gopher tortoise burrows cannot be maintained during construction activities, gopher tortoises must be relocated pursuant to FWC guidelines. FPL will comply with FWC guidelines. Tortoises recovered from these burrows will be relocated to an approved recipient site.

22. Florida scrub jays, classified by both the U.S. Fish and Wildlife Service

("USFWS") and FWC as a threatened species, were observed within and adjacent to the construction laydown and parking area in areas of upland scrub, pine, and hardwoods. To the extent practicable, impacts to scrub jay habitat will be minimized and/or avoided. Any unavoidable impacts to scrub jay habitat will be addressed in consultation with the USFWS, FWC, and Brevard County, and mitigation provided in accordance with regulatory agency guidelines. Under the Endangered Species Act, impacts to occupied scrub jay habitat require an incidental take permit from the USFWS, for the "taking" of occupied scrub jay habitat. An approved Habitat Conservation Plan ("HCP") is required in order to obtain an incidental take permit. The HCP describes existing conditions, avoidance/minimization efforts, impact assessment, alternatives, and proposed mitigation to offset the loss of scrub jay habitat. If unavoidable impacts to occupied scrub jay habitat will occur, FPL will prepare a HCP in association with an incidental take permit in consultation with the USFWS, FWC, and Brevard County SCDP, prior to utilization of the laydown and parking area for the construction activities associated with CCEC.

FDEP

Separate Air Construction Permitting

23. FDEP's Division of Air Resource Management regulates major air pollution sources in accordance with Florida's Prevention of Significant Deterioration ("PSD") program, as defined in Rule 62-212.400, Florida Administrative Code. For new major facilities, or for modifications to existing facilities, each registered air pollutant is reviewed for PSD applicability based on emissions thresholds known as Significant Emission Rates ("SER"). When emissions from Unit 3 are considered and offset by reductions from the shut down and dismantlement of Units 1 and 2, there will not be a

significant net emission increase in any PSD pollutant. Accordingly, PSD review does not apply to the CCEC Project.

24. Best Available Control Technology ("BACT") review is required under FDEP and U.S. Environmental Protection Agency ("EPA") regulations pertaining to PSD. However, BACT review is required only for those pollutants that trigger PSD review. Although PSD review is not required for the Project, the emission limits proposed for CCEC appear to be reflective of BACT.

25. On July 23, 2009, FDEP issued a separate Air Construction Permit for the CCEC Project. FDEP has made a determination that the proposed CCEC Project will comply with all applicable state and federal air pollution regulations as conditioned by the final Air Construction Permit. This determination is based on a technical review of the complete application, reasonable assurances provided by the applicant, the emissions standards determinations, review of the air quality impact analysis, and the conditions specified in the permit.

Air Emission Controls & Impact Analysis

26. The use of clean fuels (i.e., natural gas and ultra low-sulfur light oil), combustion controls, and air pollution control equipment will minimize air emissions and ensure compliance with applicable emission-limiting standards. Using clean fuels will minimize emissions of sulfur dioxide ("SO₂"), particulate matter ("PM/PM₁₀") and other fuel-bound contaminants. Combustion controls will minimize the formation of nitrogen oxides ("NO_x") and the formation of carbon monoxide ("CO") and volatile organic compounds ("VOC") by combustor design. Further NO_x reduction will be achieved by installation and operation of selective catalytic reduction ("SCR"). The combination of these techniques has been determined to represent BACT on previous projects based

on an evaluation of economic, energy, and environmental impacts. In general, the CCEC Project will reduce actual emissions of air pollutants by more than 19,000 TPY from the existing operation or more than a 90-percent reduction.

27. Because the net emissions changes resulting from the Project will be less than the PSD significant emission rates, an air quality impact analysis is not required by NSR under FDEP air regulations. However, as a supplement to the Air Construction Permit Application included with the SCA, air quality impacts were estimated for the existing Plant and CCEC in the vicinity of the Site for comparison to state ambient air quality standards ("AAQS"). Based on these air quality modeling analyses, the maximum pollutant concentrations due to CCEC are predicted to be less than the AAQS and will comply with all applicable AAQS. The modeling results demonstrate that Florida's air quality will be protected and be improved with the converted Plant.

Carbon Dioxide Emissions

28. Emissions of carbon dioxide ("CO₂") directly relate to the quantity of combusted fossil fuel. The more fuel consumed, the more carbon released into the atmosphere. As technologies improve, electric generating facilities of all types are constructed with greater and greater efficiencies. Higher efficiency units require less fuel for equal amounts of energy production. This translates to fewer overall carbon emissions from the more efficient units.

29. The maximum CO₂ emission rate after the conversion of the Cape Canaveral Plant will be about one-half the maximum CO₂ emission rate for the existing plant. The CCEC should also displace generation that would otherwise be produced by less efficient units in FPL's system, thereby reducing system CO₂ emissions. The CO₂ emission rate for CCEC will be 753 lb/MW-hr, while the CO₂ emission rate for the

existing Cape Canaveral Plant is 1,440 lb/MW-hr, or 190 percent higher than CCEC. Moreover, CCEC is projected to reduce FPL's system emissions of CO₂ by nearly 8 million tons from 2013 through 2040, a significant reduction in CO₂ emissions for FPL's system.

Cooling Water Intake and Discharge Considerations

30. The converted CCEC will continue to use the existing Plant's once-through cooling water system intake and discharge structures withdrawing surface water from and discharging to the Indian River Lagoon. The CCEC once-through cooling water system intake and discharge structures will be operated in accordance with the conditions of NPDES permit number FL0001473.

31. The existing Cape Canaveral Plant thermal discharge existed on July 1, 1972. Conversion of the existing Plant is not expected to increase the potential thermal loading to the Indian River Lagoon compared to the potential thermal loading, as of August 1972, from the existing Plant. FPL performed a comparative thermal analysis which demonstrates that the areal extent of the full load thermal discharge plume for the converted Plant is smaller than that for the existing Plant. The CCEC thermal discharge may commence, in accordance with the conditions of NPDES permit number FL0001473, upon the date of the approval for the NPDES permit revision application, dated December 29, 2008, to convert the plant. The NPDES permitting conditions and associated effluent limits are subject to revision if the surface water standards in the applicable rules are revised.

32. During normal operations, the overall cooling water flow rate for the converted Plant will be reduced about 25 percent by using three out of the four existing pumps within the existing pump wells (the fourth pump will serve primarily as a backup).

The design of the through-screen velocity at the cooling water intake structure will remain the same. Because the converted Plant will operate at a higher utilization, the annual average flow rate will remain about the same as for the existing Plant. Consequently, impingement and entrainment impacts from CCEC are not expected to be increased in comparison to impacts from the existing Plant. The CCEC once-through cooling water system intake structure will be subject to the conditions of NPDES permit number FL0001473.

Wastewater

33. Wastewaters generated by CCEC will include cooling water (addressed above in paragraphs 38 and 39), HRSG blowdown, process water treatment system wastewater, wash water, and equipment area stormwater. HRSG blowdown may be quenched with wash water and reused as cooling water or it may be placed in the cooling water discharge pipe. Contact stormwater will be passed through an oil/water separator and then routed to the stormwater ponds. Water treatment wastewaters, nonhazardous low-volume wastewaters (e.g., wash water and equipment drains) will be treated, as necessary and appropriate, and routed to the cooling system outfall.

34. FPL will continue to use a reverse osmosis/mixed bed ("RO/MB") demineralizer system for process water treatment using water from the City of Cocoa. The demineralized water will be pumped into a new onsite storage tank. RO reject water (average flow 45 gpm) will continue to be mixed with the cooling water flow used for condenser cooling. Water from the Indian River Lagoon that is used for the intake screen wash (flow 1,200 gpm) will continue to be released back to the Indian River Lagoon north of the peninsula that separates the intake channel from the discharge.

35. Sanitary wastewater from the existing Cape Canaveral Plant is routed to a Brevard County publicly owned treatment works ("POTW"). Restroom facilities will be reconstructed to accommodate the employees of CCEC using the same connection. Sanitary wastewater flows for the CCEC are expected to average approximately 1 to 3 gpm, approximately the same as the existing plant.

36. The HRSG and feedwater piping will be chemically cleaned initially during commissioning of the CCEC and also periodically during the life of the converted Plant. The chemicals used will not be permanently stored onsite but will be delivered to the Site by a licensed contractor at the time of the scheduled periodic cleanings. Chemical cleaning is an infrequent maintenance operation; it does not contribute to the liquid wastes produced by the normal operation of CCEC. Chemical cleaning wastes will be maintained onsite, tested and disposed of in accordance with FDEP requirements. Final conditions related to wastewater discharges will be implemented pursuant to revisions to FDEP NPDES Permit FL0001473. Hazardous wastes will be managed according to applicable local, State, and federal rules and regulations.

Stormwater Management

37. The stormwater management system for the converted CCEC will be designed to handle a 25-year 24-hour storm event. Contact stormwater runoff from the Power Block and equipment areas will be treated through an oil/water separator and routed to onsite stormwater retention ponds. Noncontact stormwater from outside the Power Block will also be collected and routed to the stormwater ponds. The Site stormwater management system is designed to meet all federal, State, regional, and local requirements. The construction laydown and parking area will meet stormwater management requirements through BMPs.

Solid Waste & Hazardous Substances

38. Any non-hazardous and hazardous wastes associated with the operation of CCEC will be managed according to federal, State, and local regulations and FPL's Waste Guidelines. The CCEC may periodically generate hazardous waste [less than 100 kilograms (kg) per month], including spent solvents, boiler chemical cleaning wastes, and other wastes. These wastes will be collected and managed as hazardous waste until tested to determine their characteristics.

39. Solid wastes will be generated by the operation of CCEC, but generally in small quantities. Such solid wastes will be limited to municipal solid waste, infrequent replacement of inlet air filters, and solids from water pretreatment process. An approved solid waste disposal contractor will dispose of all solid wastes. There will be no facilities requiring a permit under FDEP Rule 62-701.300(2), Florida Administrative Code, for the converted Plant.

40. FPL will operate CCEC to minimize, if not eliminate, the generation of hazardous waste. Any hazardous waste associated with the CCEC will be less than 100 kg per month and may include spent solvents, HRSG chemical cleaning wastes, and other wastes. Hazardous wastes, if any, will be collected onsite and disposed of by a licensed hazardous waste contractor. Hazardous waste will be managed according to applicable rules and regulations.

Socioeconomic Impacts

41. The CCEC Project will have economic benefits in Brevard County. Construction associated with the project will create up to 650 jobs and result in an average annual economic benefit of \$55.3 million. During operation the total direct and indirect economic benefits will be \$534.2 million over the expected life of the Plant. This

consists of a total direct economic benefit during the operational period of \$320 million and an indirect economic benefit of \$214.2 million. The CCEC is not anticipated to adversely impact the local or regional services or infrastructure.

42. The CCEC Project will result in environmental benefits. The CCEC Project allows for the beneficial reuse of an existing power plant site while increasing generating capacity by about 54 percent. This conversion Project will result in increased power generation without using additional land, water sources, or transmission line rights-of-way. The converted CCEC will have a much lower visual profile, with the height of the tallest structure (i.e., stacks) being less than 40 percent of the height of the existing stacks. The converted CCEC will reduce actual air emissions by more than 90 percent and will reduce the rate of CO2 emissions at the facility by about 50 percent. During the operation of CCEC, from years 2013 to 2040, the CO2 reduction in FPL's system with CCEC will be about 8 million tons. In addition, the administration/control room/warehouse building will feature rooftop solar panels to help power the facilities and the building itself will be certified under the U.S. Green Building Council's Leadership in Energy and Environmental Design ("LEED") rating system.

SJRWMD

Water Usage

43. The site is located directly adjacent to the Indian River Lagoon. The Indian River Lagoon system is composed of three interconnected estuarine lagoons, the Mosquito Lagoon, Indian River Lagoon, and Banana River Lagoon. The lagoon system extends southward about 155 miles through six coastal counties from Ponce de Leon Inlet in Volusia County to Jupiter Inlet in Palm Beach County. The system is shallow and narrow with an average depth of about 5 feet and a width that varies from 0.2 to 5.5

miles. Circulation in the lagoon is sluggish except during large storms and near the inlets.

44. The existing Cape Canaveral Plant has a Consumptive Use Permit from the SJRWMD to withdraw approximately 823 million gallons per day ("mgd") from the Indian River Lagoon. After the conversion, the CCEC will reduce withdrawals to approximately 619 mgd, an approximate 25 percent decrease, due to increased water use efficiencies in the power generation process. The converted CCEC will not require additional surface water resources.

45. A maximum daily groundwater withdrawal of 0.562 million gallons from surficial aquifer system ("SAS") wells located west of U.S. Highway 1 on FPL property for use by the existing plant is also authorized by the Consumptive Use Permit. Use of reclaimed water from the Brevard County Port St. John Wastewater Facility to reduce groundwater withdrawals was determined to be currently environmentally and technically infeasible by FPL and SJRWMD during the application review process. CCEC will not require additional groundwater resources as withdrawals of ground water from the surficial aquifer system will cease. No adverse impacts to existing wetlands have been documented due to historical withdrawals of groundwater from the surficial aquifer system.

FDOT

Traffic

46. The Site is located at 6000 U.S. Highway 1/North Cocoa Boulevard north of Cottrell Avenue. Access to the site is provided by U.S. Highway 1/North Cocoa Boulevard via three access driveways (Gate 1, the Main Gate, and the Contractor's Gate). Traffic associated with the project construction will affect area roadways on a

temporary basis for the duration of the construction period. The average construction workforce is approximately 290 workers. The length of construction, from dismantlement to conclusion of new unit, is expected to be from the spring of 2010 to the summer of 2013. At the peak of construction, mid-2012, there are approximately 650 workers. With the assumption of a 1.3 workers per vehicle trip rate, at peak construction, there will be approximately 500 vehicles on site. The analysis indicates that up to 200 vehicles (equivalent to up to 260 workers, based on a 1.3 vehicle occupancy) can be accommodated within the Site and between 300 vehicles (equivalent to 390 workers, based on a 1.3 vehicle occupancy) can be accommodated on the construction laydown and parking area with certain potential roadway improvements to U.S. Highway 1 and Clearview Drive. Potential roadway improvements and traffic control measures are listed below:

- Traffic control personnel at the Main Gate (during PM peak period).
- Traffic control personnel at Clearview Drive (during AM and PM peak periods) to allow construction traffic to safely enter U.S. Highway 1.
- Provide a U.S. Highway 1 northbound left-turn lane at Clearview Drive.
- Construct one additional eastbound lane on Clearview Drive approaching U.S. Highway 1 in order to provide two lanes (one for left-turning vehicles and the other for right-turning traffic).
- Provide a safe pedestrian path from the parking areas (offsite construction laydown and parking area) to U.S. Highway 1. A temporary pedestrian crossing should be provided to safely cross U.S. Highway 1 near Clearview Drive. The safety features associated with the subject pedestrian crossing will be coordinated with the FDOT and Brevard County.

Discussions and coordination with FDOT and Brevard County will continue to ensure compliance with roadway regulations and to develop necessary improvements within the vicinity of the Site that will avoid significant impacts to the transportation system. The safety features associated with the subject pedestrian crossing will be discussed and coordinated with FDOT and Brevard County.

Agency Reports & Proposed Conditions of Certification

47. Brevard County, DCA, FDOT, FWC, and SJRWMD submitted Agency Reports, pursuant to Section 403.507(2)(a)2, Florida Statutes. Each of these agencies recommended approval subject to recommended conditions of certification. In addition, FDHR and ECFRPC provided correspondence indicating that they recommend approval or do not object to the proposed project.

48. As noted above, on August 10, 2009, FDEP issued its written Staff Analysis Report ("SAR"), pursuant to Section 403.507, Florida Statutes. The SAR contained a compiled set of proposed Conditions of Certification for the Project, including conditions recommended by the following agencies: FDEP, SJRWMD, FWC, DCA, FDOT, FDHR, ECFRPC, and Brevard County. In its SAR, FDEP recommended approval of the CCEC Project provided that FPL complies with the proposed Conditions of Certification in FDEP's SAR. Based on further discussions between the parties, a final set of Conditions is attached as Exhibit A hereto.

49. FPL agreed to the proposed Conditions of Certification included in Exhibit A hereto.

CONCLUSIONS OF LAW

1. Under Section 403.508(6), Florida Statutes, the ALJ granted the parties' request to cancel the certification hearing and relinquished jurisdiction to the Department. Therefore, the Department has jurisdiction to enter this Final Order. See § 403.509(1), Fla. Stat.

2. In accordance with Section 403.5115, Florida Statutes, and Chapter 62-17, Florida Administrative Code, proper notice has been provided to all persons, entities and parties entitled to such notice, as well as notice being provided to the general public. No third party intervened by the deadline for such intervention.

3. Pursuant to Section 403.5175(3), Florida Statutes, the Brevard County land use and zoning requirements are not applicable to CCEC. Therefore Brevard County did not conduct a land use determination. The County represented that there are no County nonprocedural requirements not specifically listed in the Application from which a variance, waiver, exemption or other relief is necessary in order for the proposed site and associated facilities to be certified.

4. All necessary and required state and local governmental agencies participated in the certification process.

5. The PSC determined the need for the electric power to be supplied by the CCEC as required by Section 403.519, Florida Statutes. The PSC is the sole forum for the determination of the need for the CCEC Project, pursuant to Section 403.519, Florida Statutes

6. Upon consideration of the criteria set forth in Section 403.509(3) Florida Statutes, and balancing the various factors set forth therein, based upon the information provided by FPL in the site certification application and completeness responses, and

the information provided by FDEP in its SAR and subject to the Conditions of Certification attached hereto as Exhibit A, the Project is eligible for final certification.

7. So long as the attached Conditions of Certification are implemented and complied with, FPL has provided reasonable assurances that operational safeguards for the CCEC Project are technically sufficient for the public welfare and protection, under Section 403.509(3)(a), Florida Statutes.

8. So long as the attached Conditions of Certification are implemented and complied with, the CCEC will comply with applicable nonprocedural requirements of agencies, as required by Section 403.509(3)(b), Florida Statutes. FDEP's analysis concluded that the Project is not reasonably projected to cause or contribute to a violation of ambient air quality standards or water quality standards. No variances are proposed from any nonprocedural requirements of agencies for the Project.

9. Through the use of an already developed site, the Project will minimize the adverse effects on human health, the environment and the ecology of land and its wildlife and the ecology of state waters and their aquatic life, in accordance with Section 403.509(3)(f), Florida Statutes. Compliance with FDEP's non-procedural standards at the CCEC will minimize and avoid adverse effects on human health as well as upon the environment.

10. Certification of the Project in accordance with the attached Conditions of Certification, effects a reasonable balance between the need for the facility, as determined by the PSC, and the minimal impacts on air and water quality, fish and wildlife, water resources and other natural resources of the State that would result from the construction and operation of the Project, under Section 403.509(3)(e), Florida Statutes.

11. FDEP will incorporate into the final Conditions of Certification the final PSD and NPDES permits and other approvals. Such permits and approvals shall also be fully enforceable by both the permitting agency and as Conditions of Certification for CCEC. Any violation of such permits and approvals, where it is determined that the CCEC is the cause, shall also be a violation of the Conditions of Certification.

12. Based upon the foregoing considerations that the Project will meet all of the other criteria for certification under the PPSA, it is concluded that the CCEC Project will serve and protect the broad interests of the public, so long as the Project is implemented in compliance with the Conditions of Certification attached hereto as Exhibit A.

CONCLUSION

Having reviewed the matters of record and being otherwise duly advised, the Department concludes that, if constructed and operated in accordance with the evidence presented in the record and the attached Conditions of Certification, the Project will serve and protect the broad interest of the public and should be approved. It is therefore ORDERED that:

A. Site certification of FPL's Cape Canaveral Energy Center (CCEC) Project, as described in the Site Certification Application and the record as a whole, is hereby APPROVED.

B. The Project is subject to and FPL shall comply with the Conditions of Certification that are attached as Exhibit A and are incorporated by reference herein.

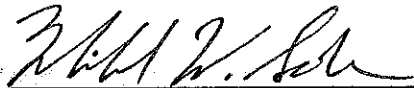
JUDICIAL REVIEW

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal

pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Department in the 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 9th day of October, 2009, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



MICHAEL W. SOLE
Secretary

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

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


CLERK

10/9/09
DATE

CERTIFICATE OF SERVICE

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

Jennifer Brubaker, Esquire
Florida Public Service Commission
2450 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Peter C. Cunningham, Esquire
Hopping, Green and Sams, P.A.
Post Office Box 6526
Tallahassee, Florida 32314

Kimberly Clark Menchion, Esquire
Department of Transportation
605 Suwannee Street, Mail Station 58
Tallahassee, Florida 32399

Emily J. Norton, Esquire
Florida Fish and Wildlife Conservation Commission
Farris Bryant Building
620 South Meridian Street
Tallahassee, Florida 32399-1600

Anthony A. Garganese, Esquire
Brown, Garganese, Weiss and D'Agresta, P.A.
225 East Robinson Street, Suite 660
Post Office Box 2873
Orlando, Florida 32802-2873

Phil Laurien
East Central Florida Regional Planning Council
631 North Wymore Road, Suite 100
Maitland, Florida 32751-4229

Dwight W. Severs, Esquire
City of Titusville
Post Office Box 2806
Titusville, Florida 32781-2806

Laura Kammerer Bureau of Historic Preservation
R. A. Gray Building
500 South Bronough
Tallahassee, Florida 32399

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

Patricia Anderson
Department of Health Environmental Engineering
4042 Bald Cypress Way
Tallahassee, Florida 32399-1742

Christine Lepore, Esquire
Brevard County Attorney's Office
2725 Judge Fran Jamieson Way
Viera, Florida 32940

Gail L. Hankinson, Esquire
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177

Ashley Foster
Pinnock, Esquire NextEra Energy Resources, LLC
700 Universe Blvd.
West Palm Beach, Florida 33408

Shaw P. Stiller, General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and by electronic filing to:

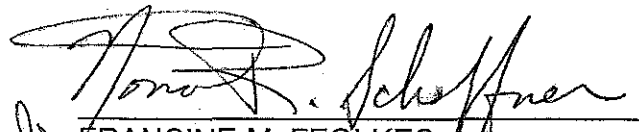
Claudia Llado, Clerk and
Bram D. E. Canter, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

and by hand delivery to:

Toni L. Sturtevant, Esquire
Department of Environmental Protection
3900 Commonwealth Blvd., M.S. 35
Tallahassee, FL 32399-3000

this 9th day of October, 2009.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


FRANCINE M. FOLKES
Administrative Law Counsel

3900 Commonwealth Blvd., M.S. 35
Tallahassee, FL 32399-3000
Telephone 850/245-2242

**STATE OF FLORIDA
DEPARTMENT
OF
ENVIRONMENTAL PROTECTION**



Conditions of Certification

**Florida Power & Light Company
Cape Canaveral Energy Center**

PA 08-53

Certified XXXXXXXXXXXX

EXHIBIT "A"

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ATTACHMENTS & APPENDICES

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Attachment B.	Survey map of certified facility
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SECTION A. GENERAL CONDITIONS

I. SCOPE

A. Pursuant to sections 403.501-518, Florida Statutes (F.S.), the Florida Electrical Power Plant Siting Act (PPSA); 403.520-5365, the Transmission Line Siting Act (TLSA); and 403.9401-9425, the Natural Gas Transmission Pipeline Siting Act (NGPSA), this certification is issued to Florida Power & Light (FPL) as owner/operator of the Cape Canaveral Energy Center and Licensee. Subject to the requirements contained in these Conditions of Certification (Conditions) FPL will operate a 1250 MW facility consisting of one combined cycle unit and ancillary equipment, as well as a construction laydown and parking area, and offsite support facilities located on the west side of U.S. Highway 1 which include a well field, transmission lines, and a substation. These units are located on a 43 acre site which is located in Brevard County, Florida. UTM coordinates are; Zone 17, 523.1 kilometers (km) East and 3,149 km North.

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

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

D. Within 60 days after completion of construction of the certified facility/ies, including but not limited to transmission lines and natural gas pipelines, the Licensee shall provide a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the certified area; and an aerial photograph delineating the boundaries of the certified area (if different from those boundaries established for the site). The survey and the aerial photograph shall be attached hereto as Attachment B. Any proposed project requiring a change to the boundaries of the certified area shall be accompanied by an updated survey map or legal description and aerial photograph.

E. The certified facility includes the following major associated facilities;

1. The peninsula which serves as a barrier between the Plant intake and discharge structures and includes a fuel oil barge unloading facility.
2. A barge slip comprised of about 1.5 acres of submerged land leased from the State of Florida.

3. An offsite construction laydown and parking area that will be located on FPL property west of U.S. Highway 1
4. Transmission upgrades to connect CCEC to FPL's transmission line system

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

[Section 403.511, 403.531, 403.9416, F.S.; 62-4.160(8), and 62-17.205(2), F.A.C.]

II. APPLICABLE RULES

A. The construction and operation of the certified facility shall be in accordance with all applicable non-procedural provisions of Florida Statutes (F.S.) and Florida Administrative Code, including, but not limited to, the non-procedural portions of the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification or in a subsequent modification to the Conditions: Chapter 403 (Environmental Control), F.S., and Chapters 18-20 (Aquatic Preserves), 40D-2 through 4 (Consumptive Use of Water, Regulation of Wells, Individual Environmental Resource Permits), 40D-8 (Water Levels and Rates of Flow), 40D-9 (District Land Use Rules), 40D-20 (General Water Use Permits), 40-D21 (Water Shortage Plan), 40-D40 (General Environmental Resource Permits), 62-4 (Permits), 62-17 (Electrical Power Plant Siting), 62-25 (Regulation of Stormwater Discharge), 62-256 (Open Burning), 62-296 (Stationary Sources-Emission Standards), 62-297 (Stationary Sources-Emission Monitoring), 62-301 (Surface Waters of the State), 62-302 (Surface Water Quality Standards), 62-303 (Identification of Impaired Surface Waters), 62-304 (Total Maximum Daily Loads) 62-312 (Dredge and Fill Activities), 62-330 (Environmental Resource Permitting), 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters), 62-345 (Uniform Mitigation Assessment Method), 62-520 (Groundwater Classes and Standards), 62-522 (Groundwater Permitting and Monitoring), 62-531 (Water Well Contractor Licensing Requirements), 62-532 (Water Well Permitting and Construction Requirements), 62-550 (Drinking Water Standards, Monitoring and Reporting), 62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems), 62-560 (Requirements for Public Water Systems That Are Out of Compliance), 62-600 (Domestic Wastewater Facilities), 62-601 (Domestic Wastewater Treatment Plant Monitoring), 62-604 (Collection Systems and Transmission Facilities), 62-610 (Reuse of Reclaimed Water and Land Application), 62-621 (Generic Permits), 62-650 (Water Quality Based Effluent Limitations), 62-660 (Industrial Wastewater Facilities), 62-699 (Treatment Plant Classification and Staffing), 62-701 (Solid Waste Management Facilities), 62-730 (Hazardous Waste), 62-762 (Aboveground Storage Tank Systems), 62-769 (Florida Petroleum Liability and Restoration Insurance Program), 62-770 (Petroleum Contamination Site Clean-Up Criteria), 62-780 (Contaminated Site Clean-Up Criteria), 62-807 (Natural Gas Transmission Pipeline) and 62-814 (Electric and Magnetic Fields), Florida Administrative Code (F.A.C.).

B. No term or condition of certification shall be interpreted to preclude the postcertification exercise by any party of whatever procedural rights it may have under chapter 120, including those related to rulemaking proceedings.

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

III. REVISIONS TO DEPARTMENT STATUTES AND RULES

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

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

[Sections 403.511(5)(a), 403.531, 403.9416, F.S. ; Rules 62-4.160(8) and 62-4.160(10), F.A.C.]

IV. DEFINITIONS

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

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

B. "Associated Facilities" is defined by 403.503(7), F.S.

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

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

E. "DCA" means the Florida Department of Community Affairs.

- F. "DEP" or "Department" means the Florida Department of Environmental Protection.
- G. "DHR" means the Florida Department of State, Division of Historical Resources.
- H. "DOT" means the Florida Department of Transportation.
- I. "Emergency conditions" or "Emergency reporting" means urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity.
- J. "Feasible" means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- K. "FWC" means the Florida Fish and Wildlife Conservation Commission.
- L. "Licensee" means an applicant that has obtained a certification order for the subject project.
- M. "NPDES permit" means a federal National Pollutant Discharge Permit System permit issued in accordance with the federal Clean Water Act.
- N. "PSD permit" means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.
- O. "ARPC", "CFRPC", "ECFRPC", "NCFRPC", "NEFRPC", "SFRPC", "SWFRPC", "TBRPC", "TCRPC", "WFRPC", or "WRPC" means the Apalachee, Central Florida, East Central Florida, North Central Florida, Northeast Florida, South Florida, Southwest Florida, Tampa Bay, Treasure Coast, West Florida or Withlacoochee Regional Planning Council, respectively.
- P. "ROW" means right-of-way.
- Q. "Site" means any proposed location within which will be located an electrical power plant's generating facility and onsite support facilities, or an alteration or addition of electrical generating facilities and onsite support facilities resulting in an increase in generating capacity, including offshore sites within state jurisdiction.
- R. "NWF, SR, SJR, SWF, or SF WMD" means the Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida Water Management District, respectively/
- S. "Title V permit" means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.

V. TRANSFERABILITY OF DEFINITIONS

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

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

VI. FEDERAL PERMITS

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

A. Air

The provisions of the following paragraphs shall be conditions of this certification. The Licensee shall comply with the substantive provisions and limitations set forth in both Air Construction Permit No. 0090006-005 and Title V Air Operation Permit Number 0090006-003-AV as part of these Conditions of Certification, and as those provisions may be modified, amended, or renewed in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification. Any violation of such provisions shall be a violation of these Conditions of Certification.

1. Air Construction Permit(s)

Air Construction permit PSD-FL-0090006-005 is incorporated by reference herein as part of this Certification and attached as Appendix A.

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

2. Title V Permit

Title V Air Operation Permit 0090006-006-AV is incorporated by reference herein as part of this Certification and attached as Appendix B.

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

B. Water

1. Industrial Wastewater Discharge

Any discharges during construction and operation shall be in accordance with all applicable provisions of NPDES Permit No. FL0001473 (attached as Appendix C) and as those provisions may be modified, amended, or renewed in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification. Any violation of such provisions shall be a violation of these Conditions of Certification. *[Rule 62-621, F.A.C.]*

2. NPDES Stormwater

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

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

3. Multi-Sector Generic Permits

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

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

C. Other

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

VII. DESIGN AND PERFORMANCE CRITERIA

Certification, including these Conditions of Certification, is predicated upon preliminary designs, concepts, and performance criteria. Final engineering design will be consistent and in substantial compliance with the preliminary information described in the Application and explained at the certification hearing (if any). Conformance to those criteria, unless specifically modified in accordance with Section 403.516, 403.5315, 403.9418, F.S., and Rule 62-17.211, F.A.C., is binding upon the Licensee in the design, construction, operation and maintenance of the certified facility. In any instance where a conflict occurs between the Application's design criteria and the Conditions of Certification, the Conditions shall prevail.

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

VIII. NOTIFICATION

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

1. A description of and cause of noncompliance; and
2. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The licensee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this certification.

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

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

[Rule 62-343, F.A.C.]

IX. REPLACEMENT FOR RESTORATION OF SYSTEM INTEGRITY

A. Replacement of all or a portion of a power plant, transmission line(s) or natural gas pipeline certified under the PPSA, TLISA or the NGPSA that is necessary to restore system integrity following an emergency as defined by section 252.34(6), (7) or (9), F.S. and requiring deviation from any condition of certification shall not be considered a modification pursuant to section 403.5315 F.S. A verbal report of the emergency replacement for restoration of system integrity shall be made to the department as soon as possible. Within 30 days after correction of the emergency condition requiring a replacement for system integrity, a report to the department shall be made outlining the details of the emergency condition requiring the replacement and the steps taken for its relief. The report shall be a written description of all of the work performed and

shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.

B. The Department will use its enforcement discretion when evaluating violations that result from operating this facility under emergency conditions. During and after the emergency conditions, the Licensee must use due diligence to bring the facility back into compliance as soon as possible. In addition, the facility must use its best efforts and best management practices to minimize adverse environmental impacts. The licensee shall notify the Siting Office and the appropriate DEP district office when the emergency condition has ended. Furthermore, the Licensee must include all monitoring data, which would otherwise be required under normal operating circumstances, recorded during emergency conditions when submitting reports as required by these conditions. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

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

X. CONSTRUCTION PRACTICES

A. Local Building Codes

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

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

B. Particulate Matter

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

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

C. Open Burning

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum. Prior to any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., Licensee shall seek approval from the applicable DEP District Office, as appropriate, whose approval may be granted in conjunction with the Division of Forestry. Burning shall not occur if not 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. A copy of any submittal by Licensee relating to open burning shall be submitted to the affected county, for any open burning that will take place in the affected county, respectively, for informational purposes. A copy of any submittal by Licensee relating to open burning within the affected county or within

5 miles of the affected county shall be submitted to the affected county for informational purposes.

[Sections 403.511, 403.531, 403.9416, F.S.; Rules 51-2 and 62-256, F.A.C.]

D. Solid Wastes

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

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

E. Flood Control Protection

The certified facilities shall be constructed in such a manner that complies with any applicable County flood protection requirements,

F. Vegetation

The Licensee, to the extent feasible, will retain existing native (non-exotic) vegetation within the certified area and practice "best management practices" with respect to vegetation management in the certified area to the extent feasible and in compliance with Section 163.3209, F.S., which incorporates by reference North American Electrical Reliability Corporation (NERC) standard FAC-003-1, American National Standards Institute (ANSI) standards A300 (Part I)-2001 and 2133.1-2000, and National Electrical Safety Code (NESC) standards adopted by the Florida Public Service Commission. The requirements of section V. D. the *Upland Erosion Control, Revegetation, and Maintenance Plan* from the Federal Energy Regulatory Commission (FERC) found at this web address <http://www.ferc.gov/industries/gas/enviro/uplndctl.pdf> as well as Chapter 7 of the Florida Department of Transportation *Utility Accommodation Manual* located at this web address <http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710020001/Chapter-7.pdf> shall serve as guidelines for best management practices.

[Chapter 163.3209, F.S.]

G. Underground Utilities

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

[Chapter 556, F.S.]

H. Electric and Magnetic Fields

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

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

I. Solar

Any building constructed or remodeled utilizing rooftop solar panels will be certified under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system.

XI. RIGHT OF ENTRY

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

1. At reasonable times, to enter upon the certified facility in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this certification; or
2. During business hours, to enter the Licensee's premises in which records are required to be kept under this certification; and to have access to and copy any records required to be kept under this certification.

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

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

XII. DISPUTE RESOLUTION

This Section XII governs disputes concerning these Conditions of Certification in cases where (a) the parties to the dispute are parties identified in Sections 403.508(3)(a), 403.527(2)(a), and 403.9411(4)(a) F.S. and (b) the time has elapsed for filing an appeal concerning the Conditions of Certification that gave rise to the disputed issue. If such a dispute arises and mutual agreement cannot be reached between the parties, the first attempt at dispute resolution will be handled by a Florida Supreme Court Certified Mediator agreed upon by all of the parties involved in the dispute. If resolution cannot be achieved in this manner, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. Licensee or DEP may request DOAH to establish an expedited schedule for the processing of such a dispute.

[Sections 403.508(3)(a), 403.511(5)(c), 403.527(2)(a), 403.531(5), 403.9411(4)(a), 403.9416(4), F.S. and 120.57, F.S.]

XIII. SEVERABILITY

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

XIV. ENFORCEMENT

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of Certification are binding and enforceable pursuant to Sections 403.141, 403.161,

403.514, 403.727, and 403.859 through 403.861, F.S. as applicable. Any noncompliance by the Licensee with a Condition of Certification constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, license termination, license revocation, or license revision. The Licensee is placed on notice that the Department may review this certification periodically and may initiate enforcement action for any violation of these Conditions. Abandonment of the certified facility will be considered grounds for enforcement action.

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

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

XV. REVOCATION OR SUSPENSION

The certification shall be final unless revised, revoked or suspended pursuant to law. This certification may be suspended or revoked pursuant to Section 403.512, 403.532 and 403.9435 F.S. as applicable, or for violations of any of these Conditions of Certification. This approval is valid only for the specific processes and operations identified within the Application and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the Certified facility that are the cause of such action, and other portions of the Certified facility shall remain unaffected by such action.

[Sections 403.512, 403.532 and 403.9435, F.S. and Rule 62-4.160(2), F.A.C.]

XVI. SAFETY

As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this license does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This License is not a waiver of or approval of any other Department License that may be required for other aspects of the certified facility which are not addressed in this License. This license does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this certified facility, or from penalties therefore; nor does it allow the Licensee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

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

XVII. HERBICIDES

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

rates and concentrations will be in accordance with label directions and will be carried out by a licensed applicator, meeting all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.

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

XVIII. CIVIL AND CRIMINAL LIABILITY

A. This certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any conditions of this certification, applicable rules or regulations of the Department, or any other state statutes or regulations which may apply. As provided in Section 403.511, 403.531 and 403.9416, F.S., the issuance of this certification conveys neither any vested rights nor any exclusive privileges. Neither does it authorize any injury to human health or welfare, animal or plant life, public or private property or any invasion of personal rights.

B. This certification does not allow any infringement of federal, state, or local laws or regulations, nor does it allow the Licensee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order or permit from the Department or these Conditions of Certification. This approval is not a waiver of any other Department approval that may be required for other aspects of the certified facility under federally delegated or approved programs.

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

XIX. PROPERTY RIGHTS

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

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

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

D. The Licensee is hereby advised that Florida law states: "No person shall commence any excavation, construction, or other activity involving the use of sovereign or other

state lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

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

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

XX. LICENSEE’S PROCEDURAL RIGHTS

Except as specified in Chapter 403, F.S., or Chapter 62-17, F.A.C., no term or Condition of Certification shall be interpreted to preclude the post-certification exercise by the Licensee of whatever procedural rights it may have under Chapter 120, F.S., including those related to rule-making proceedings.

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

XXI. POST-CERTIFICATION SUBMITTALS AND NOTICES REQUIRED BY CONDITIONS

Post-certification submittals and notices shall be sent, as specified in these Conditions, to the agencies specified in these Conditions at the following addresses, unless Licensee and DEP are notified in writing of an agency’s change in address for such submittals and notices:

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

Florida Department of Environmental Protection
Central District Office
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Florida Department of Community Affairs
Office of the Secretary

2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

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

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

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

East Central Florida Regional Planning Council
Office of the Executive Director
631 North Wymore Road
Suite 100
Maitland, Florida 32751

St. Johns River Water Management District
Office of General Counsel
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177

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

Brevard County
Office of the County Attorney
Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940
[Section 403.511, 403.531 and 403.9416, F.S.]

XXII. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. *Purpose of Submittals*

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

B. *Filings*

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

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

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

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

C. *Completeness*

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

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

D. *Interagency Meetings*

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

E. *Determination of Compliance*

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

F. *Commencement of Construction*

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

G. *Revisions to Design Previously Reviewed for Compliance*

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

H. *Variation to Submittal Requirements*

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

I. *Disputes*

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

J. Post-Construction Activities

The Licensee shall comply with the requirements of section VII from the *Upland Erosion Control, Revegetation, and Maintenance Plan* from the Federal Energy Regulatory Commission (FERC) found at this web address

<http://www.ferc.gov/industries/gas/enviro/uplndctl.pdf>.

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

XXIII. POST CERTIFICATION AMENDMENTS

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

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

2. If the department concludes that the change would require a modification to the conditions of certification, the department shall provide written notification to the Licensee that the proposed change to the application requires a request for modification pursuant to 403.516, and 403.5317, F.S.

Chapters 373, 403.4211 and 403.5113, 403.516, 403.5317, F.S.; Rules 62-340 and 62-343, F.A.C.]

XXIV. MODIFICATION OF CERTIFICATION

A. Pursuant to Section 403.516(1)(a), 403.5315(1), and 403.9418(1)(a), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department of Environmental Protection to modify, after notice and receipt of no objection by a party or other substantially affected person, any conditions which would not otherwise require approval by the Siting Board. In addition, the Department is delegated the authority to modify conditions as follows:

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

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

C. Requests which include alterations to the landscape regulated under Part IV of Chapter 373 (relevant to environmental resource permitting), F.S shall require modification to the Conditions of Certification. Activities meeting any one of the below criteria shall require modification to these conditions. An activity shall be considered a modification if:

1. the activity requires a new site inspection by the department in order to evaluate the request;
2. the activity necessitates a change to the Conditions of Certification;
3. the activity substantially
 - a. increases the authorized discharge;
 - b. results in different or increased impacts on wetlands and other surface waters, as delineated by the methodology ratified by section 373.4211, F.S., and codified in Chapter 62-340, F.A.C;
 - c. decreases the retention/detention specified by the current application/license;
 - d. decreases any flood control elevations for roads or buildings specified by the current application/license; or
 - e. increases the certified facility area; or
4. the activity occurs on sovereign (or state-owned) submerged lands.

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

D. Any anticipated facility change which results in a change to the certified area must be accompanied by a map or aerial photo showing the proposed new boundaries of the certified area. The Department may consider any such change to be a modification of the Conditions of Certification, including those changes that would otherwise be considered an amendment to the Site Certification Application. Within 60 days after completion of construction of the new project the Licensee shall provide: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as a legal description, delineating the boundaries of the certified area; and an aerial photograph delineating the new boundaries of the certified area. The survey and aerial photograph shall be attached hereto as Attachment B.

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

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

XXV. INCORPORATION OF EXISTING STATE AND LOCAL PERMITS/LICENSES

The operation of the Cape Canaveral Energy Center shall be in accordance with all applicable provisions of any state or local government permit issued prior to certification. All such state and locally issued permits are intended to be incorporated herein, such that the Licensee shall comply with the substantive provisions and limitations set forth in these permits. The inadvertent omission of any state or locally issued permit from these Conditions of Certification does not relieve the Licensee from compliance with the substantive provisions and limitations set forth in those permits.

At any time following certification, should the Licensee become aware of any state or locally issued permit not included herein, the Licensee shall promptly notify the Siting Office for incorporation into these Conditions of Certification. Likewise, when the Department is made aware of any separately issued permits, the Conditions of Certification will be modified accordingly to incorporate the substantive provisions and limitations of any such permit.

Such provisions shall be fully enforceable as conditions of this certification and may only be amended or modified in accordance with the provisions herein. Any violation of such provisions shall be a violation of these Conditions of Certification.

XXVI. COASTAL ZONE CONSISTENCY

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

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

XXVII. STATE WATER QUALITY STANDARDS COMPLIANCE

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

[Sections 403.067, F.S.]

XXVIII. FINANCIAL RESPONSIBILITY

The Department may require a Licensee to submit proof of financial responsibility and may require the Licensee to post an appropriate bond to guarantee compliance with the law and Department rules.

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

XXIX. TRANSFER OF CERTIFICATION

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

[Chapter 120, and Sections 403.511, 403.531, and 403.9416, F.S.]

XXX. LABORATORIES AND QUALITY ASSURANCE

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

B. The Licensee shall ensure that all samples required pursuant to this certification are taken by an appropriately trained technician following EPA and Department approved sampling procedures and chain-of-custody requirements in accordance with Rule 62-160, F.A.C. All chain-of-custody records shall be retained on-site for at least three (3) years and made available to the Department immediately upon request.

C. Records of monitoring information shall include:

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

[Rules 62-160 and 62-4.160(14), F.A.C.]

XXXI. ENVIRONMENTAL RESOURCES

A. *Stormwater*

1. Activities approved by these conditions shall be conducted in a manner which does not cause violations of state water quality standards. The licensee shall implement best management practices for erosion and a pollution control to prevent violation of state water quality standards. Temporary erosion control shall be implemented prior to and during construction and permanent control measures shall be completed within seven days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the licensed work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the licensee shall be responsible for the removal of the barriers. The licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
2. Water quality data for the water discharged from the licensee's property or into the surface waters of the state shall be submitted to the Department as required by these Conditions. Analyses shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association or Methods for Chemical Analyses of Water and Wastes by the U.S. Environmental Protection Agency. If water quality data are required, the licensee shall provide data as required on volumes of water discharged, including total volume discharged during the days of sampling and total monthly volume discharged from the property or into surface waters of the state.
3. The Department must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must either have been submitted and approved with the license application or submitted to the Department as a license prior to the dewatering event as a license modification. The licensee is advised that the rules of the applicable Water Management District state that a water use license may be required prior to any use exceeding the thresholds in Chapter 40X-X, F.A.C.
4. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as feasible in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.
5. Off site discharges during construction and operation of the certified facilities shall be made only through the facilities authorized by this license. Water discharged from the certified facility shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operation schedules satisfactory to the Department.
6. The licensee shall complete construction of all aspects of the surface water management system, including wetland compensation (grading mulching, planting), water quality treatment features, and discharge control facilities prior to beneficial occupancy or use of the development being served by this system.

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

- a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.
- b. Any existing septic tanks on site shall be abandoned at the beginning of construction, unless these Conditions provide otherwise.
- c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction, unless these Conditions provide otherwise.

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

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

10. Each phase or independent portion of the licensed system must be completed in accordance with the licensed plans and license conditions prior to the occupation of the site or operation of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the licensed plans and license conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.

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

12. This license is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the license application. Any substantial deviation from the approved drawings, exhibits, specifications or license conditions, including construction within the total land area but outside the certified facility, may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.

13. The operation phase of this license shall not become effective until the licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the licensed plans, and the entity approved by the Department

accepts responsibility for operation and maintenance of the system. The license may not be transferred to the operation and maintenance entity approved by the Department until the operation phase of the license becomes effective. Following inspection and approval of the licensed system by the Department, the licensee shall request transfer of the license to the responsible operation and maintenance entity approved by the Department, if different from the licensee. Until a transfer is approved by the Department pursuant to Section 62-343.110(1)(d), F.A.C., the licensee shall be liable for compliance with the terms of the license.

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

15. The licensee is hereby advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the licensee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

16. Any delineation of the extent of a wetland or other surface water submitted as part of the license application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this license or a formal determination under section 373.421(2), F.S., provides otherwise.

[Rules 62-343, 62-302, and 62-4.242, F.A.C.]

B. Wetland Impacts

1. Submittals for Activities Within Wetlands or Other Surface Waters

a. Prior to the projected commencement of construction of the certified facility in wetlands or other surface waters, the Licensee shall provide to the appropriate DEP District's Environmental Resource Permitting Section(s) and the U.S. Army Corps of Engineers all information necessary for a complete *Joint Environmental Resource Permit application*, DEP Form No. 62-343.900(1), with copies to the appropriate WMD(s), local government (s) and RPC(s) for informational purposes.

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

b. The Licensee shall provide reasonable assurance that the joint construction, operation and maintenance of any facilities, including any access roads and structures constructed within wetlands and other surface waters, and/or associated facilities, satisfy any applicable water management district rules. Pursuant to Rule 62-17.665(7)(d), F.A.C., the Licensee shall provide sufficient information on a post-certification basis to demonstrate that there is reasonable assurance of compliance with the applicable WMD(s) substantive requirements.

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

c. The post-certification submittal shall include a signed and sealed Professional Land Surveyors' survey of wetland and surface water areas as defined pursuant to Chapter 62-340, F.A.C., and verified by appropriate agency staff.

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

2. Consultation with Wetland Agencies

At the request of the Licensee, DEP Siting Coordination Office may conduct an interagency meeting for the Licensee to consult with the wetlands resource permitting staffs of DEP and WMD(s) and the FWC's staff, prior to the finalization of any construction in wetlands which are to be reflected in any post-certification submittals. At DEP's request, the Licensee shall conduct a field inspection with the agencies' staff representatives in conjunction with the interagency meeting.

[Sections 403.504, 403.523 and 403.9404, F.S.]

3. Reduction and Elimination of Impacts

a. Avoidance

(1) Where the certified facility crosses wetlands or other surface waters, the Licensee shall utilize adjacent existing access roads and public roads for access to associated facilities for construction, operation and maintenance purposes to the extent feasible.

(2) All facilities shall be constructed in a manner which reduces or eliminates adverse impacts to on-site and adjacent wetlands to the extent feasible.

(3) Where feasible, the Licensee shall make an effort to reduce or eliminate impacts to wetlands and other surface waters within the certified facility.

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

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

b. Clearing

(1) The Licensee shall use only restrictive clearing practices during construction and maintenance of the certified facility where it crosses forested wetlands. Restrictive clearing, as used in this condition, is the removal of vegetation by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. These methods may be used alone or in combination, as may be appropriate for specific sites. All cut vegetation must be removed from wetlands unless other techniques, such as mulching or burning in place, are agreed to by DEP Siting Coordination Office and the applicable local government in the post-certification review process. Removable construction matting in conjunction with best management practices may be used in wetlands to support equipment.

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

(3) Clearing or fill must not occur within 550 feet from the shoreline of a named waterbody designated as an Outstanding Florida Waterbody (OFW).

[Sections 373.414 and 373.416, F.S.]

4. Mitigation

a. Mitigation for wetland impacts pursuant to Section 373.414, F.S. shall not be required by DEP if the certified facility is;

- (1) not located within wetlands
- (2) not expected to adversely impact wetlands, or
- (3) complies with the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Does involve the use of a mitigation bank within 90 days after issuance of the site certification or 30 days prior to commencement of construction of the Project, the Licensee shall provide the Siting Coordination Office with documentation of the final purchase of the required mitigation credits and deduction of those credits from the wetlands mitigation bank's ledger. If the Project results in additional wetland impacts not covered by this certification, then additional wetlands mitigation information shall be submitted to the Department. Upon receiving complete information, the Department will assess the revised mitigation plan within 90 days. If the Department, upon review of the proposed mitigation, determines that the proposed mitigation is inadequate to offset the additional wetland loss and habitat degradation from this project, the Licensee shall propose additional mitigation.

g. No construction within wetlands subject to the regulatory jurisdiction of DEP that does not comply with the non-procedural limitations of Rule 62-341.620(2)(b)-(i), F.A.C., or paragraph A above, shall commence until DEP approves a mitigation

plan, and, if a bank is not used, mitigation construction conditions, success criteria and a monitoring plan are incorporated into the certification conditions.

h. The Licensee shall be deemed to have met the requirements of this condition relative to mitigation if the Licensee satisfies the criteria of the appropriate WMD(s) Basis of Review for Environmental Resource Permit Applications and Chapter 62-345, F.A.C., as applicable under operating agreements between appropriate WMD(s) and the department.

[Sections 373.414, 403.511, 403.531, 403.814(6) and 403.9416, F.S. (2007); Rules 62-341.620 and 62-345, F.A.C.]

XXXII. THIRD PARTY IMPACTS

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

[Rule 62-4.166, F.A.C.]

XXXIII. FACILITY OPERATION

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

B. All discharges or emissions authorized herein shall be consistent with the terms and conditions of this certification. The discharge or emission of any regulated pollutant not identified in the Application, or more frequently than, or at a level in excess of that authorized herein, shall constitute a violation of the certification.

C. The Department shall hold the Licensee responsible for compliance with the Conditions of Certification regardless of how the violation occurred.

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

XXXIV. RECORDS MAINTAINED AT THE FACILITY

A. These Conditions of Certification or a copy thereof shall be kept at the work site of the approved activity.

B. The Licensee 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 this 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. The Licensee shall provide copies of these records to the Department upon request. If the

Licensee becomes aware of relevant facts that were not submitted or were incorrect in any report to the Department, such facts or information shall be promptly submitted or corrected.

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

XXXV. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS

A. Use

If hazardous substances are used in the construction or maintenance of the certified facility, Licensee shall provide the DEP with reasonable assurances that such hazardous substances will not enter stormwater drains or waterbodies (including groundwater).

[Rules 62-761.451; 62-762.451 F.A.C.]

B. Spills

Fuel and other petroleum product spills that enter stormwater drains or waterbodies, or fuel and other petroleum product spills that are in excess of 25 gallons shall be contained, cleaned up, and immediately reported to the appropriate DEP District Water Resources Office. A copy of any submittal by Licensee pursuant to this paragraph, for any spills located in the affected County, shall be provided to the affected County for informational purposes. Smaller ground surface spills shall be cleaned up as soon as practical.

[Rules 62-761.451; 62-762.451 F.A.C.]

C. Discharge

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

[Rules 62-303; 62-40; 62-520, F.A.C.]

D. Reporting

The Licensee shall report all spills of materials having potential to significantly pollute surface or ground waters and which are not confined to a building or similar containment structure, by telephone immediately after discovery of such spill. The Licensee shall submit a written report within forty-eight hours, excluding weekends, from the original notification; the Siting Coordination Office shall be copied on this report. The telephone report shall be submitted by calling the DEP District Office Industrial Wastewater Compliance/Enforcement Section. After normal business hours, the Licensee shall 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 size and extent 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.

[Chapter 376, F.S.; Rule 62-160, F.A.C.]

XXXVI. SOLID AND HAZARDOUS WASTE

A. Solid Waste

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

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

B. Hazardous Waste

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

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

C. Water Quality Reporting Requirements

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

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

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

Florida Department of Environmental Protection
Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

And to:

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

And to:

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

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

XXXVII. PETROLEUM STORAGE

The Licensee shall comply with all applicable provisions of DEP Rule 62-762, F.A.C. for any above ground petroleum storage systems.

[Rule 62-762, F.A.C.]

XXXVIII. NOISE

The Licensee shall comply with applicable noise ordinances, if any. If steam-blows will be necessary the Licensee will notify the local government in advance and conduct steam-blows only during day time (8:00am – 5:00pm).

XXXIX. SCREENING

The Licensee shall comply with applicable local government requirements concerning the screening of the certified facility.

SECTION B. SPECIFIC CONDITIONS

I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. Groundwater

1. Quarterly Groundwater monitoring will be conducted in all monitor wells until all groundwater discharges cease.
2. The existing Sodium exemption in groundwater is valid until August 9, 2010 at which time FPL will renew this exemption with the Central District.
3. An annual groundwater monitoring plan for secondary parameters in pertinent monitor wells will be submitted to the Central District for review until deemed by the Department as unnecessary.
4. Upon removal of evaporation/percolation pond and the solids settling basin, the groundwater monitoring in subject wells OB-5, EPB-NE, EPB-E, and EPB-SE will be continued on a semi-annual basis until two consecutive sampling events indicate compliance with antimony groundwater standard.
5. Within 30 days of issuance of the final certification the vertical extent of potential antimony contamination will be assessed. Any such contamination assessment activities for complete delineation of groundwater plume in the future must be proposed to the Department's Central District office for review and approval. All activities related to the contamination assessment and remediation of groundwater shall be closely coordinated with the Department until a closure order is issued by the Department certifying that antimony contamination is successfully addressed.
6. No monitor wells will be abandoned without the Department's prior approval. If any of the existing monitor wells are to be abandoned due to the proposed construction activities, a written proposal shall be submitted to the Groundwater Section of Central District for approval for abandoning the wells as well as replacement with new monitor wells at suitable location(s).

[Rules 62-520 and 62-522, F.A.C.]

B. Dredging:

1. If dredging is proposed, the Licensee will be required, upon consultation with district staff, to submit all applicable information to the Department prior to the commencement of any dredge activities:
2. Sampling and test analyses of ambient water or sediments, core borings, surveys of existing resources such as grassbeds and other habitats, or any other information necessary to evaluate the proposed dredging or filling may be required.

[Chapters 403.918 and 403.919, F.S.; Rules 62-4, 62-45, and 62-312, F.A.C.]

C. Public Easement

Within 60 days of certification, Florida Power and Light will submit the required information, as outlined in Condition XIX, in order to obtain a public easement for the existing spit of land extending east into the Indian River. Upon issuance of the easement a copy will be attached as Attachment E.

[Chapters 253 and 258, F.S.]

II. FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

The Licensee shall comply with a current Sovereign Submerged Land Lease (Attachment D). Any renewals of the lease shall be submitted by the Licensee to the Siting Coordination Office.

III. DEPARTMENT OF TRANSPORTATION

A. *Post Certification Review Items*

1. Access Management to the State Highway System: Any access to the State Highway System will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, F.A.C.:

2. Overweight or Overdimensional Loads: Operation of overweight or overdimensional loads by the applicant on State transportation facilities during construction and operation of the utility facility will be subject to safety and permitting requirements of Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

3. Use of State of Florida Right of Way or Transportation Facilities: All usage and crossing of State of Florida right of way or transportation facilities will be subject to Rule Chapter 14-46, Utilities Installation or Adjustment, F.A.C.; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual.

4. U.S. 1 has been identified as Florida Intrastate Highway System (FIHS) and Strategic Intermodal System's (SIS) facilities. The placement of the transmission line and pipeline should take into consideration the planned widening of these facilities. The cost of relocating or reconstructing the transmission line and pipeline will be borne by the applicant to the extent required by Section 337.403, F.S., and Rule Chapter 14-46, F.A.C..

5. Standards: The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Utility Accommodation Manual; and pertinent sections of the Department of Transportation's Project Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

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

7. Use of Air Space: Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, Airspace Protection, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects Affecting Navigable Airspace, Subpart B, Notice of Construction or

Alteration. Notification will be provided to FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or Alteration in accordance with instructions therein. A subsequent Determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C for any structure that is located within a 10-nautical-mile radius of the geographical center of a public-use airport or military airfield in Florida will be required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the site of the proposed structure. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for marking and/or lighting of the proposed structure are made mandatory by Florida law. For a site under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department Transportation Form 725-040-1 1, Airspace Obstruction Permit Application, in accordance with the instructions therein.

8. Level of Service on State Roadway Facilities: All traffic impacts to State roadway facilities on the FMS or the SIS, or funded by Section 339.2819, F.S., will be subject to the requirements of the level of service standards adopted by local governments pursuant to Rule Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C., in accordance with Section 163.3180(10), F.S.. All traffic impacts to State roadway facilities not on the FIHS, the SIS, or funded by Section 339.2819, F.S., will be subject to adequate level of service standards established by the local governments.

B. Best Management Practices

1. Traffic control during facility construction and maintenance will be subject to the standards contained in the Manual on Uniform Traffic Control Devices; Rule Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C.; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; and Florida Department of Transportation's Utility Accommodation Manual, whichever is more stringent.

2. 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 to the extent practicable.
- A temporary traffic control plan for handling construction related traffic is needed subject to the requirements and standards. The plan will need to be approved by Florida Department of Transportation prior to construction.

3. If the applicant uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the applicant should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 3 16, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C..

V. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. *West Indian Manatee*

1. Interim Warm-Water Refuge Heating System

a. The current trigger temperature identified in the Manatee Protection Plan under the Cape Canaveral power plant's National Pollutant Discharge Elimination System permit is 61°F. In order to prevent an increased risk of manatee cold stress death during the CCEC conversion construction period, adaptive management protocols for the interim warm-water refuge heating system shall include the following:

(1) Testing, monitoring, and evaluation of the interim heating system shall take place pursuant to the permit conditions found in the Environmental Monitoring and Biological sections.

(2) The trigger temperature shall be set at 65°F, during the period that the interim heating system is required. The interim heating system shall be designed such that when ambient water temperatures are below 65°F, as indicated from a selected ambient water temperature station (as agreed to in the environmental monitoring plan), the interim heating system will provide a water temperature at or above 68°F, within the identified warm-water refuge until such time as the ambient water temperature reaches 65°F. The interim heating system shall be maintained and operated to achieve this result, in accordance with best management practices (BMP) established by Licensee, unless otherwise authorized by FWC and USFWS, or unless the safety or reliability of the electric power system would be compromised. The Licensee shall develop a BMP manual for the interim heating system that shall include the following components:

- i. operation and maintenance procedures for the interim heating system;
- ii. requirement for a log demonstrating that the recommended operating and maintenance procedures and checks are performed;
- iii. a spare parts list including the location of the spares;
- iv. a list of qualified operators and repair persons and their contact information;
- iv. a trouble shooting flowchart and repair personnel call out plan;
- v. an incident log to track the status of troubleshooting and repair activities until the system is operable;
- vi. notification requirements to agencies.

(3) Licensee shall submit its BMP manual to FWC for review and comment by August 15 of the year when the CCEC conversion commences which is expected to be 2010. Licensee will review, consider, and incorporate if practicable, comments from FWC that are received by September 15 of that year. A copy of the Licensee's BMP manual for the interim heating system shall be maintained at all times at the CCEC site and shall be made available upon request to authorized representatives of FWC and DEP.

(4) If through the biological monitoring or daily visual assessments of manatee health, or scientific data it is indicated, that the 65°F interim heating system trigger temperature should be; raised or lowered to maintain a sufficient warm-water refuge, then FWC will consult with DEP, USFWS, and FPL to assess the information and develop a new strategy that can be agreed upon by all four parties. Such a new agreed upon strategy would be proposed by FWC in a DEP initiated modification to certification.

(5) The interim warm-water refuge is described as the area located within the current Cape Canaveral plant intake canal beginning at the western most extent of the canal and including all waters within the canal between the peninsula and the southern shoreline up to the southern shoreline's eastern most point (See attachment F and G).

(6) The Licensee may request modification of the following applicable FWC conditions upon issuance by the Department of Environmental Protection, in consultation with the FWC, of Final NPDES permit modification FL0001473 if such requested modifications to the conditions herein have been adopted into the Final NPDES permit.

(7) Licensee shall provide written notification of the commencement of conversion to DEP and the FWC as soon as possible but no later than June 15 of the year when the CCEC conversion commences which is expected to be 2010.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Section 253.75 F.S., Rules 68A-27 F.A.C.]

2. Environmental Monitoring

a. The following monitoring requirements are applicable to the interim warm-water refuge period and two years post commercial operation of CCEC:

(1) By June 15 of the year when the CCEC conversion commences which is expected to be 2010, the Licensee (Florida Power & Light Company) shall submit to the FWC, Florida Department of Environmental Protection (DEP) Siting Office, and the USFWS an Environmental Monitoring Plan. The Environmental Monitoring Plan shall include, at a minimum, the following components:

i. An evaluation of the interim heating system to determine its ability to provide a sufficient manatee warm-water refuge (as described in Interim Heating System and Environmental monitoring Conditions V.A.1. and 2, and the Licensee's Thermal Modeling Study) during the winter months shall take place prior to discontinuation of the current warm-water discharge. Evaluation of the system shall include its performance during cold fronts and varying tidal and wind conditions, if present, for a duration to be established in the Environmental Monitoring Plan (unless testing takes place as outlines in VA 2.a.(1) ii).

ii. If an interim heating system is installed at Riviera Beach Energy Center (RBEC) in 2009 an initial evaluation of the interim heating system, during winter conditions, shall be conducted there.

iii. The interim heating system at the CCEC site shall be installed and operational by September 15, of the year when the CCEC conversion commences which is expected to be 2010 or as soon as practicable after certification, whichever is later. However, the conversion from the existing system to the interim system cannot be implemented during the winter months (November through March). The warm-water refuge created by this system shall be monitored during initial testing at the CCEC site between September 15 and

October 15, of the year when the CCEC conversion commences which is expected to be 2010, or the duration described in Condition V.A.2.a.(1) i. and the empirical temperature data will be collected and compared to the thermal modeling results to evaluate the performance of the interim heating system and the accuracy of the thermal model.

iv. Monitoring of the CCEC's interim warm-water refuge during the conversion shall consist of winter (October 15 through March 31) ambient air and water temperatures measured at multiple locations within the interim warm-water refuge. The number and configuration of temperature monitoring stations must be sufficient to provide a three-dimensional view, over time, of the thermal plume.

v. Monitoring of the CCEC's post-conversion warm-water refuge shall consist of winter ambient air and water temperatures measured at multiple locations within the warm-water refuge. Monitoring for the first post conversion winter shall take place from October 15 through March 31 and from November 15 through March 31 during the second winter post construction. The number and configuration of temperature monitoring stations must be sufficient to provide a three-dimensional view, over time, of the thermal plume.

vi. Temperature monitoring stations will be deployed during the conversion phase in the interim refuge and post-conversion warm-water refuge. As part of this Environmental Monitoring Plan as described in this Section 5., the Licensee shall include a plan to convey the data from the temperature monitoring stations to the appropriate agencies on a daily basis when the trigger is on and the heaters are running and on a weekly basis when the ambient temperature is greater than 65 degrees.

vii. Specific locations for the temperature monitoring station(s), sampling frequencies, station depths data collection methods, and reporting frequencies must be identified and may be subject to further revision depending on receipt of any required permits, licenses and approvals.

viii. The Environmental Monitoring Plan, including the proposed monitoring locations, shall be approved prior to implementation. FWC, in consultation with the DEP and USFWS, shall indicate its approval or disapproval of the submitted plan within 90 days of the originally submitted information. In the event that additional information from the licensee is necessary to complete and approve the Plan, FWC, in consultation with the DEP and USFWS, shall make a written request to the licensee for additional information no later than 30 days after receipt of the submitted information. A final plan shall be in place by September 1, of the year when the CCEC conversion commences which is expected to be 2010.

(2) The Licensee will prepare an environmental monitoring report that includes all data (made available in electronic form) and statistical analyses collected as a result of the environmental monitoring requirements. This report will be submitted yearly, by August 1 of each year, while the interim warm-water system is in operation during the construction period and two years post-conversion of the CCEC. Within 180 days of the submittal of the final yearly environmental monitoring report, a summary report of all environmental monitoring shall be completed and submitted to the FWC and DEP Siting Office for review.

(3) If, in the review of the annual environmental monitoring reports, FWC, in consultation with the DEP and USFWS, determines the need to modify the Environmental Monitoring Plan, FWC will notify the Licensee to discuss the findings. At that time, FWC, in consultation with the DEP and USFWS and the Licensee, will determine what, if

any, modifications need to be made to the Environmental Monitoring Plan and FWC will request that DEP initiate modifications to certification if necessary.

(4) If by June 1, 2010, the initial monitoring tests of the interim warm-water heating system have taken place at the Riviera Beach power plant, the Licensee will contact DEP and FWC to provide and discuss the results. At that time, FWC, in consultation with the DEP and USFWS, and the Licensee, will determine what, if any, modifications need to be made to the operation of the interim heating systems and FWC will request that DEP initiate a modification to certification if necessary.

(5) By November 1, of the year when the CCEC conversion commences which is expected to be 2010, or two weeks after completion of the initial monitoring test of the interim warm-water heating system at the CCEC, the Licensee will contact DEP, FWC and USFWS to provide and discuss the results. At that time, FWC, in consultation with the DEP, USFWS, and the Licensee, will determine what, if any, modifications need to be made to the operation of the interim heating system and FWC will request that DEP initiate a modification to certification if necessary.

(6) If the Licensee determines the Environmental Monitoring Plan is in need of modifications during the operation of the interim heating system, the Licensee will contact the agencies to discuss the proposed modifications. At that time, FWC, in consultation with the DEP and USFWS and the Licensee, will determine what if any modifications need to be made to the Environmental Monitoring Plan and the FWC will request that DEP initiate a modification to certification if necessary.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Section 253.75 F.S., Rules 68A-27 F.A.C.]

3. Biological Monitoring

a. The following monitoring requirements for manatee distribution and abundance are applicable to the interim warm-water refuge and two year post-commercial operation of CCEC:

(1) By June 15 of the year when the CCEC conversion commences which is expected to be 2010 the Licensee shall submit to the DEP Siting Office and FWC, a Biological Monitoring Plan. The Biological Monitoring Plan shall include at a minimum the following components:

i. Monitor the winter (October 15 through March 31) distribution and abundance of manatees during the time frame that includes the operation of the interim warm-water heating system. Monitor the winter (November 15 through March 31) distribution and abundance of manatees during the two years' post-conversion at the CCEC warm-water refuge.

ii. Biological monitoring shall at a minimum be conducted through aerial surveys and telemetry tagged manatees.

iii. Specific aerial survey paths, sampling frequencies, and methodologies for aerial surveys. At a minimum, aerial survey flight paths shall encompass known manatee winter habitat including travel corridors and passive warm-water sites throughout Brevard County on a weekly basis during the interim period during the winter months (October 15 through March 31). Once the converted CCEC is in operation the aerial surveys shall be conducted on a twice a month basis for two years post commercial operation during the winter

months. After the first year of post conversion surveys FWC will discuss the results with the Licensee and determine if the second year's surveys can be reduced to one survey per month.

iv. Aerial surveys shall be designed so the data collected will provide an evaluation of manatee abundance and distributional changes in Brevard County in a statistically valid manner that is consistent with past aerial survey data.

v. Telemetry monitoring shall be accomplished by the Licensee through the use of FWC or another entity with experience in manatee telemetry tracking, and data analysis in Florida by providing them \$50,000 per winter season to be used for the purchase of up to three tags annually, if needed, and the accompanying annual activities and research, tracking and monitoring activities, data collection, ARGOS usage, software purchase and update, and one final report to the Licensee. This condition will coincide with the use of the interim heating system and 2 years post-commercial operation of CCEC. After the first year of post conversion telemetry monitoring FWC will discuss the results with the Licensee and the parties will determine if the second year's monitoring can be eliminated. The tags will be attached to manatees captured at, or near the CCEC site to document their movements to secondary warm-water sites, nighttime habitat use, behavioral response to changes in the operation of the interim refuge (e.g., availability of warm-water discharge in relation to the trigger temperature), and thermal regime experienced by manatees during the conversion of CCEC. The details of the telemetry effort will be provided in the biological monitoring plan and, if requested by the licensee, FWC and USFWS can provide assistance.

vi. The Biological Monitoring Plan shall be reviewed and approved prior to implementation. FWC, in consultation with the DEP and USFWS, shall recommend its approval or disapproval of the submitted plan to DEP within 90 days of the originally submitted information. In the event that additional information from the licensee is necessary to complete and approve the Plan, FWC, in consultation with the DEP and USFWS, shall make a written request to the Licensee for additional information no later than 30 days after receipt of the submitted information. A final plan shall be in place by September 1, of the year when the CCEC conversion commences which is expected to be 2010.

(2) The Licensee shall provide a manatee observer(s) who has sufficient experience in detecting indicators of cold stress in manatees. The monitoring protocols and individuals acting as manatee observer(s) will require approval from the FWC.

(3) The manatee observer will be required to conduct a daily visual assessment of the condition and general distribution of manatees using the interim warm-water refuge during the winter months (October 15 through March 31) during the interim period. The visual assessments shall be conducted for a sufficient length of time to assess most of the manatees present at the plant and accessible to the observer on that day. If an approved observer is not available, licensee shall notify FWC as soon as possible, but no later than 48 hours, to coordinate actions necessary to resume the observation program.

(4) The Licensee shall provide two moveable land-based observation platforms located along the interim warm-water refuge. These will be used by the manatee observer(s) for conducting assessments of cold stress symptoms and by FWC or USFWS staff monitoring manatee use of the interim refuge through photo identification.

(5) The Licensee will prepare a biological monitoring report that includes all data (made available in electronic form) and statistical analyses completed as a result of the requirements set forth in the biological monitoring plan. This report will be submitted

yearly, by August 1 of each year, when the interim warm-water system is in operation during the construction period and two years post-commercial operation date. Within 180 days of submittal of the final yearly biological monitoring report a summary of all biological monitoring reports shall be completed and submitted to the FWC and DEP Siting Office for review.

(6) If, in the review of the biological monitoring reports, FWC, in consultation with DEP and USFWS, determines the need to modify the Biological Monitoring Plan, FWC will notify the Licensee to discuss the findings. At that time, FWC, in consultation with the DEP and USFWS, and the Licensee will determine what if any modifications need to be made to the Biological Monitoring Plan and the FWC will request that DEP initiate a modification to certification if necessary.

(7) If the Licensee determines the Biological Monitoring Plan is in need of modifications during the operation of the interim heating system, the Licensee will contact the agencies to discuss the proposed modifications. At that time, FWC, in consultation with the DEP and USFWS, and the Licensee will determine what, if any, modifications need to be made to the Biological Monitoring Plan and the FWC will request that DEP initiate a modification to certification if necessary.

(8) The Licensee will provide personnel from the FWC, USFWS, USGS Sirenia Project, or a designee of these agencies, access to the CCEC property to conduct manatee monitoring activities. Reasonable notice shall be given to the Licensee by the agencies. Access would be limited to normal weekday business hours (8:00 a.m. - 5:00 p.m.) unless arrangements are made in advance with the Licensee.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Section 253.75 F.S., Rules 68A-27 F.A.C.]

4. Contingency Plan

a. FWC and USFWS' LOA (Letter of Authorization) network responders will be responsible for all efforts related to manatee rescues, rehabilitation activities, and carcass recovery during the CCEC conversion. In order to effectively implement contingency plans during the plant conversion and to address manatee health-related issues due to a malfunction or inability of the interim warm-water heating system to effectively provide a warm-water refuge during the winter months (October 15 through March 31), the following conditions are required:

(1) If the observer (pursuant to Biological monitoring Conditions V.A.3.b-d;) identifies manatees with apparent signs of cold stress disease, digital photographs should be taken of the animal(s) and the FWC shall be called as soon as possible on the day of the observations through the following methods. An FWC biologist can be reached via pager at 800-714-0620 (enter the callers contact number followed by the code "02". A page will be returned within 30 minutes; if not, resend the page. For immediate emergency situations FWC's Wildlife Alert number can also be called at 888-404-FWCC.

(2) The Licensee will notify FWC and USFWS immediately if there is a mechanical failure of the interim heating system, or if, for any other reason the interim heating system is not operating in a manner that will provide warm-water sufficient to keep the warm-water refuge at a temperature of 68° F or greater.

(3) The Licensee shall provide in-kind services and financial assistance, not to exceed \$100,000 in total value, to FWC for manatee rescue or recovery in the

event that there is a failure of the interim heating system resulting from Licensee's failure to comply with Condition V.A. 1.a.(2) & (3) that causes death or identifiable cold stress to manatees in Brevard County. This condition would apply during the winter months (October 15 through March 31). The in-kind assistance and funds would only be used to address manatee-related cold stress issues in the area that the interim system affects.

(4) The Licensee will provide personnel from the FWC, USFWS, USGS-Sirenia Project, or a designee of these agencies, access to the CCEC property to conduct manatee monitoring activities. Reasonable notice shall be given to the licensee by the agencies. Access would be limited to normal weekday business hours (8:00 a.m. - 5:00 p.m.) unless arrangements are made in advance with the Licensee.

(5) The Licensee will include as part of its safety orientation manatee awareness training for full-time permanent construction personnel at the CCEC site. This training will be designed to educate the construction work force about the legal requirements to avoid manatees and to provide them with contact information if they should spot an injured manatee.

(6) All visitors to CCEC will be required to comply with FPL's safety and security requirements. Personnel will receive an orientation from FPL or its contractor prior to commencing observations or other activities.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Rules 68A-27 F.A.C.]

5. Development of a Long-Term Manatee Strategy

a. It is expected that at some point in the future the warm-water habitat created by the CCEC will diminish or be terminated in that event the FWC and USFWS believes it is in the best interest of the Licensee, FWC, USFWS, DEP, and the Florida manatee population to begin strategic long term planning to reduce the adverse affects to the Florida manatee population before this occurs.

(1) Within two years of the formal approval by FWC and USFWS of a Warm-Water Action Plan (Plan), inclusive of a future-oriented Management Policy for Warm-Water Manatee Habitat, the Licensee shall host and chair a workshop designed to: (a) articulate a strategy for achieving the goals of that Plan, (b) develop a timetable for implementing the strategy, (c) review progress to date in achieving the strategy, and (d) identify impediments and solutions.

(2) Within one year of the workshop held pursuant to Condition V.A.5.1, the Licensee shall provide the FWC and USFWS with a formal report of the workshop, including findings, conclusions, and recommendations.

(3) Over the course of the operating life span of the CCEC the Licensee shall develop an exit strategy for the CCEC that prevents significant losses to the manatee population when the Licensee determines reduce or eliminate the CCEC's thermal discharge to the extent that a dependable warm-water refuge is no longer present. The Licensee's strategy shall consider FWC and USFWS's statewide Warm-Water Action Plan approved by FWC and USFWS.

(4) The Licensee shall work closely with the FWC and USFWS to evaluate progress toward achieving the vision and goals of the Warm-Water Action Plan and to develop adaptive changes to the Plan as needed to promote manatee recovery through

participation in periodic workshops and/or conferences designed to accomplish such evaluation and adaptive changes.

6. Manatee Construction Conditions for In-Water Work

a. The Standard Manatee Conditions for In-Water Work (revision 2009) are required for all in-water work in or adjacent to waters accessible to manatees. Blasting or pile hammering activities to break rock shall be prohibited in waters accessible to manatees. If no other alternative exists, a modification of these conservation measures can be requested. An adequate Blast and Protected Species Watch Plan must be submitted to and approved by the Imperiled Species Management Section of the FWC prior to these methodologies being used.

b. To reduce the possibility of injuring or killing a manatee during construction, in-water work shall not be performed between November 15 and March 31 unless essential to support the CCEC project's schedule. If in-water work during the winter cannot be avoided the Licensee will contact the agencies to determine alternative conditions that will be implemented to address the proposed activity.

c. At least one person shall be designated as a manatee observer when in-water work is being performed. That person shall have experience in manatee observation, be approved by the FWC two weeks before the beginning of construction, and be equipped with polarized sunglasses to aid in observation. The manatee observer must be on site during all in-water construction activities and will advise personnel to cease operation upon sighting a manatee within 50 feet of any in-water construction activity. Movement of a work barge, other associated vessels, or any in-water work shall not be performed after sunset, when the possibility of spotting manatees is negligible. Observers shall maintain a log detailing manatee sightings, work stoppages, and other protected species-related incidents. A report, summarizing all activities noted in the observer logs, the location and name of project, and the dates and times of work shall be submitted within 30 days following project completion, to the FWC's Imperiled Species Management Section at: 620 South Meridian Street, 6A, Tallahassee, Florida 32399-1600, or e-mailed at fcmpmail@myfwc.com.

d. To reduce the risk of entrapment and drowning of manatees, grating shall be installed over any existing or proposed pipes or culverts greater than 8 inches, but smaller than 8 feet in diameter that are submerged or partially submerged and reasonably accessible to manatees. Bars or grates no more than 8 inches apart shall be placed on the accessible end(s) during all phases of the construction process and as a final design element to restrict manatee access.

7. Force Majeure

If there is an act of God, terrorism, or war that prevents Licensee from providing the requisite warm water conditions, Licensee will notify FWC expeditiously and coordinate efforts to resume compliance with the certification conditions.

[Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2431 (2) F.S., Section 20.331 F.S., Rules 68A-27 F.A.C.]

B. Terrestrial Wildlife

1. All undeveloped habitat onsite shall be surveyed for the presence of state- and federally listed species no more than six months before land clearing and the results shall be reported to the FWC. The report shall include methodology, results, discussion, and references to all survey protocols and documents used. If there is evidence that any state-listed species are present, then the licensee must report the findings to the FWC. If impacts to those species cannot be avoided, then the licensee must contact the FWC before taking any action that might result in an impact to those species.

2. Gopher tortoises found onsite shall be relocated in accordance with the state Gopher Tortoise Management Plan. Pursuant to the requirements of Rules 68A-25.002 and 68A-27.004, Florida Administrative Code, a permit for a gopher tortoise capture/relocation/release activity must be secured from the FWC before beginning any relocation work. Such permits will be issued pursuant to any and all applications which sufficiently accommodate these guidelines. Application forms to be used are available from the Permit Coordinator, Species Conservation Planning Section, Florida Fish and Wildlife Conservation Commission, 620 S. Meridian St., Mail Station 2A, Tallahassee, FL 32399-1600, (850)410-0656, ext. 17327/ (850)488-5297 fax or from the FWC's web site at <http://myfwc.com/permits/Protected-Wildlife/> Complete applications should be submitted to the Gopher Tortoise Permit Coordinator at the above address at least 45 days before the time needed, with copies to DEP Siting Coordination Office.

3. Before clearing, FPL shall coordinate with the USFWS and the FWC regarding appropriate measures to address impacts to scrub-jay habitat.

[Article IV, Sec. 9, Fla. Const.; Chapter 68A-27, F.A.C.]

C. Listed Species Survey

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

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

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

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

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

each community that is contained within the certified facility prior to land clearing and construction activities using GIS.

[Chapter 379, F.S., Article IV, Sec. 9, Fla. Const., Chapter 68A-27, F. A. C]

D. Listed Species Locations

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

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

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

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

[Chapter 379, F.S., Article IV, Sec. 9, Fla. Const., Chapter 68A-27, F. A. C]

E. Scientific Collecting/Institutional Authorizations

FPL shall maintain and comply with a current Scientific Collection/Institutional permit, as applicable for salvaging of non-listed wildlife species at the CCEC, issued by the State of Florida Fish and Wildlife Conservation Commission. A copy of the required permit/authorization shall be made available at the CCEC site.

[Rules 68A-9.002, 68A-25.002, 68A-27.003-.005]

F. Migratory Bird Nest Authorizations

FPL shall maintain and comply with a current Migratory Bird Nest permit as applicable for removal and replacement of inactive (i.e. containing no eggs or flightless young) nests of ospreys (*Pandion haliaetus*) and other migratory birds, pursuant to the Florida Fish and Wildlife Conservation Commission Osprey Nest Removal Policies, where necessary in the process of routine facility maintenance in Florida. A copy of the required permit/authorization shall be made available at the CCEC site.

VI. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES

A. Any alterations associated with the reconfiguration of this plant may need to have a survey as determined in consultation with the Department of State, Division of Historical Resources (DHR). A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the certified facility. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR. Upon completion of the survey, the results will be compiled into a report which shall be submitted to DHR. If feasible, sites considered to be eligible for the National Register shall be avoided during construction of the project and access roads, and subsequently during maintenance. If avoidance of any discovered sites is not feasible, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR, as appropriate.

B. If historical or archaeological artifacts or features are discovered at any time within the certified facility, the Licensee shall notify the appropriate DEP District office (s) and DHR, R. A. Gray Building, 500 S. Bronough Street, Rm 423, Tallahassee, Florida 32399-0250, telephone number (850) 245-6333, and the Licensee shall consult with DHR to determine appropriate action.
[Sections 267.061 and 403.531, and Chapter 372, F.S.]

VII. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

A. The Licensee will continue to comply with the permit conditions of Consumptive Use Permit #10652 until the existing power plant units are decommissioned.

B. All submittals made to demonstrate compliance with the consumptive use conditions of this certification must have the certification number plainly labeled on the submittal.
[Paragraphs 10.3(a)-(h)(j), A.H.]

C. Nothing in this certification shall be construed to limit the authority of the SJRWMD to declare a water shortage and issue orders pursuant to Section 373.175, F.S., or to formulate a plan for implementation during periods of water shortage, pursuant to Section 373.246, F.S. In the event of a water shortage, as declared by the SJRWMD Governing Board, the Licensee must adhere to reductions in water withdrawals as specified by the SJRWMD.
[Paragraphs 10.3(c)-(e)(h)(j), A.H.]

D. Licensee must mitigate any adverse impact caused by withdrawals permitted herein on legal uses of water existing at the time of application. The DEP has the right to curtail permitted withdrawal rates or water allocations if the withdrawals of water cause an adverse impact on legal uses of water which existed at the time of certification. Adverse impacts are exemplified by, but not limited to:

1. Reduction of water levels in an adjacent surface water body resulting in a significant impairment of the use of water in that water body.

2. Saline water intrusion or introduction of pollutants into the water supply of an adjacent water use resulting in a significant reduction of water quality.
3. Change in water quality resulting in either impairment or loss of use of a well or waterbody.

[Paragraphs 10.3(b)(d)(h)(j), A.H.]

E. Licensee must mitigate any adverse impact caused by withdrawals permitted herein on adjacent land uses that existed at the time of permit application. The DEP has the right to curtail permitted withdrawal rates of water allocations if withdrawals of water cause an adverse impact on adjacent land uses that existed at the time of certification. Adverse impacts are exemplified by, but not limited to:

1. Significant reduction in water levels in an adjacent surface water body.
2. Land collapse or subsidence caused by a reduction in water levels.
3. Damage to crops and other types of vegetation.

[Paragraphs 10.3(b)(d)(h)(j), A.H.]

F. The SJRWMD must be notified, in writing, within 30 days of any sale, conveyance, or other transfer of a facility from which the permitted consumptive use is made or within 30 days of any transfer of ownership or control of the real property at which the permitted consumptive use is located. All transfers of ownership or transfers of permits are subject to the provisions of section 40C-1.612.

[Paragraph 3.3.2(a), A.H.]

G. A SJRWMD-issued identification tag shall be prominently displayed at each withdrawal site by permanently affixing such tag to the pump, headgate, valve, or other withdrawal facility as provided by Section 40C-2.401, F.A.C. Licensee shall notify the SJRWMD in the event that a replacement tag is needed.

[Paragraphs 10.3(b)(d)(h)(j), A.H.]

H. All landscape irrigation shall be conducted in accordance with the times, days, and within the manner set forth in section 40C-2.042, F.A.C.

[Paragraphs 10.3(a)(b)(e), A. H.]

I. The maximum annual use of water supplied by the City of Cocoa as secondary use for power production and household use must not exceed 84.7 million gallons (0.232 mgd annual average). The maximum daily use authorized under peak conditions is 0.86 million gallons.

[Paragraphs 10.3(a)(b)(c)(f)(h)(j), A. H.]

J. In the event the HRSG blowdown is not recycled to the demineralization system because of poor water quality, additional water from the City of Cocoa may be used. The maximum annual amount authorized for this use is 18.4 million gallons (0.05 mgd annual average). The maximum daily use authorized under peak conditions is 0.07 million gallons.

[Paragraph 10.3(a)(b)(c)(g), A.H.]

K. The annual surface water withdrawal from the Indian River Lagoon for once through cooling water and screen wash water must not exceed 225,935 million gallons (619 mgd annual average).

[Paragraph 10.3(a)(b)(c)(g), A.H.]

L. Maximum annual use of water from the upper Floridan aquifer for pump cooling water must not exceed 46.3 million gallons (0.13 mgd annual average).

[Paragraph 10.3(a)(b)(c)(g), A.H.]

M. The annual reclaimed water allocation for landscape irrigation from Brevard County's Port St. John WWTP for landscape irrigation is 0.57 million gallons (0.0016 mgd annual average). Additional reclaimed water may be used when available.

[Paragraphs 10.3(a)(c)(e)(f), A.H.]

N. Total flow of water from the City of Cocoa connection must be recorded continuously, totaled monthly, and reported to the District at least every six months from the initiation of monitoring using Form EN-50. The Licensee will monitor water use using an existing flow meter owned by the City of Cocoa Utilities. Flow meters must maintain 95% accuracy, be verifiable, and be installed according to manufacturer specifications. The reporting dates each year will be as follows:

Reporting Period	Report Due Date
------------------	-----------------

January – June	July 31
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July – December	January 31
-----------------	------------

[Paragraphs 10.3(a)(b), A.H.]

O. The Licensee has elected to implement an alternative method for withdrawals from upper Floridan aquifer wells (wells 1A, 1 B Lube Water and Unit 2 Lube Water) which utilizes an hour meter in conjunction with the design pumping capacity for the pump as a basis for calculating the quantity of water withdrawn from the well. The Licensee shall not alter the approved alternative method without prior written approval from the District. The method must maintain 95% accuracy and be verifiable. If after a period of one year, the selected alternative does not meet the accuracy criteria, totalizing flow meters or another District-approved alternative method must be used. If flow meters are used, the meters must maintain 95% accuracy, be verifiable and be installed according to manufacturer specifications.

P. Total withdrawal of ground water from the upper Floridan aquifer wells (wells 1A, 1 B Lube Water and Unit 2 Lube Water) must be recorded continuously, totaled monthly, and reported to the District at least every six months from the initiation of the monitoring using Form EN-50. The reporting dates each year will be as follows:

Reporting Period	Report Due Date
------------------	-----------------

January – June	July 31
----------------	---------

July - December	January 31
-----------------	------------

[Paragraphs 10.3(a)(b), A.H.]

Q. The Licensee must maintain all flow meters. In case of failure or breakdown of any meter, the DEP and SJRWMD must be notified in writing within 5 days of its discovery. A defective meter must be repaired or replaced within 30 days of its discovery.

[Paragraphs 10.3(a)(b), A.H.]

R. The Licensee must have the flow meters calibrated once every 3 years within 30 days of the anniversary date of certification issuance, and recalibrated if the difference between the actual flow and the meter reading is greater than 5%. SJRWMD Form No. EN-51 must be submitted to the DEP and SJRWMD within 10 days of the inspection/calibration.

[Paragraphs 10.3(a)(b), A.H.]

S. The Licensee has indicated that dewatering will be necessary to facilitate construction of the converted plant. The Licensee has estimated dewatering of the surficial aquifer will occur over an approximate 12-month period at a rate of 920 million gallons per year (2.52 mgd). Prior to commencement of construction of those portions of the project that involve dewatering activities, the Licensee shall submit a detailed plan for any such activities to the SJRWMD for a determination of compliance with the requirements of Section 10.3 of the SJRWMD Applicant's Handbook: Consumptive Uses of Water. This plan shall include at a minimum:

1. a map showing the locations of dewatering activities with associated projected drawdowns. If projected drawdowns initially appear to cause adverse environmental impacts or interference to existing legal uses, mitigation measures must be proposed and included in the Dewatering Plan;
2. a map delineating the portions of the property where dewatering activities will take place and the extent of the proposed excavations, both vertically and laterally. This map must include the locations and dimensions of any proposed ponds to receive dewatering discharges;
3. procedures to ensure that dewatering will not cause or contribute to flood damage including the proposed rate and duration of water pumped for dewatering;
4. a map providing the proposed locations and capacities (gpm) of proposed dewatering pump(s);
5. detailed description of turbidity treatment and erosion control measures at the discharge point(s).
6. requested dewatering allocation and schedules;
7. water quality monitoring plans; and
8. if necessary, a water treatment system design.

[Paragraphs 10.3(a),(b),(c),(d),(i),(k), A.H.]

T. The Licensee must implement the Water Conservation Plan submitted to the District in December 2008, in accordance with the schedule contained therein.

[Paragraphs 10.3(a),(b),(e), A.H.]

U. Pursuant to subsections 373.219 and 373.236(4) F.S., the Licensee shall submit to FDEP and SJRWMD five-year compliance reports at the frequency and containing the information specified below:

1. Beginning June 30, 2016, or by June 30th of the fifth year after commercial operation of the facility begins, whichever occurs first, and every five years thereafter for the life of the facility, the Licensee shall submit a compliance report that establishes that the Licensee has a continuing need for the allocations from all sources in the permit and that Licensee's use of water will continue, for the duration of the authorization to use water, to meet the conditions for issuance set forth in Chapter 40C-2, F.A.C., and sections 9.3, 9.4.2, 9.4.3, 9.4.4, and 10.3(a) - (k) Applicant's Handbook: Consumptive Use of Water, as such rules existed at the time the certification was issued by the Siting Board.

2. In determining whether the Licensee has established that its use of water complies with section 9.4.4, A.H. and Chapter 40C-2, F.A.C., FDEP and SJRWMD shall evaluate whether the Licensee's use of water interferes with a legal use of water that existed at the time the certification was issued by the Siting Board.

3. If the FDEP determines, in consultation with the SJRWMD, based on its review of a compliance report, that the Licensee has failed to establish that the Licensee's use of water will continue to meet the relevant criteria as set forth above, FDEP shall modify the authorization to use water in the certification to ensure that the consumptive use of water meets the conditions for issuance in Chapter 40C-2, F.A.C. Modifications shall not be subject to competing applications, provided there is no increase in the permitted allocation and no change in source, except for changes in source requested by FDEP or SJRWMD.

4. FDEP shall review the reports pursuant to the provision of section 120.60, F.S. (2008). Agency review and action on a compliance report submitted pursuant to this condition shall be as provided in section 120.60, F.S. (2008).

[Sections 373.236 and 373.219 F.S.; Chapter 40C-2, F.A.C.; Paragraphs 9.3, 9.4.2, 9.4.3, 9.4.4, 10.3(a)-(k) A.H.]

VIII. EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL

A. The project site is located in Category 3 and 5 Storm Surge Areas. The ECFRPC recommends that FPL work with Brevard County Emergency Management to ensure the safe evacuation of workers if needed during the project development, as well as a plan for the debris and construction equipment.

[ECFRPC Policy 2.2]

VIX. BREVARD COUNTY

A. At a minimum of 60-days prior to the start of any construction on any portion of the Cape Canaveral Florida Power Plant, including the lay down area, the Applicant shall submit to Brevard County for its review:

1. A detailed site plan inclusive of;
 - a. all development within the proposed development areas providing sufficient geometry and details for grading and construction of all improvements, roadways, underground and above ground utilities (station offset or coordinates for drainage and sanitary

structures, all radius for median and islands, typical sections of roadways, retention, parking, building ties from property line, parking dimensions). A survey control sheet using state plane coordinates may supplement the plans, which provides coordinates at all property corners, building corners, sanitary sewer structures, drainage structures, centerline of parking driveway, etc.

b. the number of buildings and structures on the site which are to remain and new buildings being constructed such as an administrative building, storage buildings, storage tanks, and other accessory structures. Also indicate buildings or structures being removed (demolished) such as fuel storage tank or storage. Please refer to Section 62-3204(g)(1).

c. dimensions for all property lines on the site plan sheet 4 per Sec 62-3204(g)(4)a.

d. the required buffer wall on site construction plan sheet 4 as well as the landscape plans

e. the sidewalk together with required construction details per Sec 62-3204(g)(4)c and note the recording information of the sidewalk assessment agreement.

f. the paved parking areas, and the number of parking spaces provided clearly identified on the site construction plan.

g. fire flow calculations. Also, indicate proposed and existing fire hydrants within the required travel distance to the most remote accessible point of the structure.

h. FEMA flood-zone delineations

2. A signed and sealed photometric lighting plan complete with a photometric display, luminaire schedule, manufacturer's cut-sheet and the following note: "Site lighting must conform to Brevard County Performance Standard 62-2257 and the Engineer of Record shall certify that it complies prior to Brevard County approval of the As Built drawings."

(Chapter 62, Article VIII, Site Plans, Sections 62-3200 through 62-3206, and Chapter 62; Division 6, Article VI, Subdivision 111, Performance Standards)

B. At a minimum of 30 days prior to any vertical construction, on the site or associated facilities, the Applicant shall submit to Brevard County for its review completed County building permit forms for any structures on the site for associated facilities that do not consist of facilities of electric utilities as defined in Florida Statutes Section 366.02, which do not directly involve the generation, transmission, or distribution of electricity or that are not otherwise exempt from the requirements of the Florida Building Code. For every structure that the Applicant intends to construct on the site for associated facilities that the Applicant contends is exempt from the Florida Building Code, the Applicant shall provide a list of the exempt structures or facilities, and the regulatory basis for the exemption.

(Chapter 62, Article VI, Division 1, Section 62-4033, Chapter 22, Article 11)

C. Final development approval shall be contingent upon the Applicant obtaining all development approvals and permits from all applicable state and federal agencies that are necessary for the particular development activity to be approved by the County.

1. Include the state wetland permit and mitigation details, any revisions to the state approved Manatee Protection Plan, state gopher tortoise permit (requested but not required), and federal scrub jay permit (requested but not required).

2. Regardless of state mitigation requirements, mitigation for any and all state-claimed jurisdictional wetlands shall be provided to meet the no net loss of functional wetlands requirement established by ordinance and the Brevard County Comprehensive Plan.

(Comprehensive Plan, Conservation Element Policy 5.2; Chapter 62, Article X, Division 4, Sections 62-3693(1) & 62-3696).

3. Please provide compliance documents that demonstrate that groundwater recharge volume is maintained in aquifer recharge soils.

(Comprehensive Plan, Conservation Element Policy 10.2.A)

4. While there is currently no development proposed within the surface water protection buffer, please be advised that any future site design modifications that include such development will require additional stormwater management consisting of the capture of the first 1-inch of runoff that drains to the buffer.

(Chapter 62, Article X, Division 3, Section 62-3668)

5. While there is currently no development proposed in the FEMA special flood hazard area, please be advised that any future site design modifications that include such development (including access to the structure) shall be elevated to or above the 100-year base flood elevation.

(Chapter 62, Article X, Division 5, Section 62-3724(d))

D. Upon completion of the construction of the project, the Applicant shall submit as-built drawings for all site improvements. The as-built drawings shall contain all items shown on the Brevard County Planning and Development as-built checklist.

(Chapter 62, Article VII, Division 2, Section 62-2842)

E. Concurrent with the submittal of the documentation required in paragraph B above, or concurrent with requests for inspections, the Applicant shall pay all of the county's fees for staff review of required documents, permits, inspections, and any other fees related to building permits for structures that are not exempt from the provisions of the Florida Building Code, as provided in Florida Statutes.

(Section 403.511(4) F.S.; Chapter 553, Part IV, F.S.; Section 102.2, Florida Building Code; Chapter 62, Article 11, Division I, Section 62-101, Chapter 22, Article 11, Fee Resolution 2007-170, Fee Resolution 2008-025)

F. The Licensee shall adhere to all Brevard County Land Development Regulations in Chapter 62 of the Brevard County Code of Ordinances, including dust control, fill material stockpile height limits, noise control, dewatering operations monitoring, weekend working hours, and other related construction issues pertaining to code compliance.

(Chapter 62, Article VI, Division 6, Subdivision I, Section 62-2255)

History

Certified XX/XX/2009

ATTACHMENT A: SURVEY MAP OF SITE

To be attached after certification pursuant to Section A. Condition I.C.

ATTACHMENT B: SURVEY MAY OF CERTIFIED FACILITY

To be attached after certification pursuant to Section A. Condition I.D.

ATTACHMENT C: MITIGATION PLAN

To be attached after certification pursuant to Section A. Condition XXXI.B.4.b.

ATTACHMENT D: SOVEREIGN SUBMERGED LEASE

ATTACHMENT E: PUBLIC EASEMENT

To be attached after certification pursuant to Section B. Condition I.C.

ATTACHMENT F: MAP 1 – PLANT INTAKE CANAL

To be attached after certification pursuant to Section B. Condition V.A.1.a.(5)

ATTACHMENT G: MAP 2 – PLANT INTAKE CANAL

To be attached after certification pursuant to Section B. Condition V.A.1.a.(5)

APPENDIX A: PSD PERMIT

APPENDIX B: TITLE V PERMIT

To be attached after final issuance of permit.

APPENDIX C: NPDES PERMIT

DRAFT PERMIT DRAFT PERMIT DRAFT PERMIT

PERMITTEE:

Florida Power and Light Company (FPL)
700 Universe Boulevard
Juno Beach, Florida 33408

Authorized Representative:

Randall R. LaBauve, Vice President

DEP File No. 0090006-005-AC
FPL Cape Canaveral Energy Center
Plant Conversion Project
Brevard County
SIC No. 4911
Expires: December 31, 2014

PROJECT AND LOCATION

This permit authorizes the construction of one nominal 1,250 megawatts (MW) combined cycle unit and ancillary equipment at the FPL Cape Canaveral Energy Center previously known as the Cape Canaveral Plant.

Two existing steam generators designated with a total nominal capacity of 800 MW will be shut down and dismantled as part of this project.

The proposed project will be located at 6000 North U.S. Highway 1 between Cocoa and Titusville in Brevard County. The UTM coordinates are Zone 17, 523.1 kilometers (km) East and 3,149 km North.

STATEMENT OF BASIS

This air construction permit is issued under the provisions of Chapter 403 of the Florida Statutes (F.S.), Chapters 62-4, 62-204, 62-210, 62-212, 62-296 and 62-297 of the Florida Administrative Code (F.A.C.). The permittee is authorized to install the proposed equipment in accordance with the conditions of this permit and as described in the application, approved drawings, plans, and other documents on file with the Department.

CONTENTS

- Section I. General Information
- Section II. Administrative Requirements
- Section III. Emissions Units Specific Conditions
- Section IV. Appendices

Joseph Kahn, Director
Division of Air Resource Management

(Date)

SECTION I. GENERAL INFORMATION

FACILITY DESCRIPTION

FPL operates the Cape Canaveral Plant (CCP), which is an existing power plant (SIC No. 4911). The plant currently consists of two steam generating units designated as Units 1 and 2 that produce 400 MW each of electrical power. Units 1 and 2 use residual fuel oil and natural gas. There are two 397-foot stacks, two fuel oil storage tanks, water intake structures for once-through cooling and other ancillary equipment.

The project is a plant conversion that includes the construction of a nominal 1,250 MW natural gas-fueled combined cycle unit (Unit 3) and requires the permanent shutdown and dismantling of Units 1 and 2. The converted plant will be called the Cape Canaveral Energy Center (CCEC). Unit 3 will consist of:

- Three nominal 265 MW combustion turbine-electrical generators (CTG) with evaporative inlet cooling systems;
- Three supplementary-fired heat recovery steam generators (HRSG) with selective catalytic reduction (SCR) reactors;
- Three nominal 428 million Btu per hour, lower heating value (mmBtu/hr, LHV) natural gas-fueled duct burners (DB) located in the three HRSG (one DB/HRSG);
- Three 149-foot exhaust stacks; and
- One common nominal 500 MW steam-electrical generator (STG).

Unit 3 will use ultralow sulfur diesel (ULSD) fuel oil as backup fuel. Unit 3 will rely on some of the existing infrastructure including the cooling water system and one of the fuel oil storage tanks.

Additional ancillary equipment to be installed includes: a permanent auxiliary boiler; a temporary boiler used during the construction phase; two emergency generators; two process (fuel) heaters; a diesel fire pump; and a gas compression station. The details of the equipment to be installed are listed in the table below.

The project includes and requires the permanent shutdown and dismantling of Units 1 and 2 and the respective stacks as well as one of the fuel oil storage tanks. When emissions from Unit 3 are considered and offset by reductions from the shutdown and dismantlement of Units 1 and 2, there will not be a significant net emission increase in any PSD pollutant.

{Note: Throughout this permit, the electrical generating capacities represent nominal values for the given operating conditions.}

NEW EMISSIONS UNITS

This permit authorizes construction and installation of the following new emissions units.

ID	Emission Unit Description
006	Unit 3A – one nominal 265 MW CTG with supplementary-fired HRSG
007	Unit 3B – one nominal 265 MW CTG with supplementary-fired HRSG
008	Unit 3C – one nominal 265 MW CTG with supplementary-fired HRSG
009	One nominal 85,000 pounds per hour (lb/hr) auxiliary boiler (99.8 mmBtu/hr)
010	Two nominal 10 mmBtu/hr natural gas-fired process heaters
011	Seven nominal 1,340 horsepower (hp) natural gas compressors
012	Two nominal 2,250 kilowatts (kW) liquid fueled emergency generators
013	One nominal 300-hp emergency diesel fire pump engine and 500 gallon fuel oil storage tank
014	One temporary 110 mmBtu/hr natural gas-fueled boiler to be used only during construction

SECTION I. GENERAL INFORMATION

REGULATORY CLASSIFICATION

The CCP is a "Major Stationary Source" as defined in Rule 62-210.200, Florida Administrative Code (F.A.C.). The CCEC project does not trigger the rules for the Prevention of Significant Deterioration (PSD) pursuant to Rule 62-212.400, F.A.C. and does not require a best available control technology (BACT) determination.

The CCEC will be a Title V or "Major Source" of air pollution in accordance with Chapter 213, F.A.C. because the potential emissions of at least one regulated pollutant exceed 100 tons per year (TPY). Regulated pollutants include pollutants such as carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM/PM₁₀/PM_{2.5}), sulfur dioxide (SO₂), volatile organic compounds (VOC) and sulfuric acid mist (SAM).

The CCEC will be subject to several subparts under 40 Code of Federal Regulations (CFR), Part 60 – Standards of Performance for New Stationary Sources (NSPS). Unit 3 is subject to 40 CFR 60, Subpart KKKK – NSPS for Stationary Combustion Turbines that Commence Construction after February 18, 2005. This rule also applies to duct burners (DB) that are incorporated into combined cycle projects.

Two emergency generators will be subject to 40 CFR 60, Subpart IIII – NSPS for Stationary Compression Ignition Internal Combustion Engines.

Natural gas compressors will be subject to 40 CFR 60, Subpart JJJJ – NSPS for Stationary Spark Ignition Internal Combustion Engines.

The temporary natural gas-fueled boiler will be subject to 40 CFR 60, Subpart Db – NSPS for Industrial-Commercial-Institutional Steam Generating Units.

The auxiliary boiler and two process (fuel) heaters will be subject to 40 CFR 60, Subpart Dc – NSPS Requirements for Small Industrial-Commercial-Institutional Steam Generating Units.

The CCEC will be a minor (area source) of hazardous air pollutants (HAP). The CCEC will include emission units that will be subject to certain area source provisions of 40 CFR Part 63 – National Emission Standards for Hazardous Air Pollutants (NESHAP). The specific subpart is 40 CFR 63, Subpart ZZZZ – NESHAP for Stationary Reciprocating Internal Combustion Engines (RICE).

The CCEC will operate units subject to the Title IV Acid Rain provisions of the Clean Air Act (CAA).

The CCEC is subject to the Clean Air Interstate Rule (CAIR) in accordance with the Final Department Rules issued pursuant to CAIR as implemented by the Department in Rule 62-296.470, F.A.C.

The project is subject to certification under the Florida Power Plant Siting Act, 403.501-518, Florida Statutes (F.S.) and Chapter 62-17, F.A.C.

APPENDICES

The following Appendices are attached as part of this permit.

Appendix A: Identification of General Provisions Subpart A from NSPS 40 CFR 60 and Subpart A from NESHAP 40 CFR 63.

Appendix GC: General Conditions.

Appendix Db: NSPS Subpart Db Requirements for Industrial-Commercial-Institutional Steam Generating Units.

Appendix Dc: NSPS Subpart Dc Requirements for Small Industrial Commercial-Institutional Steam Generating Units.

Appendix IIII: NSPS Requirements for Compression Ignition Internal Combustion Engines.

Appendix JJJJ: NSPS Requirements for Stationary Spark Ignition Internal Combustion Engines.

Appendix KKKK: NSPS Requirements for Gas Turbines, 40 CFR 60, Subpart KKKK.

Appendix SC: Standard Conditions.

Appendix XS: Semiannual NSPS Excess Emissions Report.

Appendix ZZZZ: NESHAP Requirements for Stationary Reciprocating Internal Combustion Engines, 40 CFR 63, Subpart ZZZZ.

SECTION I. GENERAL INFORMATION

RELEVANT DOCUMENTS

The documents listed below are not a part of this permit; however, they are specifically related to this permitting action and are on file with the Department.

- Permit application received on December 30, 2008;
- Supplemental information received on February 11, 2009; and
- Draft permit package issued on March 13, 2009.

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SECTION II. ADMINISTRATIVE REQUIREMENTS

1. Permitting Authority: All documents related to applications for permits to construct, operate or modify an emissions unit shall be submitted to the Permitting Authority, which is the Bureau of Air Regulation of the Florida Department of Environmental Protection (DEP or the Department) at 2600 Blair Stone Road, MS #5505, Tallahassee, Florida 32399-2400. Copies of all such documents shall also be submitted to the Compliance Authority. Telephone: (850)488-0114. Fax: (850)921-9533.
2. Compliance Authority: All documents related to compliance activities such as reports, tests, and notifications shall be submitted to the Central District Office. The mailing address and phone number of the Central District Office are: Department of Environmental Protection, Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando Florida 32803-3767. Telephone: (407)894-7555. Fax: (407)897-5963.
3. Appendices: The following Appendices are attached as part of this permit: Appendices A, Db, Dc, GC (General Conditions), IIII, JJJJ, KKKK, SC, XS and ZZZZ.
4. Applicable Regulations, Forms and Application Procedures: Unless otherwise specified in this permit, the construction and operation of the subject emissions units 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 Chapters 62-4, 62-204, 62-210, 62-212, 62-213, 62-214, 62-296, and 62-297, F.A.C. Issuance of this permit does not relieve the permittee from compliance with any applicable federal, state, or local permitting or regulations.
5. New or Additional Conditions: 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.]
6. Modifications: No emissions unit shall be constructed or modified without obtaining an air construction permit from the Department. Such permit shall be obtained prior to beginning construction or modification. [Rules 62-210.300(1) and 62-212.300(1)(a), F.A.C.]
7. Construction and Expiration: The permit expiration date includes sufficient time to complete construction, perform required testing, submit test reports, and submit an application for a Title V operation permit to the Department. For good cause, the permittee may request that this air construction permit be extended. Such a request shall be submitted to the Department's Bureau of Air Regulation at least sixty (60) days prior to the expiration of this permit. [Rules 62-4.070(4), 62-4.080, and 62-210.300(1), F.A.C.]
8. Permanent Shutdown and Dismantlement of Units 1 and 2: Units 1 and 2 shall be permanently shut down and dismantled before December 31, 2010. [Application and Avoidance of Rule 62-212.400(4) through (12), F.A.C.]
9. Source Obligation: At such time that a particular source or modification becomes a major stationary source or major modification (as these terms were defined at the time the source obtained the enforceable limitation) solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of subsections 62-212.400(4) through (12), F.A.C., shall apply to the source or modification as though construction had not yet commenced on the source or modification. [Rule 62-212.400(12)(b), F.A.C.]
10. Title IV Permit: At least 24 months before the date on which the new unit begins serving an electrical generator greater than 25 MW, the permittee shall submit an application for a Title IV Acid Rain Permit to the Department's Bureau of Air Regulation in Tallahassee and a copy to the Region 4 Office of the U.S. Environmental Protection Agency (EPA) in Atlanta, Georgia. This permit does not specify the Acid Rain program requirements. These will be included in the Title V air operation permit. [40 CFR 72]

SECTION II. ADMINISTRATIVE REQUIREMENTS

11. Title V Permit: This permit authorizes specific modifications and/or new construction on the affected emissions units as well as initial operation to determine compliance with conditions of this permit. A Title V operation permit is required for regular operation of the permitted emissions unit. The permittee shall apply for a Title V operation permit at least 90 days prior to expiration of this permit, but no later than 180 days after completing the required work and commencing operation. To apply for a Title V operation permit, the applicant shall submit the appropriate application form, compliance test results, and such additional information as the Department may by law require. The application shall be submitted to the Bureau of Air Regulation with copies to the Compliance Authority.
[Rules 62-4.030, 62-4.050, 62-4.220, and Chapter 62-213, F.A.C.]

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SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

A. UNIT 3 – COMBUSTION TURBINE GENERATORS (EU 006, 007, and 008)

This section of the permit addresses the following emissions units.

Unit 3 and associated equipment

Description: Unit 3 will be comprised of emissions units (EU) 006, 007, and 008. Each EU will consist of: a CTG with automated control, inlet air filtration system and evaporative cooling, a gas-fired HRSG with DB, a HRSG stack, and associated support equipment. The project also includes one STG that will serve the combined cycle unit.

Fuels: Each CTG fires natural gas as the primary fuel and ULSD fuel oil as a restricted alternate fuel.

Generating Capacity: Each of the three CTG has a nominal generating capacity of 265 MW. The STG has a nominal generating capacity of 500 MW. The total nominal generating capacity of the “3 on 1” combined cycle unit is approximately 1,250 MW.

Controls: The efficient combustion of natural gas and restricted firing of ULSD fuel oil minimizes the emissions of CO, PM/PM₁₀, SAM, SO₂ and VOC. Dry Low-NO_x (DLN) combustion technology for gas firing and water injection for oil firing reduce NO_x emissions. A SCR system further reduces NO_x emissions.

Stack Parameters: Each HRSG has a stack at least 149 feet tall with a nominal diameter of 22 feet. The Department may require the permittee to perform additional air dispersion modeling should the actual specified stack dimensions change.

Continuous Monitors: Each stack is equipped with continuous emissions monitoring systems (CEMS) to measure and record CO and NO_x emissions as well as flue gas oxygen or carbon dioxide content.

APPLICABLE STANDARDS AND REGULATIONS

1. **NSPS Requirements:** The CTG shall comply with all applicable requirements of 40 CFR 60, listed below, adopted by reference in Rule 62-204.800(7)(b), F.A.C. The Department determines that compliance with the emissions standards in Condition 10 below also assures compliance with the New Source Performance Standards given in 40 CFR 60, Subpart KKKK. Some separate reporting and monitoring may be required by the individual subparts.
 - a. *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
 - b. *Subpart KKKK, Standards of Performance for Stationary Gas Turbines:* These provisions include standards for CTG and DB.

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

A. UNIT 3 – COMBUSTION TURBINE GENERATORS (EU 006, 007, and 008)

EQUIPMENT AND CONTROL TECHNOLOGY

2. Combustion Turbines-Electrical Generators (CTG): The permittee is authorized to install, tune, operate, and maintain three “G” or “H” technology CTG each with a nominal generating capacity of 265 MW. Each CTG shall include an automated control system and have dual-fuel capability. Ancillary equipment includes an inlet air filtration system and an evaporative inlet air-cooling system. The CTG will utilize DLN combustors. [Application and Design]

{Note: “G” technology is well-established and is characterized by achievement of net combined cycle efficiency between 56 and 59 percent (%) when referenced to the lower heating value of the fuel fired in the CTG and with the duct burners off. “H” technology is under development and will incorporate advanced features to achieve a net combined cycle efficiency of 59% or greater.}

3. Heat Recovery Steam Generators (HRSG): The permittee is authorized to install, operate, and maintain three new HRSG with separate exhaust stacks. Each HRSG shall be designed to recover exhaust heat energy from one of the three CTG (3A to 3C) and deliver steam to the steam turbine-electrical generator (STG). Each HRSG may be equipped with a gas-fired duct burner (DB) having a nominal heat input rate of 460 mmBtu per hour (LHV).

4. CTG/Supplementary-fired HRSG Emission Controls

- a. *Dry Low NO_x (DLN) Combustion*: The permittee shall operate and maintain the DLN system to control NO_x emissions from each CTG when firing natural gas. Prior to the initial emissions performance tests required for each CTG, the DLN combustors and automated control system shall be tuned to achieve sufficiently low CO and NO_x values to meet the CO and NO_x limits with the additional SCR control technology described below. Thereafter, each turbine shall be maintained and tuned in accordance with the manufacturer’s recommendations.
- b. *Wet Injection (WI)*: The permittee shall install, operate, and maintain a WI system (water or steam) to reduce NO_x emissions from each CTG when firing ULSD fuel oil. Prior to the initial emissions performance tests required for each CTG, the WI system shall be tuned to achieve sufficiently low CO and NO_x values to meet the CO and NO_x limits with the additional SCR control technology described below. Thereafter, each turbine shall be maintained and tuned in accordance with the manufacturer’s recommendations.
- c. *Selective Catalytic Reduction (SCR) System*: The permittee shall install, tune, operate, and maintain an SCR system to control NO_x emissions from each CTG when firing either natural gas or distillate fuel oil. The SCR system consists of an ammonia (NH₃) injection grid, catalyst, ammonia storage, monitoring and control system, electrical, piping and other ancillary equipment. The SCR system shall be designed, constructed and operated to achieve the permitted levels for NO_x and NH₃ emissions.
- d. *Oxidation Catalyst*: The permittee shall design and build the project to facilitate possible future installation of an oxidation catalyst system to control CO emissions from each CTG/supplementary-fired HRSG.
- e. *Ammonia Storage*: In accordance with 40 CFR 60.130, the storage of ammonia shall comply with all applicable requirements of the Chemical Accident Prevention Provisions in 40 CFR 68.

[Application and Design; Rule 62-4.070, F.A.C.]

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

A. UNIT 3 – COMBUSTION TURBINE GENERATORS (EU 006, 007, and 008)

PERFORMANCE RESTRICTIONS

5. Permitted Capacity – Combustion Turbine-Electric Generators (CTG): The maximum heat input rate to each CTG is 2,490 mmBtu per hour when firing natural gas and 2,440 mmBtu per hour when firing distillate fuel oil (based on a compressor inlet air temperature of 59° F, LHV of each fuel, and 100% load). Heat input rates will vary depending upon CTG characteristics, ambient conditions, alternate methods of operation, and evaporative cooling. The permittee shall provide manufacturer's performance curves (or equations) that correct for site conditions to the Permitting and Compliance Authorities within 45 days of completing the initial compliance testing. Operating data may be adjusted for the appropriate site conditions in accordance with the performance curves and/or equations on file with the Department. [Rule 62-210.200(PTE), F.A.C.]
6. Permitted Capacity - HRSG Duct Burners (DB): The total nominal heat input rate to the DB for each HRSG is 460 mmBtu per hour based on the LHV of natural gas. Only natural gas shall be fired in the duct burners. [Rule 62-210.200(PTE), F.A.C.]
7. Authorized Fuels: The CTG shall fire natural gas as the primary fuel, which shall contain no more than 2.0 grains of sulfur per 100 standard cubic feet (gr S/100 SCF) of natural gas. As a restricted alternate fuel, the CTG may fire ULSD fuel oil containing no more than 0.0015% sulfur by weight. Fuel oil may be fired up to the fuel equivalent of 3,000 hours aggregated over the three CTG during any calendar year. [Rules 62-210.200(PTE), F.A.C.]
8. Hours of Operation: Subject to the operational restrictions of this permit, the CTG may operate throughout the year (8760 hours per year). Restrictions on individual methods of operation are specified below. [Rules 62-210.200(Definitions - PTE), F.A.C.]
9. Methods of Operation: Subject to the restrictions and requirements of this permit, the CTG may operate under the following methods of operation.
 - a. Combined Cycle Operation: Each CTG/HRSG system may operate to produce direct, shaft-driven electrical power and steam-generated electrical power from the steam turbine-electrical generator as a three-on-one combined cycle unit subject to the restrictions of this permit. In accordance with the specifications of the SCR and HRSG manufacturers, the SCR system shall be on line and functioning properly during combined cycle operation or when the HRSG is producing steam.
 - b. Inlet Conditioning: In accordance with the manufacturer's recommendations and appropriate ambient conditions, the evaporative cooling system may be operated to reduce the compressor inlet air temperature and provide additional direct, shaft-driven electrical power.
 - c. Duct Burner (DB) Firing: When firing natural gas in a CTG, the respective HRSG may fire natural gas in the DB to raise additional steam for use in the CTG or in the operation of CTG components. The total combined heat input rate to the DB (all three HRSG) shall not exceed 3,697,920 mmBtu (LHV) during any consecutive 12 months.

[Application; Rule 62-210.200(PTE), F.A.C.]

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

A. UNIT 3 – COMBUSTION TURBINE GENERATORS (EU 006, 007, and 008)

EMISSIONS STANDARDS

10. **Emissions Standards:** Emissions from each CTG/DB shall not exceed the following standards developed under state implementation plan (SIP) permitting procedures. Compliance with these limits also assures compliance with the emission limitations in 40 CFR 60, Subpart KKKK.

Pollutant	Fuel	Method of Operation	Initial Stacks Tests		CEMS Rolling Average Limit
			ppmvd ^a	lb/hr ^b	ppmvd ^a
CO ^d	Oil	CTG	10.0	61.0	10.0, 30 unit operating days ^{c,d}
	Gas	CTG & DB	7.6	52.7	8.0, 30 unit operating days ^{c,d}
		CTG Normal Mode	5.0	29.0	
NO _x ^e	Oil	CTG	8.0	80.0	8.0, 30 unit operating days ^{c,e}
	Gas	CTG & DB	2.0	22.8	2.0, 30 unit operating days ^{c,e}
		CTG Normal Mode	2.0	19.3	
VOC ^f	Oil	CTG	6.0	18.9	NA
	Gas	CTG & DB	1.9	7.2	
		CTG Normal Mode	1.5	4.8	
NH ₃ ^g	Oil/Gas	CTG, All Modes	5	NA	NA
SAM/SO ₂ ^h	Oil/Gas	All Modes	2 gr S/100 SCF of gas, 0.0015% sulfur fuel oil Visible emissions shall not exceed 10% opacity for each 6-minute block average.		
PM/PM ₁₀ ⁱ					

- a. Concentration standards are given in terms of parts per million, by volume, dry at 15 percent oxygen and abbreviated as ppmvd.
- b. The mass emission rate standards in pounds per hour (lb/hr) are based on a turbine inlet condition of 59° F and may be adjusted to actual test conditions in accordance with the performance curves and/or equations filed with the Department.
- c. "Unit operating day" means a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the unit. It is not necessary for fuel to be combusted continuously for the entire 24-hour period. [40 CFR 60.4420]
- d. Compliance with the continuous 30-unit operating days rolling CO standard shall be demonstrated based on data collected by the required CEMS. The initial EPA Method 10 tests associated with the certification of the CEMS instruments shall also be used to demonstrate initial performance guarantees for natural gas, oil, and basic DB mode.
- e. Continuous compliance with the 30-unit operating days rolling NO_x standards shall be demonstrated based on data collected by the required CEMS and will also insure compliance with the less stringent Subpart KKKK limits of 15 and 42 ppmvd for gas and fuel oil respectively on a 30-unit operating day rolling average basis. The initial EPA Method 7E or Method 20 tests associated with demonstration of compliance with 40 CFR 60, Subpart KKKK or certification of the CEMS instruments shall also be used to demonstrate compliance with the individual standards for natural gas, fuel oil, and duct burner modes during the time of those tests. NO_x mass emission rates are defined as oxides of nitrogen expressed as nitrogen dioxide (NO₂).
- f. Compliance with the VOC standards shall be demonstrated by conducting tests in accordance with EPA Method 25A. Optionally, EPA Method 18 may also be performed to deduct emissions of methane and ethane. The emission standards are based on VOC measured as methane.
- g. Compliance with the NH₃ slip standard shall be demonstrated by conducting tests in accordance with EPA Method CTM-027 or EPA Method 320.
- h. The clean fuel sulfur specifications and visible emissions standard effectively limit the potential emissions of SAM and SO₂ from the CTG. Compliance with the fuel sulfur specifications shall be determined by the ASTM methods for determination of fuel sulfur as detailed in the draft permit.
- i. The clean fuel sulfur specifications, low CO and NO_x limits, and the visible emissions standard will effectively limit PM/PM₁₀/PM_{2.5} emissions. Compliance with the visible emissions standard shall be demonstrated by conducting tests in accordance with EPA Method 9.

[Application and Avoidance of Rule 62-212.400(4) through (12), F.A.C.; 40 CFR 60, Subpart KKKK]

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

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EXCESS EMISSIONS

{Permitting Note: The following conditions apply only to the SIP-based emissions standards specified in Condition No. 10 of this section. Rule 62-210.700, F.A.C. (Excess Emissions) cannot vary or supersede any federal provision of the NSPS, or Acid Rain programs.}

11. Operating Procedures: The emission standards established by this permit rely on “good operating practices” to reduce emissions. Therefore, all operators and supervisors shall be properly trained to operate and maintain the CTG, DB, HRSG, and pollution control systems in accordance with the guidelines and procedures established by each manufacturer. The training shall include good operating practices as well as methods of minimizing excess emissions. [Rules 62-4.070(3), F.A.C.]
12. Alternate Visible Emissions Standard: Visible emissions due to startups, shutdowns, and malfunctions shall not exceed 10% opacity except for up to ten, 6-minute averaging periods during a calendar day, which shall not exceed 20% opacity. [Applicant Request and Rule 62-4.070(3), F.A.C.]
13. Definitions:
 - a. *Startup* is defined as the commencement of operation of any emissions unit which has shut down or ceased operation for a period of time sufficient to cause temperature, pressure, chemical or pollution control device imbalances, which result in excess emissions. [Rule 62-210.200(245), F.A.C.]
 - b. *Shutdown* is the cessation of the operation of an emissions unit for any purpose. [Rule 62-210.200(230), F.A.C.]
 - c. *Malfunction* is defined as any unavoidable mechanical and/or electrical failure of air pollution control equipment or process equipment or of a process resulting in operation in an abnormal or unusual manner. [Rule 62-210.200(159), F.A.C.]
14. Excess Emissions Prohibited: Excess emissions caused 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. All such preventable emissions shall be included in any compliance determinations based on CEMS data. [Rule 62-210.700(4), F.A.C.]
15. Excess Emissions Allowed: As specified in this condition, excess emissions resulting from startup, shutdown, fuel switching and documented malfunctions are allowed provided that operators employ the best operational practices to minimize the amount and duration of emissions during such incidents. For each CTG/HRSG system, excess emissions of NO_x and CO resulting from startup, shutdown, or documented malfunctions shall not exceed two hours in any 24-hour period except for the specific cases listed below. A “documented malfunction” means a malfunction that is documented within one working day of detection by contacting the Compliance Authority by telephone, facsimile transmittal, or electronic mail.
 - a. *STG/HRSG System Cold Startup*: For cold startup of the steam turbine system, excess NO_x and CO emissions from any CTG/HRSG system shall not exceed eight (8) hours in any 24-hour period. A cold “startup of the steam turbine system” is defined as startup of the 3-on-1 combined cycle system following a shutdown of the steam turbine lasting at least 48 hours.

{Permitting Note: During a cold startup of the STG system, each CTG/HRSG system is sequentially brought on line at low load to gradually increase the temperature of the STG and prevent thermal metal fatigue. Note that shutdowns and documented malfunctions are separately regulated in accordance with the requirements of this condition.}
 - b. *Shutdown Steam Turbine System*: For shutdown of steam turbine system, excess NO_x and CO emissions from any CTG/HRSG system shall not exceed three (3) hours in any 24-hour period.

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- c. *CTG/HRSG System Cold Startup*: For cold startup of a CTG/HRSG system, excess NO_x and CO emissions shall not exceed four (4) hours in any 24-hour period. "Cold startup of a CTG/HRSG system" is defined as a startup after the pressure in the high-pressure (HP) steam drum falls below 450 psig for at least a one-hour period.
- d. *Fuel Switching*: For fuel switching, excess NO_x and CO emissions shall not exceed two (2) hours in any 24-hour period.
16. *Ammonia Injection*: Ammonia injection shall begin as soon as operation of the CTG/HRSG system achieves the operating parameters specified by the manufacturer. As authorized by Rule 62-210.700(5), F.A.C., the above conditions allow excess emissions only for specifically defined periods of startup, shutdown, fuel switching, and documented malfunction of the CTG.
[Design; Rules 62-4.070(3) and 62-210.700, F.A.C.]
17. *DLN Tuning*: CEMS data collected during initial or other major DLN tuning sessions shall be excluded from the CEMS compliance demonstration provided the tuning session is performed in accordance with the manufacturer's specifications. A "major tuning session" would occur after completion of initial construction, a combustor change-out, a major repair or maintenance to a combustor, or other similar circumstances. Prior to performing any major tuning session, the permittee shall provide the Compliance Authority with an advance notice of at least 7 days that details the activity and proposed tuning schedule. The notice may be by telephone, facsimile transmittal, or electronic mail.
[Design; Rule 62-4.070(3), F.A.C.]

EMISSIONS PERFORMANCE TESTING

18. *Test Methods*: Required tests shall be performed in accordance with the following reference methods.

Method	Description of Method and Comments
CTM-027 or 320	Procedure for Collection and Analysis of Ammonia in Stationary Source. {Notes: This is an EPA conditional test method. The minimum detection limit shall be 1 ppm.} Measurement of Vapor Phase Organic and Inorganic Emissions by Extractive Fourier Transform Infrared (FTIR) Spectroscopy
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	Determination of Carbon Monoxide Emissions from Stationary Sources {Notes: The method shall be based on a continuous sampling train. The ascarite trap may be omitted or the interference trap of section 10.1 may be used in lieu of the silica gel and ascarite traps.}
18	Measurement of Gaseous Organic Compound Emissions by Gas Chromatography {Note: EPA Method 18 may be used (optional) concurrently with EPA Method 25A to deduct emissions of methane and ethane from the measured VOC emissions.}
20	Determination of Nitrogen Oxides, Sulfur Dioxide and Diluent Emissions from Stationary Gas Turbines
25A	Determination of Volatile Organic Concentrations

No other methods may be used for compliance testing unless prior written approval is received from the administrator of the Department's Emissions Monitoring Section in accordance with an alternate sampling procedure pursuant to 62-297.620, F.A.C.

[Rules 62-204.800 and 62-297.100, F.A.C.; 40 CFR 60, Appendix A]

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19. Initial Compliance Determinations: Initial compliance tests shall be conducted within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after the initial startup of the unit, unless the alternate initial compliance test timeline in Condition 20 applies. Each CTG shall be stack tested to demonstrate initial compliance with the emission standards for CO, NO_x, VOC, visible emissions, and ammonia slip. Each unit shall be tested when firing natural gas, when using the duct burners and when firing distillate fuel oil. Referenced method data collected during the required Relative Accuracy Test Audits (RATAs) may be used to demonstrate compliance with the initial CO and NO_x standards. With appropriate flow measurements (or fuel measurements and approved F-factors), CEMS data may be used to demonstrate compliance with the CO and NO_x mass rate emissions standards. CO and NO_x emissions recorded by the CEMS shall also be reported for each run during tests for visible emissions, VOC and ammonia slip. The Department may require the permittee to conduct additional tests after major replacement or major repair of any air pollution control equipment, such as the SCR catalyst, oxidation catalyst, DLN combustors, etc. [Rule 62-297.310(7)(a)1, F.A.C. and 40 CFR 60.8]
20. Initial Compliance Determinations if "H" Technology CTG are Utilized: In the event CTG incorporating "H" level technology (described in Specific Condition 2 above) are selected for use at the CCEC, the initial compliance tests for the first installed CTG shall be conducted within 180 days after achieving the maximum production rate at which the unit will be operated, but not later than 300 days after the initial startup of the unit. [Subject to final approval by EPA]
- {The additional 120 day test period will be required to allow comprehensive commissioning, testing, and tuning of the "H" technology CTG.}
21. Continuous Compliance: The permittee shall demonstrate continuous compliance with the 30-unit operating days rolling average CO and NO_x emissions standards based on data collected by the certified CEMS. Within 45 days of conducting any RATA on a CEMS, the permittee shall submit a report to the Compliance Authority summarizing results of the RATA. Compliance with the CO emission standards also serves as an indicator of efficient fuel combustion and oxidation catalyst operation, which reduces emissions of particulate matter and volatile organic compounds. [Rule 62-4.070(3), F.A.C.; 40 CFR 60, Subpart KKKK]
22. Annual Compliance Tests: During each federal fiscal year (October 1st to September 30th), each CTG shall be tested to demonstrate compliance with the emission standards for visible emissions and ammonia slip. Testing to determine the ammonia slip shall be conducted while firing the primary fuel. NO_x emissions recorded by the CEMS shall be reported for each ammonia slip test run. CO emissions recorded by the CEMS shall be reported for the visible emissions observation period.
- {Permitting Note: After initial compliance with the VOC standards is demonstrated, annual compliance tests for VOC emissions are not required. Compliance with the continuously monitored CO standards shall indicate efficient combustion and low VOC emissions. The Department retains the right to require VOC testing if CO limits are exceeded or for the reasons given in Appendix SC, Condition 17, Special Compliance Tests.}*
- [Rules 62-4.070(3) and 62-297.310(7)(a)4, F.A.C.]
23. Compliance for SAM, SO₂ and PM/PM₁₀/PM_{2.5}: In stack compliance testing is not required for SAM, SO₂ and PM/PM₁₀/PM_{2.5}. Compliance with the limits and control requirements for SAM, SO₂ and PM/PM₁₀/PM_{2.5} is based on the recordkeeping required in Specific Condition 29, the visible emissions standard and the CO/NO_x continuous monitoring. [Rule 62-4.070(3), F.A.C.]

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CONTINUOUS MONITORING REQUIREMENTS

24. Continuous Emissions Monitoring System(s) (CEMS): The permittee shall install, calibrate, maintain, and operate CEMS to measure and record the emissions of CO and NO_x from the combined cycle CTG in a manner sufficient to demonstrate continuous compliance with the CEMS emission standards of this section. Each monitoring system shall be installed, calibrated, and properly functioning prior to the initial performance tests. Within one working day of discovering emissions in excess of a CO or NO_x standard (and subject to the specified averaging period), the permittee shall notify the Compliance Authority.
- a. *CO Monitors*: The CO monitors shall be certified pursuant to 40 CFR 60, Appendix B, Performance Specification 4 or 4A within 60 calendar days of achieving permitted capacity as defined in Rule 62-297.310(2), F.A.C., but no later than 180 calendar days after initial startup. Quality assurance procedures shall conform to the requirements of 40 CFR 60, Appendix F, and the Data Assessment Report in Section 7 shall be made each calendar quarter, and reported semiannually to the Compliance Authority. The RATA tests required for the CO monitor shall be performed using EPA Method 10 in Appendix A of 40 CFR 60 and shall be based on a continuous sampling train. The CO monitor span values shall be set appropriately considering the allowable methods of operation and corresponding emission standards.
 - b. *NO_x Monitors*: Each NO_x monitor shall be certified, operated, and maintained in accordance with the requirements of 40 CFR 75. Record keeping and reporting shall be conducted pursuant to Subparts F and G in 40 CFR 75. The RATA tests required for the NO_x monitor shall be performed using EPA Method 20 or 7E in Appendix A of 40 CFR 60.
 - c. *Diluent Monitors*: The oxygen (O₂) or carbon dioxide (CO₂) content of the flue gas shall be monitored at the location where CO and NO_x are monitored to correct the measured emissions rates to 15% oxygen. If a CO₂ monitor is installed, the oxygen content of the flue gas shall be calculated using F-factors that are appropriate for the fuel fired. Each monitor shall comply with the performance and quality assurance requirements of 40 CFR 75.
25. CEMS Data Requirements:
- a. *Data Collection*: Emissions shall be monitored and recorded at all times including startup, operation, shutdown, and malfunction except for continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments. The CEMS shall be designed and operated to sample, analyze, and record data evenly spaced over an hour. If the CEMS measures concentration on a wet basis, the CEM system shall include provisions to determine the moisture content of the exhaust gas and an algorithm to enable correction of the monitoring results to a dry basis (0% moisture). Alternatively, the owner or operator may develop through manual stack test measurements a curve of moisture contents in the exhaust gas versus load for each allowable fuel, and use these typical values in an algorithm to enable correction of the monitoring results to a dry basis (0% moisture). Final results of the CEMS shall be expressed as ppmvd corrected to 15% oxygen. The CEMS shall be used to demonstrate compliance with the CEMS emission standards for CO and NO_x as specified in this permit. For purposes of determining compliance with the CEMS emissions standards of this permit, missing (or excluded) data shall not be substituted. Upon request by the Department, the CEMS emission rates shall be corrected to International Organization of Standardization (ISO) conditions.
 - b. *Valid Hour*: Hourly average values shall begin at the top of each hour. Each hourly average value shall be computed using at least one data point in each fifteen-minute quadrant of an hour, where the unit combusted fuel during that quadrant of an hour. Notwithstanding this requirement, an hourly value shall be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant of an hour). If less than two such data points are available, the

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hourly average value is not valid. An hour in which any oil is fired is attributed towards compliance with the permit standards for oil firing. The permittee shall use all valid measurements or data points collected during an hour to calculate the hourly average values.

- c. *30-Unit Operating Day Rolling Averages:* Compliance shall be determined after each operating day by calculating the arithmetic average of all the valid hourly averages from that operating day and the prior 29 operating days. For purposes of determining compliance with the 30-unit operating day rolling CEMS standards, the missing data substitution methodology of 40 CFR Part 75, subpart D, shall not be utilized. Instead, the 30-unit operating day rolling average shall be determined using the remaining hourly data in the 30-day rolling period.

{Permitting Note: There may be more than one 30-unit operating day compliance demonstration required for CO and NO_x emissions depending on the use of alternate fuels.}

- d. *Data Exclusion:* Each CEMS shall monitor and record emissions during all operations including episodes of startup, shutdown, malfunction, fuel switches and DLN tuning. Some of the CEMS emissions data recorded during these episodes may be excluded from the corresponding CEMS compliance demonstration subject to the provisions of Condition Nos. 15 and 17 of this section. All periods of data excluded shall be consecutive for each such episode and only data obtained during the described episodes (startup, shutdown, malfunction, fuel switches, DLN tuning) may be used for the appropriate exclusion periods. The permittee shall minimize the duration of data excluded for such episodes to the extent practicable. Data recorded during such episodes shall not be excluded if the episode was caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure, which may reasonably be prevented. Best operational practices shall be used to minimize hourly emissions that occur during such episodes. Emissions of any quantity or duration that occur entirely or in part from poor maintenance, poor operation, or any other equipment or process failure, which may reasonably be prevented, shall be prohibited.
- e. *Availability:* Monitor availability for the CEMS shall be 95% or greater in any calendar quarter. The quarterly excess emissions report shall be used to demonstrate monitor availability. In the event 95% availability is not achieved, the permittee shall provide the Department with a report identifying the problems in achieving 95% availability and a plan of corrective actions that will be taken to achieve 95% availability. The permittee shall implement the reported corrective actions within the next calendar quarter. Failure to take corrective actions or continued failure to achieve the minimum monitor availability shall be violations of this permit, except as otherwise authorized by the Department's Compliance Authority.

[Rule 62-297.520, F.A.C.; 40 CFR 60.7(a)(5) and 40 CFR 60.13; 40 CFR Part 51, Appendix P; 40 CFR 60, Appendix B - Performance Specifications; 40 CFR 60, Appendix F - Quality Assurance Procedures; and Rules 62-4.070(3), F.A.C.]

26. Ammonia Monitoring Requirements: In accordance with the manufacturer's specifications, the permittee shall install, calibrate, operate and maintain an ammonia flow meter to measure and record the ammonia injection rate to the SCR system by the time of the initial compliance tests. The permittee shall document and periodically update the general range of ammonia flow rates required to meet permitted emissions levels over the range of load conditions allowed by this permit by comparing NO_x emissions recorded by the CEM system with ammonia flow rates recorded using the ammonia flow meter. During NO_x monitor downtimes or malfunctions, the permittee shall operate at the ammonia flow rate and, as applicable for fuel oil firing, the water-to-fuel ratio, that are consistent with the documented flow rate for the combustion turbine load condition. [Rules 62-4.070(3), F.A.C.]

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RECORDS AND REPORTS

27. Monitoring of Capacity: The permittee shall monitor and record the operating rate of each CTG and HRSG DB system on a daily average basis, considering the number of hours of operation during each day (including the times of startup, shutdown, malfunction and fuel switching). Such monitoring shall be made using a monitoring component of the CEMS required above, or by monitoring daily rates of consumption and heat content of each allowable fuel in accordance with the provisions of 40 CFR 75 Appendix D. [Rule 62-4.070(3), F.A.C.]

28. Monthly Operations Summary: By the fifth calendar day of each month, the permittee shall record the following for each fuel in a written or electronic log for each CTG for the previous month of operation: fuel consumption, hours of operation, hours of duct firing, and the updated 12-month rolling totals for each. Information recorded and stored as an electronic file shall be available for inspection and printing within at least three days of a request by the Department. The fuel consumption shall be monitored in accordance with the provisions of 40 CFR 75, Appendix D. [Rules 62-4.070(3), F.A.C.]

29. Fuel Sulfur Records: The permittee shall demonstrate compliance with the fuel sulfur limits specified in this permit by maintaining the following records of the sulfur contents.

- a. *Natural Gas*: Compliance with the fuel sulfur limit for natural gas shall be demonstrated by keeping reports obtained from the vendor indicating the average sulfur content of the natural gas being supplied from the pipeline for each month of operation. Methods for determining the sulfur content of the natural gas shall be ASTM methods D4084-82, D4468-85, D5504-01, D6228-98 and D6667-01, D3246-81 or more recent versions.
- b. *ULSD Fuel Oil*: Compliance with the distillate fuel oil sulfur limit shall be demonstrated by taking a sample, analyzing the sample for fuel sulfur, and reporting the results to each Compliance Authority before initial startup. Sampling the fuel oil sulfur content shall be conducted in accordance with ASTM D4057-88, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, and one of the following test methods for sulfur in petroleum products: ASTM methods D5453-00, D129-91, D1552-90, D2622-94, or D4294-90. More recent versions of these methods may be used. For each subsequent fuel delivery, the permittee shall maintain a permanent file of the certified fuel sulfur analysis from the fuel vendor. At the request of a Compliance Authority, the permittee shall perform additional sampling and analysis for the fuel sulfur content.

The above methods shall be used to determine the fuel sulfur content in conjunction with the provisions of 40 CFR 75, Appendix D. [Rules 62-4.070(3) and 62-4.160(15), F.A.C.]

30. Emissions Performance Test Reports: A report indicating the results of any required emissions performance test shall be submitted to the Compliance Authority no later than 45 days after completion of the last test run. 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)(c), F.A.C. and in Appendix SC of this permit. [Rule 62-297.310(8), F.A.C.].

31. Excess Emissions Reporting:

- a. *Malfunction Notification*: If emissions in excess of a standard (subject to the specified averaging period) occur due to malfunction, the permittee shall notify the Compliance Authority 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.

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A. UNIT 3 – COMBUSTION TURBINE GENERATORS (EU 006, 007, and 008)

- b. *SIP Quarterly Permit Limits Excess Emissions Report:* Within 30 days following the end of each calendar-quarter, the permittee shall submit a report to the Compliance Authority summarizing periods of CO and NO_x emissions in excess of the permit emission standards following the NSPS format in 40 CFR 60.7(c), Subpart A. Periods of startup, shutdown and malfunction, shall be monitored, recorded and reported as excess emissions when emission levels exceed the standards specified in this permit. In addition, the report shall summarize the CEMS systems monitor availability for the previous quarter.
- c. *NSPS Semi-Annual Excess Emissions Reports:* For purposes of reporting emissions in excess of NSPS Subpart KKKK, excess emissions from the CTG are defined as: a specified averaging period over which either the NO_x emissions are higher than the applicable emission limit in 40 CFR 60.4320; or the total sulfur content of the fuel being combusted in the affected facility exceeds the limit specified in 60.4330. Within thirty (30) days following each calendar semi-annual period, the permittee shall submit a report on any periods of excess emissions that occurred during the previous semi-annual period to the Compliance Authority.

{Note: If there are no periods of excess emissions as defined in NSPS Subpart KKKK, a statement to that effect may be submitted with the SIP Quarterly Report to suffice for the NSPS Semi-Annual Report.}

[Rules 62-4.130, 62-204.800, 62-210.700(6), F.A.C.; 40 CFR 60.7, and 60.4420]

- 32. **Annual Operating Report:** The permittee shall submit an annual report that summarizes the actual operating hours and emissions from this facility. The permittee shall also keep records sufficient to determine the annual throughput of distillate fuel oil for the fuel oil storage tank for use in the Annual Operating Report. Annual operating reports shall be submitted to the Compliance Authority by April 1st of each year.
[Rule 62-210.370(2), F.A.C.]

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

B. AUXILIARY BOILER AND TEMPORARY CONSTRUCTION BOILER (009 AND 014)

This section of the permit addresses the following emissions units.

ID	Emission Unit Description
009	One nominal 85,000 pounds per hour (lb/hr) natural gas fueled auxiliary boiler (99.8 mmBtu/hr)
014	One temporary 110 mmBtu/hr natural gas-fueled boiler to be used only during construction

AUXILIARY BOILER REQUIREMENTS

- Equipment:** The permittee is authorized to install, operate, and maintain one auxiliary boiler with a maximum design heat input of 99.8 mmBtu/hr (85,000 lb/hr) to produce steam during start up of the CTG. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]
- Hours of Operation:** The hours of operation of the auxiliary boiler shall not exceed 500 hours per year. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]
- NSPS Subpart Dc Applicability:** The auxiliary boiler is subject to all applicable requirements of 40 CFR 60, Subpart Dc which applies to Small Industrial, Commercial, or Institutional Steam Generating Units. Specifically, this emission unit shall comply with 40 CFR 60.48c Reporting and Recordkeeping Requirements. [40 CFR 60, NSPS-Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, attached as Appendix Dc].
- Auxiliary Boiler Emissions Limits:** The auxiliary boiler shall comply with the following emission limits.

NO _x	CO	VOC, SO ₂ , PM/PM ₁₀
0.05 lb/mmBtu	0.08 lb/mmBtu	2 gr S/100 SCF natural gas spec and 10% Opacity

[Applicant request; Rule 62-4.070(3), F.A.C.]

{Permitting note: There are no Subpart Dc emission standards for auxiliary boilers fueled by natural gas.}

- Auxiliary Boiler Testing Requirements:** The auxiliary boiler shall be stack tested to demonstrate initial compliance with the emission standards for CO, NO_x and visible emissions. The tests shall be conducted within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after the initial startup. [Rule 62-297.310(7)(a)1, F.A.C.]

Test Methods: Any required tests shall be performed in accordance with the following reference methods.

Method	Description of Method and Comments
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	Determination of Carbon Monoxide Emissions from Stationary Sources

- Notification:** Initial notification is required for the auxiliary boiler pursuant to 40 CFR 60.7.
- Reporting:** The permittee shall maintain records of the amount of natural gas used in the auxiliary boiler. These records shall be submitted to the Compliance Authority on an annual basis or upon request. [Rule 62-4.070(3), F.A.C.]

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

B. AUXILIARY BOILER AND TEMPORARY CONSTRUCTION BOILER (009 AND 014)

TEMPORARY BOILER REQUIREMENTS

8. Equipment: The permittee is authorized to install, operate, and maintain a temporary boiler during the construction of the CCEC with a maximum design heat input of 110 mmBtu/hr.
[Applicant Request; Rule 62-210.200(PTE), F.A.C.]
9. Hours of Operation: The hours of operation of the temporary boiler shall not exceed 500 hours per year and the temporary boiler shall not operate beyond the expiration date of this permit.
[Applicant Request; Rule 62-210.200(PTE), F.A.C.]
10. NSPS Subpart Db Applicability: The temporary 110 mmBtu natural gas-fueled boiler is subject to all applicable requirements of 40 CFR 60, Subpart Db which applies to Industrial, Commercial, or Institutional Steam Generating Units.
[40 CFR 60, NSPS-Subpart Db - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, attached as Appendix Db].

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

C. PROCESS HEATERS (EU 010)

This section of the permit addresses the following emissions unit.

ID	Emission Unit Description
010	Two nominal 10 mmBtu/hr natural gas-fired process heaters (one is a spare)

- Equipment:** The permittee is authorized to install, operate, and maintain two 10 mmBtu/hr process heaters for the purpose of heating the natural gas supply to the CTG.
[Applicant Request and Rule 62-210.200(PTE), F.A.C.]
- Hours of Operation:** The two natural gas-fueled process heaters are allowed to operate a combined total of 8760 hours per year. [Applicant Request and Rule 62-210.200(PTE), F.A.C.]
- NSPS Subpart Dc Applicability:** Each process heater is subject to all applicable requirements of 40 CFR 60, Subpart Dc which applies to Small Industrial, Commercial, or Institutional Boiler. Specifically, each emission unit shall comply with 40 CFR 60.48c Reporting and Recordkeeping Requirements.
[40 CFR 60, NSPS-Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, attached as Appendix Dc]
- Emission Limits:** Each natural gas fired process heater shall comply with the following emission limits.

NO _x	CO	VOC, SO ₂ , PM/PM ₁₀
0.095 lb/mmBtu	0.08 lb/mmBtu	2 gr S/100 SCF natural gas spec and 10% Opacity

[Applicant request; Rule 62-4.070(3), F.A.C.]

{Permitting note: There are no Subpart Dc emission standards for gas-fired process heaters fueled by natural gas.}

- Testing Requirements:** Each unit shall be stack tested to demonstrate initial compliance with the emission standards for CO, NO_x and visible emissions. The tests shall be conducted within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after the initial startup. As an alternative, a Manufacturer certification of emissions characteristics of the purchased model that are at least as stringent as the emission limits values can be used to fulfill this requirement.
[Rule 62-297.310(7)(a)1, F.A.C.]

Test Methods: Any required tests shall be performed in accordance with the following reference methods.

Method	Description of Method and Comments
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	Determination of Carbon Monoxide Emissions from Stationary Sources

- Notification, Recordkeeping and Reporting Requirements:** The permittee shall maintain records of the amount of natural gas used in the process heaters and shall comply with the notification, recordkeeping and reporting requirements pursuant to 40 CFR 60.48c and 40 CFR 60.7. These records shall be submitted to the Compliance Authority on an annual basis or upon request.
[Rule 62-4.070(3), F.A.C.; 40 CFR 60, Subparts A and Dc]

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

D. COMPRESSOR STATION (EU 011)

This section of the permit addresses the following emissions unit.

ID	Emission Unit Description
011	Seven nominal 1,340 horsepower (hp) natural gas compressors

1. Equipment: The permittee is authorized to install, operate, and maintain seven nominal 1,340 horsepower (hp) natural gas compressors. Maximum heat input shall not exceed 10.11 mmBtu/hr each.
[Applicant Request and Rule 62-210.200(PTE), F.A.C.]
2. Hours of Operation and Fuel Specifications: Each compressor is allowed to operate continuously (8760 hr/yr). The compressors are allowed to burn natural gas only.
[Applicant Request and Rule 62-210.200(PTE), F.A.C.]
3. NSPS Subpart JJJJ Applicability: These compressors are Stationary Spark Ignition Internal Combustion Engines and shall comply with applicable provisions of 40 CFR 60, Subpart JJJJ.
[40 CFR 60, Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines]
4. NESHAPS Subpart ZZZZ Applicability: These compressors are Reciprocating Internal Combustion Engines (RICE) and shall comply with applicable provisions of 40 CFR 63, Subpart ZZZZ. Pursuant to 40 CFR 63.6590(c) the compressors must meet the requirements of Subpart ZZZZ by meeting the requirements of 40 CFR 60, Subpart JJJJ.
[40 CFR 63, Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (RICE)]
5. Pollution Control Equipment: Each gas compressor shall be equipped with an oxidation catalyst to control CO and VOC/hydrocarbons. [Applicant request; Rule 62-4.070(3), F.A.C.]
6. Visible Emission (VE) Limit: Each natural gas compressor shall comply with a visible emission limit of 10% opacity. [Applicant request; Rule 62-4.070(3), F.A.C.]
7. Emissions Limits: Each natural gas compressors shall comply with the following emission limits.

Standard (manufacture date)	CO (g/hp-hr) ^a	VOC (g/hp-hr)	NO _x (g/hp-hr)	PM (g/hp-hr)	SO ₂ (gas S spec.)
Permit Emission Limit	0.10	0.16	1.5 ^b	0.034	2 gr/100 SCF
Subpart JJJJ (1/1/2008)	4.0	1.0	2.0	NA	
Subpart JJJJ (7/1/2010)	2.0	0.7	1.0		

a. grams per horsepower-hour (g/hp-hr)

b. Reduced to 1.0 g/hp-hr if manufacture date is 7/1/2010 or later to insure compliance with Subpart JJJJ.

{Permitting note: Installation of an oxidation catalyst and adherence to the visible emission standard and fuel specification shall be considered sufficient to insure compliance with the listed PM limit.}

[Applicant request; 40 CFR 60, Subpart JJJJ; Rule 62-4.070(3), F.A.C.]

8. Compressor Testing Requirements: Each unit shall be stack tested to demonstrate initial compliance with the emission standards for CO, VOC, NO_x and visible emissions. The tests shall be conducted within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after the initial startup. [Rule 62-297.310(7)(a)1, F.A.C.; 40 CFR 60.8 and 40 CFR 60.4244]

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

D. COMPRESSOR STATION (EU 011)

9. Test Methods: Any required tests shall be performed in accordance with the following reference methods.

Method	Description of Method and Comments
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	Determination of Carbon Monoxide Emissions from Stationary Sources
18	Determination of Volatile Organic Compounds Emissions from Stationary Sources

[Rule 62-4.070(3), F.A.C.; 40 CFR 60, Subpart JJJJ and 40 CFR 60.8]

10. Notification, Recordkeeping and Reporting Requirements: The permittee shall maintain records of the amount of natural gas used in the compressor station and shall comply with the notification, recordkeeping and reporting requirements pursuant to 40 CFR 60.4245 and 40 CFR 60.7. These records shall be submitted to the Compliance Authority on an annual basis or upon request.

[Rule 62-4.070(3), F.A.C.; 40 CFR 60, Subparts A and JJJJ]

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

E. EMERGENCY GENERATORS (012)

This section of the permit addresses the following emissions units.

ID	Emission Unit Description
012	Two nominal 2,250 kilowatts (kW) liquid fueled emergency generators

1. **Equipment:** The permittee is authorized to install, operate, and maintain two 2,250 kW emergency generators. [Applicant Request and Rule 62-210.200(PTE), F.A.C.]
2. **Hours of Operation and Fuel Specifications:** The hours of operation shall not exceed 160 hours per year per generator. The generators shall burn ultralow sulfur diesel fuel oil (0.0015% sulfur). [Applicant Request and Rule 62-210.200(PTE), F.A.C.]
3. **NSPS Subpart IIII Applicability:** These emergency generators are Stationary Compression Ignition Internal Combustion Engines (Stationary ICE) and shall comply with applicable provisions of 40 CFR 60, Subpart IIII, including emission testing or certification. [40 CFR 60, Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines]
4. **NESHAPS Subpart ZZZZ Applicability:** These emergency generators are Liquid Fueled Reciprocating Internal Combustion Engines (RICE) and shall comply with applicable provisions of 40 CFR 63, Subpart ZZZZ. Pursuant to 40 CFR 63.6590(c) the compressors must meet the requirements of Subpart ZZZZ by meeting the requirements of 40 CFR 60, Subpart IIII. [40 CFR 63, Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (RICE)]
5. **Emissions Limits:** Each emergency generator shall comply with the following emission limits and demonstrate compliance in accordance with the procedures given in 40 CFR 60, Subpart IIII.

Source (model year)	CO (g/hp-hr)	PM (g/hp-hr)	Hydrocarbons (g/hp-hr)	NO _x (g/hp-hr)
Subpart IIII (2007-2010)	8.5	0.4	1.0	6.9
Subpart IIII (2011 and later)	2.6	0.15	4.8 (NMHC ^a +NO _x)	

a. NMHC means Non-Methane Hydrocarbons.

[Applicant Request; 40 CFR 60, Subpart IIII and Rule 62-4.070(3), F.A.C.]

6. **Visible Emission (VE) Limit:** Each natural gas compressor shall comply with a visible emission limit of 10% opacity. An initial VE test shall be conducted in accordance with EPA Method 9 within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after initial startup. [Applicant request; Rule 62-4.070(3), F.A.C.]
7. **Notification, Recordkeeping and Reporting Requirements:** The permittee shall maintain records of the amount of natural gas used in the process heaters and shall comply with the notification, recordkeeping and reporting requirements pursuant to 40 CFR 60.4214 and 40 CFR 60.7. These records shall be submitted to the Compliance Authority on an annual basis or upon request. [Rule 62-4.070(3), F.A.C.; 40 CFR 60, Subparts A and IIII]

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

F. EMERGENCY FIRE PUMP (013)

This section of the permit addresses the following emissions unit.

ID	Emission Unit Description
013	One emergency diesel fire pump engine (≤ 300 hp) and a nominal 500 gallon fuel oil storage tank

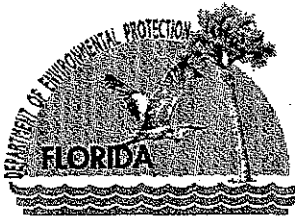
1. **Equipment:** The permittee is authorized to install, operate, and maintain one diesel engine driven fire pump (≤ 300 hp) and an associated nominal 500 gallon fuel oil storage tank. [Applicant Request and Rule 62-210.200(PTE), F.A.C.]
2. **Hours of Operation:** The fire pump may operate in response to emergency conditions and 80 non-emergency hours per year for maintenance testing. [Applicant Request, Rule 62-210.200 (PTE), F.A.C.]
3. **Authorized Fuel:** This unit shall fire ULSD fuel oil, which shall contain no more than 0.0015% sulfur by weight. [Applicant Request]
4. **NSPS Subpart III Applicability:** The fire pump engine is an Emergency Stationary Compression Ignition Internal Combustion Engine (Stationary ICE) and shall comply with applicable provisions of 40 CFR 60, Subpart III. [40 CFR 60, Subpart III - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines]
5. **Emissions Limits:** The emergency fire pump engine shall comply with the following emission limits and demonstrate compliance in accordance with the procedures given in 40 CFR 60, Subpart III.

Model Year	CO (g/hp-hr)	NMHC + NO _x (g/hp-hr)	PM (g/hp-hr)
Subpart III (2008)	2.6	7.8	0.40
Subpart III (2009 or later)	NA	3.0	0.15

[Applicant Request, 40 CFR 60, Subpart III and Rule 62-4.070(3), F.A.C.]

6. **Fire Pump Engine Certification:** Manufacturer certification shall be provided to the Department in lieu of actual testing. [40 CFR 60.4211 and Rule 62-4.070(3), F.A.C.]

**STATE OF FLORIDA
INDUSTRIAL WASTEWATER FACILITY
PERMIT NO. FL0001473**



Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

STATE OF FLORIDA INDUSTRIAL WASTEWATER FACILITY PERMIT

PERMITTEE:

FP&L Cape Canaveral Plant
6000 North U.S. Highway 1
Cocoa, FL 32927

PERMIT NUMBER:

FL0001473 (Major)

PA FILE NUMBER:

FL0001473-008-IW1S

ISSUANCE DATE:

August 10, 2005

EXPIRATION DATE:

August 9, 2010

RESPONSIBLE AUTHORITY:

Mr. Lowell Trotter
Plant General Manager

FACILITY:

FP&L Cape Canaveral Plant
6000 North U.S. Highway 1
Cocoa, FL 32927
Brevard County

Latitude: 28° 28' 10" N Longitude: 80° 45' 54" W

This permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.) and applicable rules of the Florida Administrative Code (F.A.C.), and constitutes authorization to discharge to waters of the state under the National Pollutant Discharge Elimination System (NPDES). The above named permittee is hereby authorized to operate the facilities shown on the application and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

The plant consists of two steam electric generating units. Units 1 and 2 have a nominal generating capacity of 400 megawatts.

The plant uses a once-through condenser cooling water system. Condenser cooling water is drawn from the Indian River through an intake canal located on the southern end of the plant. The cooling water passes through the plant condensers and then discharged back to the Indian River via two 78-inch underground pipes that empty into their respective outfall structures. The discharge structures for the two units are located approximately 550 feet apart. Auxiliary equipment cooling water from both units is discharged to the Indian River through a single 18-inch outfall pipe located approximately midway between the once-through cooling outfall structures.

The main condenser Once-Through Cooling Water (OTCW) is chlorinated at the intake for both units. The facility dechlorinates the once-through cooling water using sodium bisulfite prior to discharge. Auxiliary Equipment Cooling Water (AECW) may also be chlorinated using continuous low level chlorination. Boiler blowdown is captured and reused. Wastewater from the on-site water treatment system is discharged via existing Outfall D-030 to the Indian River until 6 months beyond the issuance date of this permit. After such time, wastewater from the on-site

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water treatment system will be discharged internally to the AECW outfall or, alternatively, to the OTCW outfalls.

WASTEWATER TREATMENT:

Wastewater generated during metal cleaning operations is discharge to the two lined Solids Settling Basins (B-1A and B-1B). Reverse osmosis reject from boiler blowdown source water and boiler chemical cleaning rinses (in which EDTA, Citro-Soly or equivalent cleaner is used in the cleaning operation) may also be routed to the solids settling basins. The wastewater in the basins is treated by adding caustic that allows for the precipitation of metals followed by sedimentation. Treated effluent from the solids settling basins is routed to the Evaporation/Percolation Basin (EP-1) and acid is added for pH adjustment. Treated wastewater from the evaporation/percolation basin is used for spray irrigation on the berms of the fuel oil containment area. This area is designated as E/P Basin Spray Area (SP-1).

Stormwater runoff and drainage from equipment areas and fuel oil handling facilities as well as equipment rinse water in the power block areas are collected via floor drains. The collected runoff is then routed through oil removal devices prior to discharge to the equipment area runoff treatment and disposal system consisting of the Forwarding Sump (S-3), Equipment Area Runoff Basin (B-3), organo-clay polishing filters, and the Runoff Disposal Area (DA-1). Under light rainfall conditions, runoff from the forwarding sump is routed through the organo-clay filters directly to the Disposal Area DA-1. Under medium and chronic rainfall conditions (up to one inch of rainfall), the runoff from the forwarding sump is routed to the Runoff Basin B-3 and then pumped through the organo-clay filters to the runoff Disposal Area DA-1. On rare occasions and under chronic heavy rainfall conditions (in excess of one inch rainfall), the runoff that is not routed to the runoff basin or pumped through the organo-clay filters to the runoff disposal area, overflows at the forwarding sump and discharged to the Indian River via Outfall D-016.

EFFLUENT DISPOSAL:**Surface Water Discharge:**

An existing discharge of 332 MGD annual average flow and 396 MGD maximum daily flow to Indian River (Class III Marine waters), D-011. The once-through cooling water from Unit 1 is located approximately at latitude 28° 28' 11" N, longitude 80° 45' 46" W.

An existing discharge of 332 MGD annual average flow and 396 MGD maximum daily flow to Indian River (Class III Marine waters), D-012. The once-through cooling water outfall from Unit 2 is located approximately at latitude 28° 28' 14" N, longitude 80° 45' 50" W.

An existing discharge of 13.8 MGD annual average flow and 30.0 MGD maximum daily flow to the Indian River (Class III Marine waters), D-015. The auxiliary equipment cooling water outfall for Units 1 & 2 line is located approximately at latitude 28° 28' 12" N, longitude 80° 45' 48" W.

An existing discharge to Indian River (Class III Marine waters), D-016. The equipment area runoff basin overflow outfall is located approximately at latitude 28° 28' 18" N, longitude 80° 45' 51" W.

An existing discharge to Indian river (Class III Marine waters), D-028. The stormwater from fuel oil storage tank secondary containment area outfall is located approximately at latitude 28° 28' 18" N, longitude 80° 45' 51" W.

An existing discharge to Indian River (Class III Marine waters), D-029. The non-equipment area stormwater outfall is located approximately at latitude 28° 28' 12" N, longitude 80° 45' 48" W.

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An existing discharge to Indian River (Class III Marine waters), D-030. The water treatment system wastewater outfall is located approximately at latitude 28° 28' 18" N, longitude 80° 45' 51" W.

Land Application:

An existing land application system (G-010) consisting of Evaporation/Percolation Basin (EP-1) and E/P Basin Spray Area (SP-1). The Evaporation/Percolation Basin (EP-1) is located approximately at latitude 28° 28' 14" N, longitude 80° 45' 51" W. The E/P Basin Spray Area (SP-1) is located approximately at latitude 28° 28' 16" N, longitude 80° 45' 53" W.

An existing land application system (G-020) consisting of Equipment Area Runoff Basin (B-3) and Runoff Disposal Area (DA-1). The Equipment Area Runoff Basin (B-3) is located approximately at latitude 28° 28' 10" N, longitude 80° 45' 54" W. The Runoff Disposal Area (DA-1) is located approximately at latitude 28° 28' 08" N, longitude 80° 45' 55" W.

Internal Outfalls:

This permit authorizes discharge of 0.05 MGD annual average flow from internal Outfall I-017 to the AECW Outfall (D-015) or, alternatively, to the OTCW Outfalls (D-011 and D-012).

IN ACCORDANCE WITH: The limitations, monitoring requirements and other conditions as set forth in Part I through Part VIII on pages 4 through 26 of this permit.

PERMITTEE:

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FP&L Cape Canaveral Plant
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I. Effluent Limitations and Monitoring Requirements

A. Surface Water Discharges

- During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to discharge **Once-Through Cooling Water (OTCW)** from Outfalls D-011 and D-012. Such discharge shall be limited and monitored by the permittee as specified below:

Parameters (units)	Discharge Limitations				Monitoring Requirements		
	Monthly Average	Instantaneous Maximum	Maximum Daily Average	Instantaneous Minimum	Monitoring Frequency	Sample Type	Sample Point
Flow (MGD)	Report	Report	--	--	Continuous	Calculated	FLW-1, FLW-2
Chlorination (HOURS/UNIT/DAY)	--	2.0	--	--	Daily	Calculated	OTH-1, OTH-2
Oxidants, Total Residual (MG/L)	--	--	0.01	--	Weekly	Grab ¹	EFF-1, EFF-2
Temperature (F), Water (DEG.F)	Report ²	Report ²	--	--	6/Day	Instantaneous	EFF-1, EFF-2
Dissolved Oxygen (MG/L)	--	--	--	Report	Monthly ³	Grab	INT-1 and EFF-1 or INT-2 and EFF-2

- Effluent samples shall be taken at the monitoring site locations listed above and as described below:

Sample Point	Description of Monitoring Location
FLW-1, FLW-2	Once-through cooling water intake for Units 1 and 2, respectively, flow monitoring location.
EFF-1, EFF-2	Once-through cooling water discharge structures for Units 1 and 2, respectively.
INT-1, INT-2	Once-through or auxiliary equipment cooling water for Units 1 and 2, respectively.
OTH-1, OTH-2	At the point of chlorine addition for Units 1 and 2, OTCW

¹ Grab samples shall consist of multiple samples collected at approximately the beginning, middle, and end of the chlorination period.

² Discharge from Outfall D-001 is subject to thermal limitations established by Rule 62-302.520(1), F.A.C.

³ Grab samples for both the intake and discharge shall be taken concurrently every 4 hours, for 24 hours, once month. Intake and discharge sampling during a monthly sampling event is only required from one power plant unit, i.e. Unit 1 or Unit 2. The permittee may request a reduction or discontinuance of these monitoring requirements after 12 months of monitoring.

PERMITTEE:

PERMIT NUMBER: FL0001473

FP&L Cape Canaveral Plant
6000 North U.S. Highway 1
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Issuance date: August 10, 2005
Expiration date: August 9, 2010

3. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to discharge **Auxiliary Equipment Cooling Water (AECW)** from Units 1 and 2 used in lieu of OTCW from Outfall D-013 (formerly D-0D1) and Outfall D-014 (formerly D-0D2). Such discharge shall be limited and monitored by the permittee as specified below:

Parameters (units)	Discharge Limitations			Monitoring Requirements		
	Monthly Average	Maximum Daily Average	Instantaneous Maximum	Monitoring Frequency	Sample Type	Sample Point
Flow (MGD)	Report	Report	—	Continuous	Calculated	FLW-3 FLW-4
Temp. Diff. between Intake and Discharge (DEG.F)	—	—	20.0	6/Day	Calculated	INT-1 INT-2 EFF-1 EFF-2
Oxidants, Total Residual (MG/L)	—	0.01	—	Weekly	Grab ⁴	EFF-1 EFF-2
Chlorination (HOURS/UNIT/DAY)	—	24	—	Daily	Calculated	OTH-3

4. Effluent samples shall be taken at the monitoring site locations listed above and as described below:

Sample Point	Description of Monitoring Location
FLW-3, FLW-4	Auxiliary equipment cooling water intake for Units 1 and 2, respectively, flow monitoring location.
INT-1, INT-2	Once-through or auxiliary equipment cooling water intake for Units 1 and 2, respectively.
EFF-1, EFF-2	Once-through cooling water discharge structures for Units 1 and 2, respectively.
OTH-3	At the point of chlorine addition for Units 1 and 2 AECW

⁴ Multiple grabs shall be collected during daylight hours every 4 hours during TRO discharge.

PERMITTEE:

PERMIT NUMBER: FL0001473

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Expiration date: August 9, 2010

5. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to discharge **Units 1 and 2 Auxiliary Equipment Cooling Water** from Outfall D-015 (formerly D-081). Such discharge shall be limited and monitored by the permittee as specified below:

Parameters (units)	Discharge Limitations			Monitoring Requirements		
	Monthly Average	Maximum Daily Average	Instantaneous Maximum	Monitoring Frequency	Sample Type	Sample Point
Flow (MGD)	Report	Report	--	Continuous	Calculated	FLW-3 FLW-4
Oxidants, Total Residual (MG/L)	--	0.01	--	Weekly	Grab ⁵	EFF-3
Chlorination (HOURS/UNIT/DAY)	--	24	--	Daily	Calculated	OTH-3

6. Effluent samples shall be taken at the monitoring site locations listed above and as described below:

Sample Point	Description of Monitoring Location
FLW-3, FLW-4	Flow monitoring location for auxiliary equipment cooling water for Units 1 and 2, respectively.
OTH-3	At the point of chlorine addition for Units 1 and 2 ABCW
EFF-3	Combined auxiliary equipment water cooling discharge from Units 1 and 2 prior to actual discharge to the receiving waters or mixing with other waste streams.

⁵ Multiple grabs shall be collected during daylight hours every 4 hours during TRO discharge.

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7. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to **Equipment Area Runoff Basin Overflow** from Outfall D-016 (formerly D-0B0). Such discharge shall be limited and monitored by the permittee as specified below:

Parameters (units)	Discharge Limitations			Monitoring Requirements		
	Monthly Average	Maximum Daily Average	Instantaneous (Min/Max)	Monitoring Frequency	Sample Type	Sample Point
Flow (MGD)	Report	Report	--	Per Discharge ⁶	Calculated	EFF-4
Oil & Grease (MG/L)	Report	5.0	--	Per Discharge ⁶	Grab	EFF-4
Solids, Total Suspended (MG/L)	30.0	100.0	--	Per Discharge ⁶	Grab	EFF-4
pH Range (SU)	--	--	6.0 to 9.0	Per Discharge ⁶	Grab	EFF-4

8. Effluent samples shall be taken at the monitoring site locations listed above and as described below:

Sample Point	Description of Monitoring Location
EFF-4	Discharge from the forwarding sump prior to actual discharge to receiving waters or mixing with other waste stream.

9. During the period beginning on the issuance date and lasting until 6 months beyond the issuance date, the permittee is authorized to discharge **Water Treatment Plant Wastewater** from existing Outfall D-030 to the Indian River. Such discharge shall be limited and monitored by the permittee as specified below:

Parameters (units)	Monthly Average	Maximum Daily Average	Instantaneous	Annual Average	Monitoring Frequency	Sample Type	Sample Point
Flow (MGD)	Report	Report	--	--	2/Month	Calculated	BFF-5
Solids, Total Suspended (MG/L)	30.0	100.0	--	--	2/Month	Composite ⁷	BFF-5
Oil and Grease (MG/L)	--	5.0	--	--	2/Month	Grab	EFF-5
pH Range (S.U.)	--	--	6.0 to 9.0	--	2/Month	Grab	EFF-5

⁶ Monitoring of discharge from the Oil separator/Forwarding Sump is not required provided the first one inch rainfall is retained by the Stormwater Basin and associated spray field. Subsequent overflow may be discharged without monitoring requirements, except that there shall be no discharge of a visible oil sheen. In the event that these conditions are not met, monitoring shall be 1/discharge.

⁷ Shall be defined as a composite of grab samples taken at the beginning, middle and end of the Backwash Basin discharge period.

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10. Effluent samples shall be taken at the monitoring site locations listed above and as described below:

Sample Point	Description of Monitoring Location
EFF-5	At the point of discharge to the receiving waters.

11. During the period beginning at initiation of discharge and lasting through the expiration date of this permit, the permittee is authorized to discharge **Water Treatment Plant Wastewater** from Outfall I-017 to the ABCW Outfall (D-015) or to the OTCW Outfalls (D-011 and D-012). Such discharge shall be limited and monitored by the permittee as specified below:

Parameters (units)	Monthly Average	Maximum Daily Average	Instantaneous	Annual Average	Monitoring Frequency	Sample Type	Sample Point
Flow (MGD)	Report	Report	--	--	2/Month	Calculated	OUI-1
Solids, Total Suspended (MG/L)	30.0	100.0	--	--	2/Month	Grab	OUI-1
Oil and Grease (MG/L)	15.0	20.0	--	--	2/Month	Grab	OUI-1
pH Range (S.U.)	--	--	6.0 to 9.0	--	2/Month	Grab	OUI-1
Nitrogen, Total as N (LBS/DAY)	--	--	--	7.0	Monthly	Grab	OUI-1
Phosphorus, Total as P, (LBS/DAY)	--	--	--	0.4	Monthly	Grab	OUI-1

12. Effluent samples shall be taken at the monitoring site locations listed above and as described below:

Sample Point	Description of Monitoring Location
OUI-1	At the point of discharge to the AECW or OTCW conduits.

13. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to discharge from Outfall D-028 (formerly D-0B), stormwater from the fuel oil storage tank secondary containment area, provided such discharges are limited and monitored by the permittee as specified below:

- The facility shall have a valid Spill Prevention Control and Countermeasure (SPCC) Plan pursuant to 40 CFR Part 112.
- The facility shall endeavor to retain the stormwater in the containment area to the maximum extent practicable before discharging from Outfall D-028. The discharge from Outfall D-028 shall only occur due to tank and equipment integrity and safety concerns.
- 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.
- Monitoring records shall be maintained in the form of a log and shall contain the following information, as a minimum:

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- Date and time of discharge;
 - Estimated volume of discharge;
 - Initials of person making visual inspection and authorizing discharge; and
 - Observed conditions of storm water discharged.
- e. 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.
14. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to discharge Outfall D-029 (formerly D-0S0), non-equipment area stormwater. Discharge of non-equipment area stormwater is permitted without limitation or monitoring requirements.
15. OTCW and AECW limitations and monitoring requirements for TRO are not applicable for any week in which chlorine is not added to Units 1 or 2.
16. Intake Screen wash water may be discharged without limitation or monitoring requirements, except that there shall be no discharge of a visible sheen.
17. There shall be no discharge of floating solids or visible foam in other than trace amounts.
18. The discharge shall not cause a visible sheen on the receiving water.

B. Underground Injection Control Systems

1. This section is not applicable to this facility.

C. Land Application Systems

1. The discharge from land application systems G-010 and G-020 is authorized without limitations or monitoring requirements.

D. Other Methods of Disposal or Recycling

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

E. Other Limitations and Monitoring and Reporting Requirements

1. The sample collection, analytical test methods and method detection limits (MDLs) applicable to this permit shall be in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate. The list of Department established analytical methods, and corresponding MDLs (method detection limits) and PQLs (practical quantification limits), which is titled "Florida Department of Environmental Protection Table as Required By Rule 62-4.246(4) Testing Methods for Discharges to Surface Water" dated June 21, 1996, is available from the Department on request. The MDLs and PQLs as described in this list shall constitute the minimum acceptable MDL/PQL values and the Department shall not accept results for which the laboratory's MDLs or PQLs are greater than those described above unless alternate MDLs and/or PQLs have been specifically approved by the Department for this permit. Any method included in the list may be used for reporting as long as it meets the following requirements:
- a. The laboratory's reported MDL and PQL values for the particular method must be equal or less than the corresponding method values specified in the Department's approved MDL and PQL list;

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- b. The laboratory reported PQL for the specific parameter is less than or equal to the permit limit or the applicable water quality criteria, if any, stated in Chapter 62-302, F.A.C. Parameters that are listed as "report only" in the permit shall use methods that provide a PQL, which is equal to or less than the applicable water quality criteria stated in 62-302 FAC; and
- c. If the PQLs for all methods available in the approved list are above the stated permit limit or applicable water quality criteria for that parameter, then the method with the lowest stated PQL shall be used.

Where the analytical results are below method detection or practical quantification limits, the permittee shall report the actual laboratory MDL and/or PQL values for the analyses that were performed following the instructions on the applicable discharge monitoring report. Approval of alternate laboratory MDLs or PQLs are not necessary if the laboratory reported MDLs and PQLs are less than or equal to the permit limit or the applicable water quality criteria, if any, stated in Chapter 62-302, F.A.C. However, where necessary, the permittee may request approval for alternative methods or for alternative MDLs and PQLs for any approved analytical method, in accordance with the criteria of Rules 62-160.520 and 62-160.530, F.A.C.

2. Parameters which must be monitored as a result of a surface water discharge shall be analyzed using a sufficiently sensitive method in accordance with 40 CFR Part 136.
3. Monitoring requirements under this permit are effective on the first day of the second month following permit issuance. Until such time, the permittee shall continue to monitor and report in accordance with previously effective permit requirements, if any. During the period of operation authorized by this permit, the permittee shall complete and submit to the Department, at the address listed below, the Discharge Monitoring Reports (DMRs) in accordance with the frequencies specified by the REPORT type (i.e., monthly, toxicity, quarterly, semiannual, annual, etc.) indicated on the DMR forms attached to this permit. Monitoring results for each monitoring period shall be submitted in accordance with the associated DMR due dates below.

REPORT Type on DMR	Monitoring Period	DMR Due Date
Monthly or Toxicity	first day of month – last day of month	28 th day of following month
Quarterly	January 1 - March 31	April 28
	April 1 – June 30	July 28
	July 1 – September 30	October 28
	October 1 – December 31	January 28
Semiannual	January 1 – June 30	July 28
	July 1 – December 31	January 28
Annual	January 1 – December 31	January 28

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

The permittee shall make copies of the attached DMR form(s) and shall submit the completed DMR form(s) to the Department at the address specified below:

Florida Department of Environmental Protection
Wastewater Compliance Evaluation Section, Mail Station 3551
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

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4. Unless specified otherwise in this permit, all reports and notifications required by this permit, including twenty-four hour notifications, shall be submitted to or reported to the Central District Office at the address specified below:

Central District Office
3319 Maguire Boulevard Suite 232
Orlando, Florida 32803-3767

Phone Number - (407) 894-7555
FAX Number - (407) 897-2966
All FAX copies shall be followed by original copies.

5. All reports and other information shall be signed in accordance with requirements of Rule 62-620.305, F.A.C.
6. The permittee shall provide safe access points for obtaining representative samples which are required by this permit.
7. If there is no discharge from the facility on a day scheduled for sampling, the sample shall be collected on the day of the next discharge.
8. Bypasses subject to General Conditions VIII.20. and VIII.22. shall be monitored or estimated daily, or as approved by the Department for flow and other parameters required for the specific outfall which is bypassed. Monitoring results shall be reported to the Department.
9. The Permittee shall continue compliance with the facility's Manatee Protection Plan approved by the Department on December 21, 2000.
10. The Permittee shall develop a Plan of Study (POS), subject to Department review and approval, to monitor compliance with Rule 62-302.520(1), F.A.C. pursuant to the schedule in Item VI.4, including a proposed implementation schedule, designed to determine any effects on biological communities from the discharge to Indian River Lagoon. The plan shall address monitoring of aquatic species as necessary, and shall include reporting requirements. The POS shall incorporate relevant existing data developed by the Permittee and other sources as well as any necessary additional monitoring to be conducted by the Permittee.

II. Industrial Sludge Management Requirements

A. Basic Management Requirements

1. Disposal of sludge in a solid waste management facility permitted by the Department shall be in accordance with the requirements of Chapter 62-701, F.A.C. Storage, transportation, and disposal of sludge/solids characterized as hazardous waste shall be in compliance with requirements of Chapter 62-730, F.A.C.
2. The permittee shall keep records of the amount of sludge or residuals disposed, transported, or incinerated. If a person other than the permittee is responsible for sludge transporting, disposal, or incineration, the permittee shall also keep the following records:
 - a. name, address and telephone number of any transporter, and any manifests or bill of lading used;
 - b. name and location of the site of disposal, treatment or incineration;
 - c. name, address, and telephone number of the entity responsible for the disposal, treatment, or incineration site.

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III. Ground Water Monitoring Requirements

1. During the period of operation authorized by this permit, the permittee shall continue to sample ground water at the existing monitoring wells identified in Permit Condition III. 2. below, in accordance with this permit and the approved ground water monitoring plan prepared in accordance with Rule 62-522.600, F.A.C. Within 90 days of placing the new or modified wastewater facility into operation, or installation of new monitoring wells, whichever occurs sooner, the permittee shall begin sampling ground water at the new monitoring wells identified in Permit Condition III. 2 below in accordance with this permit and the approved ground water monitoring plan.
2. The following monitoring wells shall be sampled quarterly. Sampling must be reasonably spaced to be representative of potentially changing conditions:

Facility Well Name	Permit Builder Name	Monitoring Location Site Number	WABR Number	Depth (Feet)	Aquifer Monitored	Well Type	New or Existing
All Sites							
CA-MW-1	MWB-2683	3005A15832	2683	21	Surficial	Background	Existing
Equipment Area Runoff Basin (B-3)							
CA-MW-2	MWC-2682	3005A15833	2682	21	Surficial	Compliance	Existing
E/P Basin Spray Area (SP-1)							
OB-2	MWC-2686	3005A11264	2686	25.6	Surficial	Compliance	Existing
Solids Settling Basins (B-1A and B-1B)							
OB-3	MWC-2685	3005A11265	2685	24.9	Surficial	Compliance	Existing
Evaporation/Percolation Basin (EP-1)							
OB-5	MWC-26897	--	26897	18	Surficial	Compliance	Existing

MWB = Background; MWC = Compliance

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3. The following parameters shall be analyzed quarterly in each of the monitoring wells identified in Item III. 2. except Monitoring Well OB-5:

Parameter Name	Standard Compliance Well Limit	Units
Chloride	Report ⁸	mg/L
pH	Report ⁸	SU
Sodium	Report ⁹	mg/L
Specific Conductance	Report	Umhos
Sulfate	Report ⁸	mg/L
Total Dissolved Solids (TDS)	Report ⁸	mg/L
Total Recoverable Petroleum Hydrocarbons	5.0	mg/L
Turbidity	Report	NTU
Vinyl Chloride	1	ug/L
Water Level Relative to NGVD	Report	Feet, NGVD

⁸ This facility has been in operation since 1977 and is an existing installation as defined in F.A.C. Rule 62-522.200(1) and is exempt from compliance with secondary standards for ground water at the edge of the zone of discharge in accordance with F.A.C. Rules 62-520.520 and 62-522.300(6).

⁹ The permittee is exempted from compliance with the Class G-II ground water standard for sodium in accordance with the Final Order Of Agency Action (sodium exemption) signed by the Secretary on October 12, 2004. This sodium exemption is effective for the duration of this permit.

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4. The following parameters shall be analyzed quarterly in Monitoring Well OB-5 identified in Item III. 2:

Parameter Name	Standard Compliance Well Limit	Units
Aluminum	Report ¹⁰	ug/L
Antimony (added 2/04)	6	ug/L
Beryllium (added 2/04)	4	ug/L
Cadmium	5	ug/L
Chloride	Report ¹⁰	mg/L
Chromium	100	ug/L
Copper	Report ¹⁰	ug/L
Cyanide	200	ug/L
Fluoride	4,000	ug/L
Iron	Report ¹⁰	ug/L
Manganese	Report ¹⁰	ug/L
Mercury	2.0	ug/L
Nickel	100	ug/L
pH	Report ¹⁰	SU
Silver	Report ¹⁰	ug/L
Sodium	Report ¹¹	mg/L
Specific Conductance	Report	mmhos
Sulfate	Report ¹⁰	mg/L
TDS	Report ¹⁰	mg/L
Tetrachloroethylene	3	ug/L
Total Phenols	Report	ug/L
Trichloroethylene	3	ug/L
Total Recoverable Petroleum Hydrocarbons	5.0	mg/L
Turbidity	Report	NTU
Vinyl chloride	1	ug/L
Zinc	Report ¹⁰	ug/L
Water Level (ft NGVD)	Report	Feet, NGVD

5. The zone of discharge extends to the facility property boundary, and vertically to the base of the shallow water table aquifer.
6. The permittee's discharge to ground water shall not cause a violation of water quality standards for ground waters at the boundary of the zone of discharge in accordance with Rules 62-520.400 and 62-520.420, F.A.C.
7. The permittee's discharge to ground water shall not cause a violation of the minimum criteria for ground water specified in Rule 62-520.400, F.A.C., within the zone of discharge.

¹⁰ This facility has been in operation since 1977 and is an existing installation as defined in F.A.C. Rule 62-522.200(1) and is exempt from compliance with secondary standards for ground water at the edge of the zone of discharge in accordance with F.A.C. Rules 62-520.520 and 62-522.300(6).

¹¹ The permittee is exempted from compliance with the Class G-II ground water standard for sodium in accordance with the Final Order Of Agency Action (sodium exemption) signed by the Secretary on October 12, 2004. This sodium exemption is effective for the duration of this permit.

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8. If the concentration for any constituent listed in Permit Condition III.3 in the natural background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative natural background quality shall be the prevailing standard.
9. Water levels shall be recorded prior to evacuating the well for sample collection. Elevation references shall include the top of the well casing and land surface at each well site (NGVD allowable) at a precision of plus or minus 0.1 feet.
10. Ground water monitoring wells shall be purged prior to sampling to obtain a representative sample.
11. Analyses shall be conducted on un-filtered samples, unless filtered samples have been approved by the Department as being more representative of ground water conditions.
12. If a monitoring well becomes damaged or cannot be sampled for some reason, the permittee shall notify the Department immediately and a written report shall follow within seven days detailing the circumstances and remedial measures taken or proposed. Repair or replacement of monitoring wells shall be approved in advance by the Department.
13. The permittee shall provide verbal notice to the Department as soon as practical after discovery of a sinkhole within an area for the management or application of wastewater or sludge. The permittee shall immediately implement measures appropriate to control the entry of contaminants, and shall detail these measures to the Department in a written report within 7 days of the sinkhole discovery.
14. Ground water monitoring test results shall be submitted on Part D of DEP Form 62-620.910(10) (attached) and shall be submitted to the Central District Ground Water Section. A completed Certification Page shall accompany each quarter of monitoring data. The quarterly ground water monitoring results shall be submitted with the DMR as shown in the following schedule:

SAMPLE PERIOD	REPORT DUE DATE
January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

IV. Other Land Application Requirements

1. This section is not applicable to this facility.

V. Operation and Maintenance Requirements**A. Operation of Treatment and Disposal Facilities**

1. The permittee shall ensure that the operation of this facility is as described in the application and supporting documents.
2. The operation of the pollution control facilities described in this permit 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.

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B. Record keeping Requirements:

1. The permittee shall maintain the following records on the site of the permitted facility and make them available for inspection:
 - a. Records of all compliance monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, including, if applicable, a copy of the laboratory certification showing the certification number of the laboratory, for at least three years from the date the sample or measurement was taken;
 - b. Copies of all reports, other than those required in items a. and f. of this section, 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 the permit for at least three years from the date the application was filed, unless otherwise specified by Department rule;
 - d. A copy of the current permit;
 - 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.

VI. Schedules

1. A Best Management Practices Pollution Prevention (BMP3) Plan shall be prepared and implemented in accordance with Part VII of this permit and the following schedule:

Action Item		Scheduled Completion Date
1	Continue Implementing Existing BMP3 Plan	Issuance Date of Permit

2. The permittee shall achieve compliance with the other conditions of this permit as follows:
 - a. Operational level attained Issuance Date of Permit
3. The following construction schedule shall be followed:
 - a. Relocate Outfall D-030 to I-016 6 months of Issuance Date of Permit
 - b. Submit Certificate of Completion of Construction (See VII.B.1) 30 days of Completion of Construction
 - c. Submit Record Drawings (See VII.B.2) 6 months after Completion of Construction
4. Biological Monitoring Program:
 - a. Within six months of issuance of this permit, the Permittee shall meet with the Department to discuss the content of a Plan of Study (POS) for biological monitoring in accordance with the requirements of Item

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I.E.10, and shall submit the POS within twelve months of issuance of this permit. The Department will review the POS and provide written comments to the permittee as needed. The permittee shall implement the POS in accordance with the approved implementation schedule.

5. Additional Intake/Discharge Sampling and Reporting

- a. Within 60 days of permit issuance the permittee shall begin additional sampling to be conducted quarterly for a total of 4 sampling events. Concurrent 24-hour composite samples shall be taken of the intake and from Outfalls D-011, D-012, and D-015 (Sample Points EFF-1, EFF-2, and EFF-3) and analyzed for Copper, Nickel, and Beryllium.
 - b. Sampling results shall be submitted to the Department with the next scheduled quarterly report and include results from the sampling events since the last submittal except results submitted for the fourth quarterly report shall include summary results from all 4 sampling events.
 - c. Analytical test methods, method detection limits (MDLs), and practical quantification limits (PQLs) shall be in accordance with the requirements of Section I.E.1 of this permit.
 - d. If the sampling results indicate a reasonable potential for an exceedance of water quality standards and concentrations in the discharge exceed intake concentrations, taking into account sampling and analytical variations, then the Department may reopen the permit in accordance with Section VII.F.2 of this permit to include different limitations or monitoring requirements or take other action as appropriate.
6. The Permittee shall comply with the requirements of 40 CFR Part 125.95(a)(1) and (2) no later than upon submittal of a timely application for permit renewal, submitted pursuant to the requirements of Condition VII.C. of this permit.
7. No later than 14 calendar days following a date identified in the above schedule(s) of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by an identified date, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

VII. Other Specific Conditions**A. Specific Conditions Applicable to All Permits**

1. Drawings, plans, documents or specifications submitted by the permittee, not attached hereto, but retained on file at the Northwest District Office, are made a part hereof.
2. Where required by Chapter 471 (P.E.) or Chapter 492 (P.G.) Florida Statutes, applicable portions of reports to be submitted under this permit, shall be signed and sealed by the professional(s) who prepared them.
3. This permit satisfies Industrial Wastewater program permitting requirements only and does not authorize operation of this facility prior to obtaining any other permits required by local, state or federal agencies.

B. Specific Conditions Related to Construction

1. Within thirty days of completion of construction, the permittee shall submit to the Department a completed "Certificate of Completion of Construction" (DEP Form 62-620.910(12) signed and sealed by the engineer of record or other engineer registered in the State of Florida.
2. Record drawings shall be prepared and made available in accordance with Rule 62-620.410(6), F.A.C., and the Department of Environmental Protection Guide to wastewater Permitting within six months of placing the facility into operation.

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C. Duty to Reapply

1. The permittee shall submit an application to renew this permit at least 180 days before the expiration date of this permit.
2. The permittee shall apply for renewal of this permit on the appropriate form listed in Rule 62-620.910, F.A.C., and in the manner established in Chapter 62-620, F.A.C., and the Department of Environmental Protection Guide to Wastewater Permitting including submittal of the appropriate processing fee set forth in Rule 62-4.050, F.A.C.
3. An application filed in accordance with subsections 1. and 2. of this part shall be considered timely and sufficient. When an application for renewal of a permit is timely and sufficient, the existing permit shall not expire until the Department has taken final action on the application for renewal or until the last day for seeking judicial review of the agency order or a later date fixed by order of the reviewing court.
4. The late submittal of a renewal application shall be considered timely and sufficient for the purpose of extending the effectiveness of the expiring permit only if it is submitted and made complete before the expiration date.

D. Specific Conditions Related to Best Management Practices/Pollution Prevention Conditions

1. General Conditions

In accordance with Section 304(e) and 402(a)(2) of the Clean Water Act (CWA) as amended, 33 U.S.C. §§ 1251 et seq., and the Pollution Prevention Act of 1990, 42 U.S.C. §§ 13101-13109, the permittee must develop and implement a plan for utilizing practices incorporating pollution prevention measures. References to be considered in developing the plan are "Criteria and Standards for Best Management Practices Authorized Under Section 304(e) of the Act," found at 40 CFR 122.44 Subpart K and the Waste Minimization Opportunity Assessment Manual, EPA/625/7-88/003.

a. Definitions

- (1) The term "pollutants" refers to conventional, non-conventional and toxic pollutants.
- (2) Conventional pollutants are: biochemical oxygen demand (BOD), suspended solids, pH, fecal coliform bacteria and oil & grease.
- (3) Non-conventional pollutants are those which are not defined as conventional or toxic.
- (4) Toxic pollutants include, but are not limited to: (a) any toxic substance listed in Section 307(a)(1) of the CWA, any hazardous substance listed in Section 311 of the CWA, or chemical listed in Section 313(c) of the Superfund Amendments and Reauthorization Act of 1986; and (b) any substance (that is not also a conventional or non-conventional pollutant except ammonia) for which EPA has published an acute or chronic toxicity criterion.
- (5) "Pollution prevention" and "waste minimization" refer to the first two categories of EPA's preferred hazardous waste management strategy: first, source reduction and then, recycling.
- (6) "Recycle/Reuse" is defined as the minimization of waste generation by recovering and reprocessing usable products that might otherwise become waste; or the reuse or reprocessing of usable waste products in place of the original stock, or for other purposes such as material recovery, material regeneration or energy production.

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- (7) "Source reduction" means any practice which: (a) reduces the amount of any pollutant entering a waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment or disposal; and (b) reduces the hazards to public health and the environment associated with the release of such pollutant. The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. It does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a pollutant through a process or activity which itself is not integral to, or previously considered necessary for, the production of a product or the providing of a service.
- (8) "BMP3" means a Best Management Plan incorporating the requirements of 40 CFR § 122.44, Subpart K, plus pollution prevention techniques associated with a Waste Minimization Assessment.
- (9) "Waste Minimization Assessment" means a systematic planned procedure with the objective of identifying ways to reduce or eliminate waste.

2. **Best Management Practices/Pollution Prevention Plan**

The permittee shall develop and implement a BMP3 plan for the facility which is the source of wastewater and storm water discharges covered by this permit. The plan shall be directed toward reducing those pollutants of concern which discharge to surface waters and shall be prepared in accordance with good engineering and good housekeeping practices. For the purposes of this permit, pollutants of concern shall be limited to toxic pollutants, as defined above, known to the discharger. The plan shall address all activities which could or do contribute these pollutants to the surface water discharge, including process, treatment, and ancillary activities. The BMP3 plan shall contain the following components:

a. **Signatory Authority & Management Responsibilities**

The BMP3 plan shall be signed by the permittee or their duly authorized representative in accordance with rule 62-620.305(2)(a) and (b). The BMP3 plan shall be reviewed by the plant environmental/engineering staff and plant manager. Where required by Chapter 471 (P.E.) or Chapter 492 (P.G.) Florida Statutes, applicable portions of the BMP3 plan shall be signed and sealed by the professional(s) who prepared them.

A copy of the plan shall be retained at the facility and shall be made available to the Department upon request.

The BMP3 plan shall contain a written statement from corporate or plant management indicating management's commitment to the goals of the BMP3 program. Such statements shall be publicized or made known to all facility employees. Management shall also provide training for the individuals responsible for implementing the BMP3 plan.

b. **BMP3 Plan Requirements**

- (1) Name & description of facility, a map illustrating the location of the facility & adjacent receiving waters, and other maps, plot plans or drawings, as necessary;
- (2) Overall objectives (both short-term and long-term) and scope of the plan, specific reduction goals for pollutants, anticipated dates of achievement of reduction, and a description of means for achieving each reduction goal;

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- (3) A description of procedures relative to spill prevention, control & countermeasures and a description of measures employed to prevent storm water contamination;
- (4) A description of practices involving preventive maintenance, housekeeping, recordkeeping, inspections, and plant security; and

c. Waste Minimization Assessment

The permittee is encouraged but not required to conduct a waste minimization assessment (WMA) for this facility to determine actions that could be taken to reduce waste loadings and chemical losses to all wastewater and/or storm water streams as described in Part VIL.D.3 of this permit.

If the Permittee elects to develop and implement a WMA, information on plan components can be obtained from the Department's Industrial Wastewater website, or from:

Florida Department of Environmental Protection
Industrial Wastewater Section, Mail Station 3545
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

(850) 245-8589
(850) 245-8669 -- Fax

d. Best Management Practices & Pollution Prevention Committee Recommended:

A Best Management Practices Committee (Committee) should be established to direct or assist in the implementation of the BMP3 plan. The Committee should be comprised of individuals within the plant organization who are responsible for developing the BMP3 plan and assisting the plant manager in its implementation, monitoring of success, and revision. The activities and responsibilities of the Committee should address all aspects of the facility's BMP3 plan. The scope of responsibilities of the Committee should be described in the plan.

e. Employee Training

Employee training programs shall inform personnel at all levels of responsibility of the components & goals of the BMP3 plan and shall describe employee responsibilities for implementing the plan. Training shall address topics such as good housekeeping, materials management, record keeping & reporting, spill prevention & response, as well as specific waste reduction practices to be employed. Training shall also disclose how individual employees may contribute suggestions concerning the BMP3 plan or suggestions regarding Pollution Prevention. The plan shall identify periodic dates for such training.

f. Plan Development & Implementation

The BMP3 plan shall be implemented upon the effective date of this permit, unless any later dates are specified in this permit. If a WMA is ongoing at the time of development or implementation it may be described in the plan. Any waste reduction practice which is recommended for implementation over a period of time may also be identified in the plan, including a schedule for its implementation.

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g. Submission of Plan Summary & Progress/Update Reports

- (1) Plan Summary: Not later than 2 years after the effective date of the permit, a summary of the BMP3 plan shall be developed and maintained at the facility and made available to the Department upon request. The summary shall include the following: a brief description of the plan, its implementation process, schedules for implementing identified waste reduction practices, and a list of all waste reduction practices being employed at the facility. The results of WMA studies, as well as scheduled WMA activities may be discussed.
- (2) Progress/Update Reports: Annually thereafter for the duration of the permit progress/update reports documenting implementation of the plan shall be maintained at the facility and made available to the Department upon request. The reports shall discuss whether or not implementation schedules were met and revise any schedules, as necessary. The plan shall also be updated as necessary and the attainment or progress made toward specific pollutant reduction targets documented. Results of any ongoing WMA studies as well as any additional schedules for implementation of waste reduction practices may be included.
- (3) A recommended timetable for the various plan requirements follows:

Timetable for BMP3 Plan:

<u>ELEMENT</u>	<u>TIME FROM EFFECTIVE DATE OF THIS PERMIT</u>
Complete WMA (if appropriate)	6 months
Progress/Update Reports	3 years, and then annually thereafter

The permittee shall maintain the plan and subsequent reports at the facility and shall make the plan available to the Department upon request.

h. Plan Review & Modification

If following review by the Department, the BMP3 plan is determined insufficient, the permittee will be notified that the BMP3 plan does not meet one or more of the minimum requirements of this Part. Upon such notification from the Department, the permittee shall amend the plan and shall submit to the Department a written certification that the requested changes have been made. Unless otherwise provided by the Department, the permittee shall have 30 days after such notification to make the changes necessary.

The permittee shall modify the BMP3 plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to waters of the State or if the plan proves to be ineffective in achieving the general objectives of reducing pollutants in wastewater or storm water discharges. Modifications to the plan may be reviewed by the Department in the same manner as described above.

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E. Specific Conditions Related 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:
 - 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 permit, 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.

F. Reopener Clause

1. The permit shall be revised, or alternatively, revoked and reissued in accordance with the provisions contained in Rules 62-620.325 and 62-620.345 F.A.C., if applicable, or to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2)(C) and (D), 304(b)(2) and 307(a)(2) of the Clean Water Act (the Act), as amended, if the effluent standards, limitations, or water quality standards so issued or approved:
 - a. Contains different conditions or is otherwise more stringent than any condition in the permit/or;
 - b. Controls any pollutant not addressed in the permit.

The permit as revised or reissued under this paragraph shall contain any other requirements then applicable.

2. The permit may be reopened to adjust effluent limitations or monitoring requirements should future Water Quality Based Effluent Limitation determinations, water quality studies, DEP approved changes in water quality standards, or other information show a need for a different limitation or monitoring requirement.
3. The Department may develop a Total Maximum Daily Load (TMDL) during the life of the permit. Once a TMDL has been established and adopted by rule, the Department shall revise this permit to incorporate the final findings of the TMDL.

VIII. General Conditions

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, F.S. Any permit noncompliance constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. [62-620.610(1), F.A.C.]

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2. This permit 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 permit constitutes grounds for revocation and enforcement action by the Department. [62-620.610(2), F.A.C.]
3. As provided in Subsection 403.087(6), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringements of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit. [62-620.610(3), F.A.C.]
4. This permit 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. [62-620.610(4), F.A.C.]
5. This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit 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 the conditions of this permit. [62-620.610(5), F.A.C.]
6. If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee shall apply for and obtain a new permit. [62-620.610(6), F.A.C.]
7. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. [62-620.610(7), F.A.C.]
8. This permit 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. [62-620.610(8), F.A.C.]
9. The permittee, by accepting this permit, 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 the conditions of this permit;
 - b. Have access to and copy any records that shall be kept under the conditions of this permit;
 - c. Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and
 - d. Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.
 [62-620.610(9), F.A.C.]
10. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the

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Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, Florida Statutes, or Rule 62-620.302, F.A.C. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. [62-620.610(10), F.A.C.]

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 this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit 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. [62-620.610(11), F.A.C.]
12. Unless specifically stated otherwise in Department rules, the permittee, in accepting this permit, 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. [62-620.610(12), F.A.C.]
13. The permittee, in accepting this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C. [62-620.610(13), F.A.C.]
14. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the Department approves the transfer. [62-620.610(14), F.A.C.]
15. 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. [62-620.610(15), F.A.C.]
16. The permittee shall apply for a revision to the Department permit in accordance with Rule 62-620.300, F.A.C., and the Department of Environmental Protection Guide to Wastewater Permitting at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with Rule 62-620.325(2), F.A.C., for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in Rule 62-620.300, F.A.C. [62-620.610(16), F.A.C.]
17. 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 this permit. 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.[62-620.610(17), F.A.C.]
18. 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 this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10).

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- b. If the permittee monitors any contaminate 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 this permit.
 - d. Any laboratory test required by this permit shall be performed by a laboratory that has been certified by the Department of Health (DOH) under Chapter 64E-1, F.A.C., where such certification is required by Rule 62-160.300(4), F.A.C. The laboratory must be certified for any specific method and analyte combination that is used to comply with this permit. For domestic wastewater facilities, the on-site test procedures specified in Rule 62-160.300(4), F.A.C., shall be performed by a laboratory certified test for those parameters or under the direction of an operator certified under Chapter 62-602, F.A.C.
 - e. Fields activities including on-site tests and sample collection, whether performed by a laboratory or a certified operator, must follow the applicable procedures described in DEP-SOP-001/01 (January 2002). Alternate field procedures and laboratory methods may be used where they have been approved according to the requirements of Rules 62-160.220, 62-160.330, and 62-160.600, F.A.C.
[62-620.610(18), F.A.C.]
19. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in this permit shall be submitted no later than 14 days following each schedule date. [62-620.610(19), F.A.C.]
20. The permittee shall report to the Department's Central District Office any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- a. The following shall be included as information which must be reported within 24 hours under this condition:
 - (1) Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
 - (2) Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
 - (4) Any unauthorized discharge to surface or ground waters.
 - b. Oral reports as required by this subsection shall be provided as follows:
 - (1) For unauthorized releases or spills of untreated or treated wastewater reported pursuant to subparagraph a.4 that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the Department by calling the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Warning Point:
 - (a) Name, address, and telephone number of person reporting;
 - (b) Name, address, and telephone number of permittee or responsible person for the discharge;
 - (c) Date and time of the discharge and status of discharge (ongoing or ceased);
 - (d) Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
 - (e) Estimated amount of the discharge;
 - (f) Location or address of the discharge;
 - (g) Source and cause of the discharge;
 - (h) Whether the discharge was contained on-site, and cleanup actions taken to date;

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- (i) Description of area affected by the discharge, including name of water body affected, if any; and
 - (j) Other persons or agencies contacted.
 - (2) Oral reports, not otherwise required to be provided pursuant to subparagraph b(1) above, shall be provided to Department's Central District Office within 24 hours from the time the permittee becomes aware of the circumstances.
 - c. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department's Central District Office shall waive the written report.
[62-620.610(20), F.A.C.]
21. The permittee shall report all instances of noncompliance not reported under Conditions VIII. 18 and 19 of this permit at the time monitoring reports are submitted. This report shall contain the same information required by Condition VIII. 20. of this permit. *[62-620.610(21), F.A.C.]*
22. Bypass Provisions.
- a. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (3) The permittee submitted notices as required under Condition VIII.22.b. of this permit.
 - b. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Condition VIII.20. of this permit. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
 - c. The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the three conditions listed in Condition VIII.22 a. (1) through (3) of this permit.
 - d. A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Condition VIII.22.a. through c. of this permit.
[62-620.610(22), F.A.C.]
23. Upset Provisions
- a. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in Condition VIII.20. of this permit; and
 - (4) The permittee complied with any remedial measures required under Condition VIII.5. of this permit.
 - b. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
 - c. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review.
[62-620.610(23), F.A.C.]

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Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

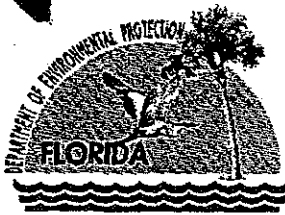


Mimi A. Drew
Director, Division of Water Resource Management

2600 Blair Stone Road
Tallahassee, FL 32399-2400
(850) 245-8336

**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
PERMIT NO. FL0001473**

MANATEE PROTECTION PLAN



Jeb Bush
Governor

PCC

NPDES/IWW expires 2/23/04

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

In the matter of:

Approval of FPL Cape Canaveral Power Plant
Manatee Protection Plan

DEP Permit No. FL0001473
Brevard County

Mr. Ron Hix
FPL-SES/JB
Florida Power & Light Company (FPL)
P. O. Box 14000
Juno Beach, FL 33408

NOTICE OF AGENCY ACTION

The Department of Environmental Protection hereby gives notice of its approval of the enclosed Manatee Protection Plan for the FPL Cape Canaveral Plant, dated August 8, 2000. The Manatee Protection Plan was completed pursuant to Specific Condition 13 of the above referenced permit.

A person whose substantial interests are affected by the Department action may petition for an administrative hearing in accordance with sections 120.569 and 120.57 of the Florida Statutes.

The petition must contain the information set forth below and must be filed (received) in the Department of Environmental Protection, Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000. Petitions filed by the applicant or any of the parties listed below must be filed within twenty-one days of receipt of this notice of intent. Petitions filed by any other person must be filed within twenty-one days of publication of the public notice or within twenty-one days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-5.207 of the Florida Administrative Code.

A petition must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;

"More Protection, Less Process"

Printed on recycled paper.

- (b) A statement of how and when each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;
- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department final action may be different from the position taken by it in this order. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

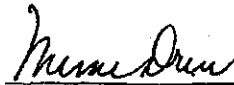
Mediation under section 120.573 of the Florida Statutes is not available for this proceeding.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

Any party to the order has the right to seek judicial review of the order under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department of Environmental Protection, Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, 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 when the final order is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Mimi Drew
Director
Division of Water Resource Management

2600 Blair Stone Road
Tallahassee, FL 32399-2400
(850) 487-1855

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF AGENCY ACTION and all copies were mailed before the close of business on 12-21-00 to the listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under section 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

S. Shields 12-21-00
(Clerk) (Date)

Copies furnished to:

Kipp Frohlich, FWC Tallahassee
Chairman, Board of Brevard County Commissioners
Jim Valade, U.S. Fish and Wildlife Service
Save the Manatee Club
Christianne Ferraro, DEP Orlando
Betsy Hewitt, DEP Office of General Counsel

Florida Power & Light - Cape Canaveral Plant
Manatee Protection Plan
(August 8, 2000)

Purpose:

The purpose of the Cape Canaveral Plant Manatee Protection Plan is to set forth Florida Power & Light Company's (FPL) procedures to comply with Specific Condition 13 of the facility's State Industrial Wastewater Permit Number FL0001473 that was issued on February 24, 1999. This Specific Condition reads, in part:

13. The permittee, in so far as required to comply with Tasks 25 and 251 of the U.S. Fish and Wildlife Service (USFWS) "Florida Manatee Recovery Plan," shall develop a plan and procedures addressing potential manatee impacts, ... All plans, if required, shall include an implementation schedule and address, at a minimum:
- (a) Plans to minimize disruption to warm-water outflows during the winter and response procedures in case of disruptions.
 - (b) Strategy to maintain discharge temperatures that will sustain manatees during cold events.
 - (c) Plan to monitor ambient and discharge temperatures.
 - (d) Precautions to minimize hazards to manatees at intake and outfall areas.
 - (e) Timely communication to manatee recovery program personnel of any long term changes in the availability of warm water.

Compliance with Specific Condition 13:

1. This Manatee Protection Plan will be in effect during the term of the permit. In order for the plant's warm water discharge to provide a safe, warm water refuge for the manatees and to comply with Specific Condition 13, FPL will take the following actions:
- a) In the case of an unplanned shutdown or a plant failure occurring that will affect the warm water refuge from November 15 through March 31, when the ambient water temperature is below 61°F., the Florida Fish and Wildlife Conservation Commission (FWCC) and USFWS will be notified no later than four (4) hours after the event has occurred. If an unplanned shutdown occurs that is expected to result in no thermal discharge for 24 hours or longer, regardless of ambient water temperature, the Florida Marine Research Institute should be notified.

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The following agency representatives shall be notified in the above referenced event or if any distressed manatees are observed at any time:

2904

FWCC - Florida Marine Research Institute - Marine Mammal Pathobiology Lab: (727)-893-

USFWS - Jacksonville Field Office: (904) 232-2580

The FWCC, Bureau of Protected Species Management (BPSM) shall be provided a schedule of any anticipated in-water work within the discharge area or work that will affect the warm water refuge during the period of November 15 through March 31 each year. No routine in-water maintenance work shall occur in the discharge area from November 15 through March 31, unless it is considered essential by FPL and approved by BPSM prior to the start of work. If emergency in-water work is needed, the BPSM will be notified and consulted no later than two weeks following the commencement of the activity. All vessels used in the operation or associated with the activity shall be operated pursuant to the attached standard manatee construction conditions.

- b) From November 15 through March 31 each year, to coincide with the time of greatest manatee abundance, if the ambient water temperature falls below 61°F., as measured at the plant intake, the FPL Cape Canaveral plant shall endeavor to operate in a manner that maintains the water temperature in an adequate portion of the discharge area, for at least one unit, at or above 68°F., until such time as the intake water temperature reaches 61°F., unless otherwise authorized by BPSM and the USFWS, or unless safety or reliability of the plant would be compromised.
- c) The FPL Cape Canaveral power plant will provide personnel from the BPSM, USFWS, Florida Marine Research Institute, USGS-Sirenia Project, or a designee of these agencies, access to the FPL Cape Canaveral power plant property to conduct manatee research or monitoring activities which may include, placing, maintaining and downloading data from temperature data loggers. (These temperature data loggers will be used to collect air and water temperature data in an ongoing research effort to better understand manatee behavior patterns in response to artificial warm water refugia and environmental variables. The temperature data loggers will be placed in the discharge area and at ambient water and air locations). Access would be limited to normal business hours (8:00am - 5:00pm) unless arrangements are made in advance with the FPL Cape Canaveral power plant.
- d) Intake Area: No special surveys will be required for the intake area.

Discharge Area: No special surveys will be required for the discharge area.
- e) Should FPL decide to retire these units, notice will be provided to FWCC and USFWS as soon as practical after a definite decision is made or, if possible, at least five years prior to the date of retirement.
- f) To assist in documenting long-term use patterns of this facility, FPL should conduct periodic aerial surveys of manatees at the Cape Canaveral facility. The continuation of the ongoing statewide aerial survey that FPL has funded in the past years meets these criteria.

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- g) The FPL Cape Canaveral Power Plant will provide phone numbers for weekday and weekend notification of appropriate plant personnel for the purpose of allowing FWCC or USFWS to coordinate manatee rescue operations as necessary.
- 2.) FPL actions, pursuant to this plan, that are conducted on a one-time basis unless there are significant physical or operational changes to the FPL Cape Canaveral power plant.
- a) Provide a site map of the facility as a part of the plan that includes the following information;
1. The location of the intake pipes and discharge pipes.
 2. Proximate streams, rivers, bays, etc.
 3. The location of the condenser inlet and outlet temperature monitoring devices.
 4. The location of any fuel barge docking facilities in relation to the discharge area.
 5. The delineation of the no-entry boundary at the discharge area.
- b) In order to evaluate and determine what portions of the thermal discharge will provide a sufficient warm water refuge for manatees under potential cold stress water conditions; the FPL Cape Canaveral power plant will, within two (2) years of the effective date of this plan, provide a profile of the thermal gradient (either actual or calculated) of the discharge area waters, as well as its gross bathymetry, at the mean rate of discharge when the ambient water temperature reaches a seasonal low.

Note: The "Thermal Analysis" conducted by FPL in January, 1996 and submitted to the FWCC meets the first requirement above ("... provide a profile of the thermal gradient (either actual or calculated) of the discharge area waters...").

**FLORIDA POWER & LIGHT - CAPE CANAVERAL POWER PLANT
MANATEE PROTECTION PLAN**

**1a) STANDARD MANATEE CONSTRUCTION CONDITIONS FOR ARTIFICIAL
WARM WATER REFUGIA DURING THE PERIOD OF NOVEMBER 15
THROUGH MARCH 31.**

The permittee shall comply with the following manatee protection conditions:

- a. The permittee shall instruct all personnel associated with in-water work within the discharge canal and/or the warm water refuge of the potential presence of manatees and the need to avoid collisions with manatees. All vessels used in the operation or in association with the in-water work shall have an observer on board responsible for identifying the presence and location of manatee(s).
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.
- c. All vessels associated with in-water work associated with the discharge canal and/or warm water refuge shall operate at "no wake/idle" speeds at all times while in the manatee warm water refuge area. All vessels will follow routes of deep water whenever possible.
- d. If manatee(s) are seen within the discharge canal and/or warm water refuge area all appropriate precautions shall be implemented to ensure protection of the manatee(s). These precautions shall include the immediate shutdown of equipment if necessary. Activities will not resume until the manatee(s) has departed to a safe distance on its own volition.
- e. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Wildlife Conservation Commission at 1-888-404-FWCC (1-888-404-3922). Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580).

**FLORIDA POWER & LIGHT – CAPE CANAVERAL POWER PLANT
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CSL Cover Sheet

DM ID

Document Type: Current Submerged Land Lease

Instrument: ☒ Parent Lease ☐ Amendment to Lease ☐ Assignment of Lease

☐ Release ☐ Partial Release ☐ Easement ☐ Use Agreement ☐ Sublease

☐ Amendment to Sublease ☐ Release of Sublease ☐ Other

Lease Number: 050024374

PA Number:

Document Date: 03/18/2008

Submerged (Use Agreement): (Y) X (N)

Water Body: INDIAN RIVER

Original County: BREVARD

Section: 19

Township 23 S

Range: 36 E

Total Area / Area Unit: 64100 () (A) Acreage (X) (S) Square Feet

County Book / Page / Type: BREVARD / B 5854 P 11 / O

OR Instrument Number: 2008060042

Comments:

Date Prepped: 04/11/2008 ADD

The information on this page was collected during the prep phase of scanning and is an aid for data entry. Please refer to the document for actual information.

COPY

CFN 2008080042, OR BK 5854 Page 11,
Recorded 03/28/2008 at 04:56 PM, Scott Ellis, Clerk of
Courts, Brevard County
Pgs: 19

This Instrument Prepared By:
Patricia J. Scott
Recurring Revenue Section
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS LEASE RENEWAL

BOT No. 050024374
PA No. _____

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of payment of the annual lease fees hereinafter provided and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to Florida Power & Light Company, a Florida corporation, hereinafter referred to as the Lessee, the sovereignty lands described as follows:

A parcel of sovereignty submerged land in Section 19, Township 23 South, Range 36 East, in the Indian River, Brevard County, containing 64,100 square feet, more or less, as is more particularly described and shown on Attachment A, dated November 30, 1998.

TO HAVE THE USE OF the hereinabove described premises from January 1, 2008, the effective date of this lease renewal, through January 1, 2013, the expiration date of this lease renewal. The terms and conditions on and for which this lease renewal is granted are as follows:

1. USE OF PROPERTY: The Lessee is hereby authorized to operate an existing 1-slip docking/unloading facility exclusively to be used for mooring of barges and tug vessels in conjunction with an upland fuel oil tank farm/power plant, without fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or local authority, whichever entity applies the more stringent criteria, and without liveaboards as defined in paragraph 28, as shown and conditioned in Attachment A. All of the foregoing subject to the remaining conditions of this Lease.

2. LEASE FEES: The Lessee hereby agrees to pay to the Lessor an annual lease fee of \$9,055.00 plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, within 30 days of the date of receipt of the invoice. The annual fee for the remaining years of the lease shall be adjusted pursuant to provisions of Section 18-21.011, Florida Administrative Code. The Division of State Lands will notify the Lessee in writing of the amount and the due date of the annual payment. The lease fee shall be remitted annually to the Division of State Lands as the agent for the Lessor, beginning with the effective and due date of this lease renewal, and each year thereafter until the term of this lease renewal terminates or expires.

[06]

3. WET SLIP RENTAL CERTIFICATION/SUPPLEMENTAL PAYMENT: (A) The Lessee shall provide upon request by the Lessor any and all information in a certified form needed to calculate the lease fee specified in paragraph two (2) above, including the income, as defined in subsection 18-21.003(26), Florida Administrative Code, derived directly or indirectly from the use of sovereignty submerged lands on an annual basis. When six percent (6%) of said annual income exceeds the base fee or minimum annual fee established pursuant to Rule 18-21.011, Florida Administrative Code, for any lease year during the term of this lease, the Lessor shall send the Lessee a supplemental invoice for the difference in the amounts for that lease year. (B) The instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the leased docking facility to a third party shall include a provision that clearly notifies the wet slip renter/user/holder that if the wet slip renter/user/holder subsequently transfers his right to use said wet slip to another party, the instrument or agreement used to transfer said wet slip shall contain a provision that requires six percent (6%) of the annual gross income derived from said instrument or agreement for the use of said wet slip be paid to the Lessee who, upon receipt, shall report and transmit said amount to the Lessor. The instrument or agreement used by the Lessee to transfer a wet slip shall also include a provision that clearly notifies the wet slip renter/user/holder that no interest in said wet slip may be further transferred unless a substantially similar provision to the one contained in the preceding sentence is placed in each succeeding instrument or agreement used to transfer said wet slip to each new wet slip renter/user/holder.

4. LATE FEE ASSESSMENTS: The Lessee shall pay a late charge equal to interest at the rate of twelve percent (12%) per annum from the due date until paid on any lease fees due hereunder which are not paid within 30 days of their due dates.

5. EXAMINATION OF LESSEE'S RECORDS: For purposes of this lease renewal, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease renewal including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

6. MAINTENANCE OF LESSEE'S RECORDS: The Lessee shall maintain separate accounting records for: (i) gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian/upland property. The Lessee shall secure, maintain and keep all records for the entire term of this lease renewal plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

7. AGREEMENT TO EXTENT OF USE: This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein. The Lessee shall not change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.), shall not change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit, or shall not change the type of use of the riparian uplands without first obtaining a regulatory permit/modified permit, if applicable, and the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease.

8. PROPERTY RIGHTS: The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

9. INTEREST IN RIPARIAN UPLAND PROPERTY: During the term of this lease renewal, the Lessee shall maintain a leasehold or fee simple title interest in the riparian upland property and if such interest is terminated, the lease may be terminated at the option of the Lessor. Prior to sale and/or termination of the Lessee's leasehold or fee simple title interest in the upland property, Lessee shall inform any potential buyer or transferee of the Lessee's upland property interest of the existence of this lease renewal and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease renewal, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease renewal which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

10. ASSIGNMENT OF LEASE RENEWAL: This lease renewal shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

11. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature arising out of this lease at its expense, and shall indemnify, defend and save and hold harmless the Lessor and the State of Florida from all claims, actions, lawsuits and demands arising out of this lease renewal.

12. VENUE: Lessee waives venue as to any litigation arising from matters relating to this lease renewal and any such litigation between Lessor and Lessee shall be initiated and maintained only in Leon County, Florida.

13. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein, or fails or refuses to comply with the provisions and conditions herein set forth within 20 days of receipt of the Lessor's notice to correct, this lease renewal may be terminated by the Lessor upon thirty (30) days written notice to Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All costs and attorneys' fees incurred by the Lessor to enforce the provisions of this lease shall be paid by the Lessee. All notices required to be given to the Lessee by this lease renewal or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Florida Power & Light Company
Cape Canaveral Plant
Scott Stone, Plant General Manager
6000 North US Highway 1
Cocoa, Florida 32927-6002

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

14. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease renewal.

15. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

16. MAINTENANCE OF FACILITY/RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

17. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease renewal or upon lands adjacent to and used as an adjunct of the leased area. During the lease term, the Lessee shall post and maintain the placard furnished to the Lessee by the Lessor in a prominent and visible location on the leased premises or adjacent business office of the Lessee. It shall be the responsibility of the Lessee to post the placard in a manner which will provide protection from the elements, and, in the event that said placard becomes illegible at any time during the term of this lease renewal (including any extensions thereof), to notify the Lessor in writing, so that a replacement may be provided.

18. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

19. PERMISSION GRANTED: Upon expiration or cancellation of this lease renewal all permission granted hereunder shall cease and terminate.

20. RENEWAL PROVISIONS: Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that Lessee is in full compliance with the terms of this lease renewal, the Lessee may apply in writing for a renewal. Such application for renewal must be received by Lessor no sooner than 120 days and no later than 30 days prior to the expiration date of the original or current term hereof. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. If the Lessee fails to timely apply for a renewal, or in the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease renewal shall constitute an affirmative covenant upon the riparian upland property more specifically described in Attachment B, which shall run with the title to said riparian upland property, and shall be binding upon Lessee and Lessee's successors in title or successors in interest.

21. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease renewal, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 13 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

22. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Any costs incurred by the Lessor in the removal of any structures and equipment constructed or maintained on state lands shall be paid by the Lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the Lessee in the riparian upland property enforceable in summary proceedings as provided by law.

23. RECORDATION OF LEASE: The Lessee, at its own expense, shall record this fully executed lease renewal in its entirety in the public records of the county within which the lease site is located within fourteen (14) days after receipt, and shall provide to the Lessor within ten (10) days following the recordation a copy of the recorded lease in its entirety which contains the O.R. book and pages at which the lease is recorded.

24. RIPARIAN RIGHTS/FINAL ADJUDICATION: In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease renewal agreement and shall be grounds for immediate termination of this lease renewal agreement at the option of the Lessor.

25. AMENDMENTS/MODIFICATIONS: This lease renewal is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease renewal must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the facility.

26. ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL ACTIVITIES/MINOR STRUCTURAL REPAIRS: No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this agreement.

Page 4 of 19 Pages
Sovereignty Submerged Lands Lease No. 050024374

27. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

28. LIVEABOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

29. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.

30. SPECIAL LEASE CONDITIONS: Should a field survey acceptable to Lessor be required or obtained after the effective date of this lease, the annual lease fees due hereunder shall be adjusted to reflect the increase or decrease in the total preempted area shown by the survey. Any such adjustment shall be effective from the date of the acceptable survey and shall be prospective only. No reimbursement or credit shall be given to Lessee by Lessor for overages, and no charge shall be imposed by Lessor for shortages unless the error resulted from inaccurate information supplied by the Lessee.

WITNESSES:

Original Signature

Mary K. Thurmond

Print/Type Name of Witness

Kathy C Griffin

Original Signature

Kathy C Griffin

Print/Type Name of Witness

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA

BY:

Jeffery M. Gentry, Operations and Management Consultant
Manager, Bureau of Public Land Administration
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the Board
of Trustees of the Internal Improvement Trust Fund of the State
of Florida

"LESSOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 18th day of March, 2008 by
Jeffery M. Gentry Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State
Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the
Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

APPROVED AS TO FORM AND LEGALITY:

DEP Attorney

Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires

Notary Public State of Florida
Kathy C Griffin
My Commission DD727892
Expires 10/30/2011

Commission/Serial No.

WITNESSES:

Original Signature

Tammy Jaumann

Typed/Printed Name of Witness

Samantha J. Woodruff

Original Signature

SAMANTHA J. WOODRUFF

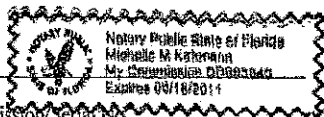
Typed/Printed Name of Witness

STATE OF FL

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 26th day of December, 2007, by
Stephen M. Reuwer as Sr. Director Corporate Real Estate of Florida Power & Light Company, a Florida corporation, for and on
behalf of the corporation. He is personally known to me or who has produced _____, as identification.

My Commission Expires:



Commission/Serial No.

BY:

Original Signature of Executing Authority

Stephen M. Reuwer

Typed/Printed Name of Executing Authority

Sr. Director Corporate Real Estate

Title of Executing Authority

"LESSEE"

Notary Signature

Notary Public, State of FL

Michelle M. Kahmann

Printed, Typed or Stamped Name

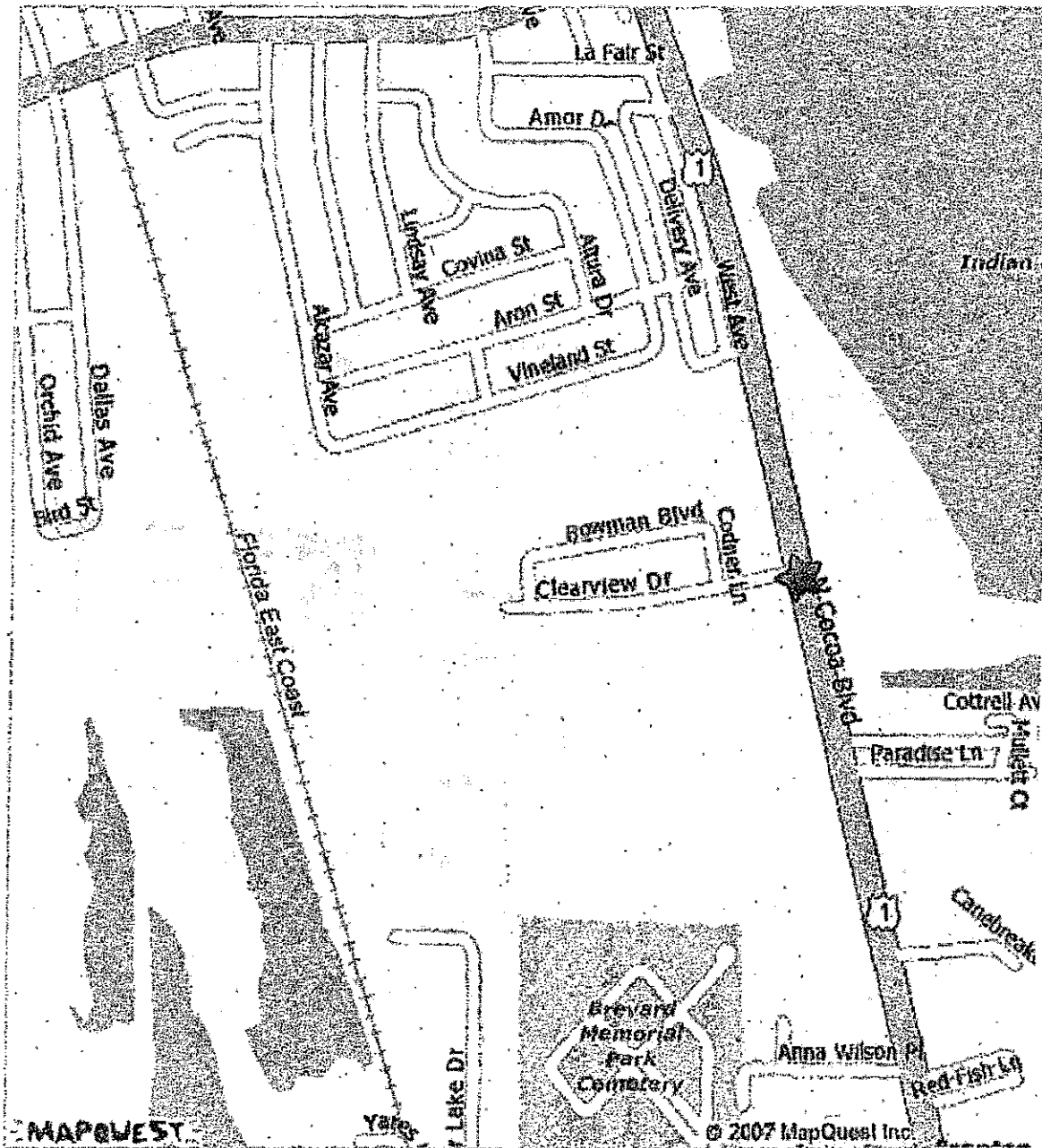
Page 6 of 19 Pages

Sovereignty Submerged Land Lease No. 050024374

★ **6000 N Cocoa Blvd**
Cocoa, FL 32927-6002, US



Sorry! When printing directly from the browser your map may be incorrectly cropped
entire map, try clicking the **"Printer-Friendly"** link at the top of your results page



7.5 MINUTE SERIES (TOPOGRAPHIC)

APPENDIX E

PA 08-53

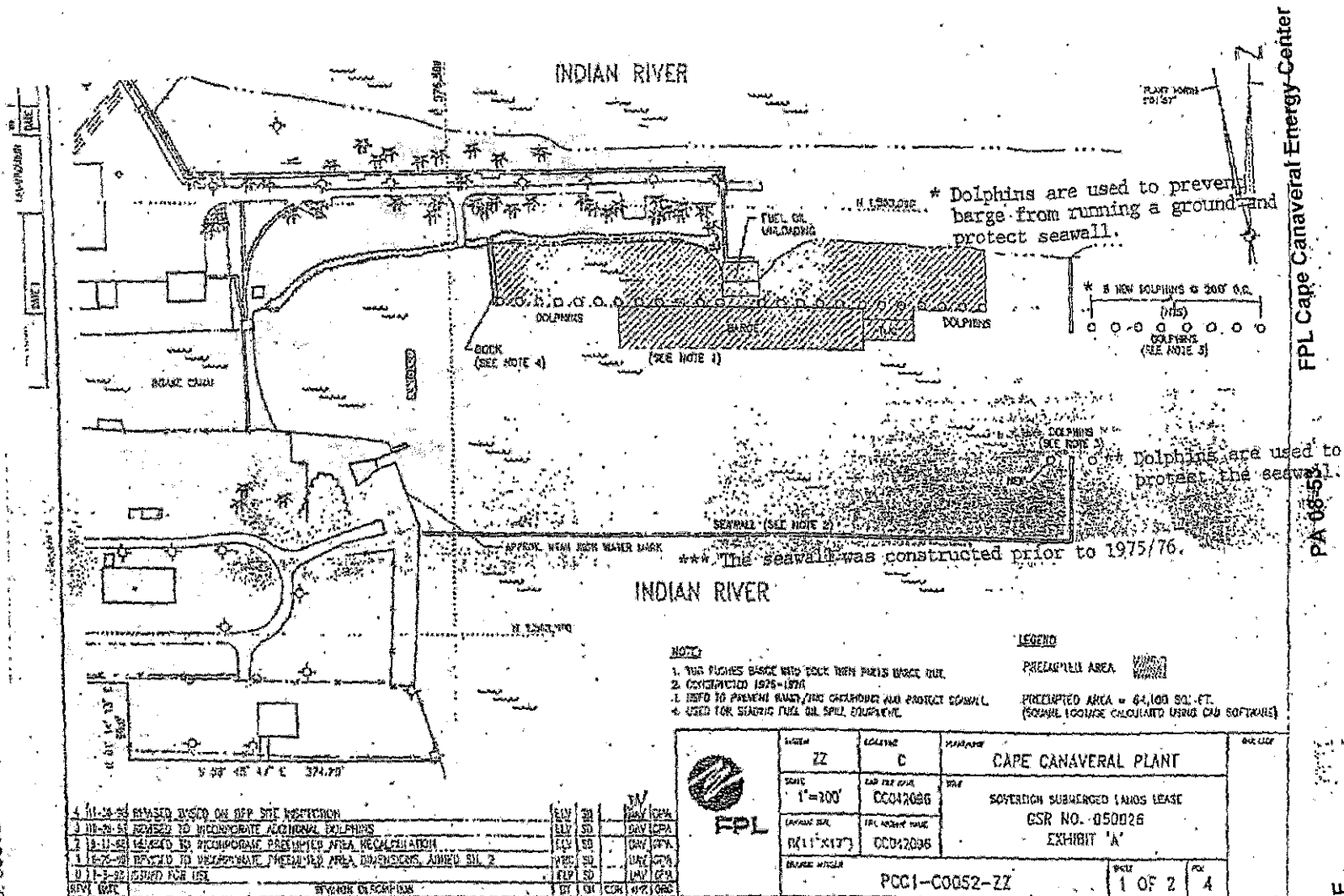
FPL Cape Canaveral Energy Center

FLORIDA POWER & LIGHT
CAPE CANAVERAL PLANT
BREVARD COUNTY FLORIDA
GSR NO. 050026

A parcel of submerged land located in Section 19, Township 23 South, Range 36 East, Brevard County, Indian River (waterbody) containing 64,100 square feet, as described on the attached sketch labeled as Exhibit A and dated November 30, 1998, located immediately waterward of that upland property with the legal description in the attached summary legal description labeled as Exhibit B.

[LEGAL DESCRIPTION(S) AS DESCRIBED IN THOSE CERTAIN WARRANTY DEED(S), BETWEEN RAPPE DEVELOPMENT COMPANY, ROBERT W. BRUCE AND MILDRED G. BRUCE, HUSBAND AND WIFE, P.D. SHUPING, UNMARRIED, FREDERICK O. RIPON AND MILDRED M. RIPON, HUSBAND AND WIFE, ALBERT RAMOS AND KATHERINE RAMOS, HUSBAND AND WIFE, CHARLES HERMAN AND ERMA EILEEN HERMAN, HIS WIFE, L.A. PERRIN, AS TRUSTEE, AND INDIVIDUALLY, JOINED BY HIS WIFE, LENELLE PERRIN, EDWARD LAWTON AND MARIE LAWTON, HUSBAND AND WIFE, WORTH A. OVERACKER AND MAUD I. OVERACKER, HUSBAND AND WIFE, JAMES H. SWEENEY, JR. AND CHRISTINE B. SWEENEY, HIS WIFE, PALMER B. CONNER AND HELEN H. CONNER, HUSBAND AND WIFE, LYNN B. WHITEMAN AND JULIA C. WHITEMAN, HUSBAND AND WIFE, FRANK A. ROBINSON AND HIS WIFE, GLADYS M. ROBINSON, GRANTORS AND FLORIDA POWER & LIGHT COMPANY, A FLORIDA CORPORATION, GRANTEE, AS RECORDED IN THE ATTACHED SUMMARY OF LEGAL DESCRIPTION(S), OFFICIAL RECORDS OF BREVARD COUNTY, FLORIDA, OTHERWISE KNOWN AS ATTACHMENT B TO THIS LEASE INSTRUMENT.]

Attachment A
Page 10 of 19 Pages
SLL No. 050024374



11-30-98 Sketch revised to show piles with

APPENDIX E

FPL Cape Canaveral Energy Center

PA 08-52

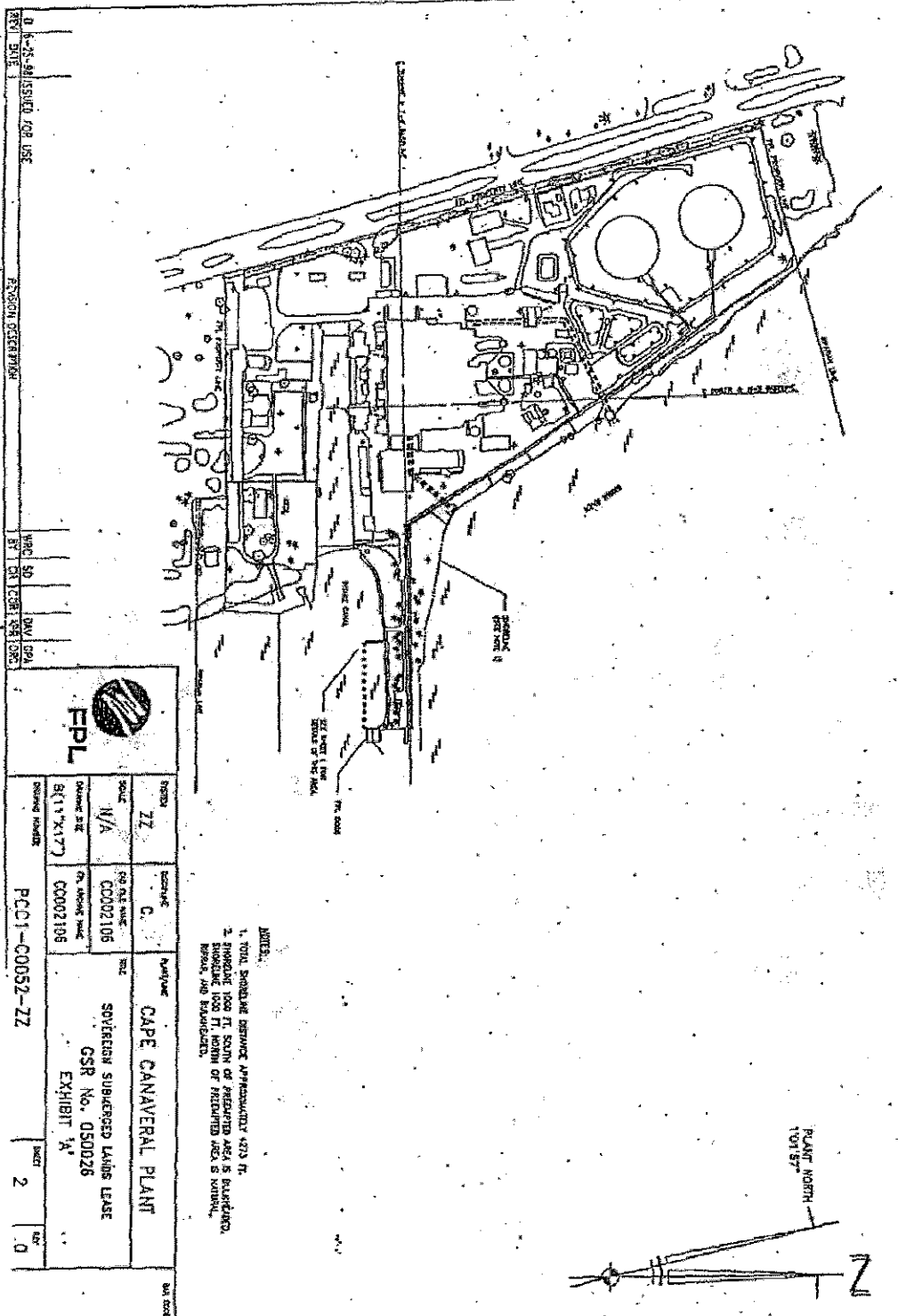
5 4 3 2 1 0 1

SCALE 1/4" = 1'-0"

5 4 3 2 1 0 1

SCALE 3/8" = 1'-0"

WALKDOWN INFORMATION			TECHNICAL ACCEPTANCE		
AS-BUILT REVISION	ORG		ENGINEERING ORGANIZATION	ORG	
	BY			BY	
	DATE			DATE	



Attachment A
Page 11 of 19 Pages
SSLL No. 050024374

CAPE CANAVERAL PLANT
SUMMARY LEGAL DESCRIPTION

PARCEL NO. 1:

(Title vested by virtue of Deed recorded in ORB 526/2).

Government Lot 3, Section 19, Township 23 South, Range 36 East, together with an easement over and across the North fifty (50) feet of the South two hundred eighty (280) feet of Rosevear Terrace Subdivision lying West of U. S. Highway #1, in Brevard County, Florida.

PARCEL NO. 2:

(Title vested by virtue of Deed recorded in ORB 870/266).

Begin at the concrete post at the west quarter section corner of Section 19, Township 23 South, Range 36 East, Brevard County, Florida, said post being the Northwest corner of U. S. Lot 3, said Section; thence run South 89 degrees, 52 minutes, 30 seconds East on the quarter section line or North side of U. S. Lot 3 a distance of 1320.5 feet to a concrete monument which replaced old coquina post at the Northeast corner of said U. S. Lot 3 for the point of beginning of land herein described; thence for a first course, run North 36 degrees, 30 minutes East along the northwesterly line of lands formerly owned by P. D. Shuping, a distance of 307.1 feet to a concrete monument; thence for a second course, run North 25 degrees, 11 minutes, 25 seconds West a distance of 16 feet to a concrete post; thence for a third course, run South 80 degrees, 13 minutes, 30 seconds West parallel to the North line of Norman Carhart dead as recorded in Deed Book 194, page 124, Public Records of said County a distance of 274.6 feet to an iron pipe; thence for a fourth course, run South and parallel to the West line of Section 19, a distance of 215 feet to an iron rod on the North line of U. S. Lot 3 or the quarter section line; thence for a fifth course, run South 89 degrees, 52 minutes, 50 seconds East along the North line of said U. S. Lot 3 a distance of 95.57 feet to a concrete monument at the Northeast corner of said U. S. Lot 3, which is the point of beginning; together with right of way 16 feet wide described as follows: From the aforesaid point of beginning, run North 36 degrees, 30 minutes East along the northwesterly line of land formerly owned by P. D. Shuping a distance of 307.1 feet to a concrete monument for the point of beginning of said right of way; thence for a first course, run North 65 degrees, 37 minutes, 13 seconds East 70.13 feet to a concrete monument on the West right of way line of new U. S. Highway No. 1; thence for a second course, run North 13 degrees, 52 minutes, 00 seconds West along said right of way line 16.32 feet to a point; thence for a third course, run South 65 degrees, 37 minutes, 13 seconds West 72.98 feet to a concrete monument; thence for a fourth course, run Southeasterly 16 feet more or less to the point of beginning.

PARCEL NO. 3:

(Title vested by virtue of Deed recorded in ORB 524/618).

All of Lot One (1) of the resubdivision of Rosevear Terrace Subdivision lying west of the west right of way line of new U. S. No. 1 Highway, except the south two hundred thirty (230) feet, said resubdivision being recorded in Plat Book 8, page 40, of the Public Records of Brevard County, Florida, subject to a fifty (50) foot easement running east and west on the south side of said property.

PARCEL NO. 4:

(Title vested by virtue of Deed recorded in ORB 526/620).

The North One hundred eighty (180) feet of the South two
Continued on next page

hundred thirty (230) feet of that part of Rosevear Terrace Subdivision lying west of the west right of way line of New U. S. No. 1 Highway, said plat of Rosevear Terrace Subdivision being recorded in Plat Book 8, page 40, Public Records of Brevard County, Florida.

PARCEL NO. 5:

(Title vested by virtue of Deed recorded in ORB 526/955).

A tract of land located in Section nineteen (19), Township twenty-three (23) South, Range thirty-six (36) East, Brevard County, Florida, described as follows:

From an iron pipe on the range line, which is 713.10 feet north of the quarter section corner on the west side of said Section nineteen (19), which is a point of reference, run north seventy-five (75) degrees, nine (9) minutes east and parallel to the south line of the Delaspine Grant, a distance of 1548.24 feet to an iron pipe on the east line of the right of way of U. S. Highway No. 1 also known as Dixie Highway, as presently located, which is the point of beginning of the land herein described, and from the said point of beginning, for a first course, run south fourteen (14) degrees, thirty-two (32) minutes, thirty (30) seconds east on the east right of way line of U. S. Highway No. 1 (which is also known as State Road No. 5), a distance of 295 feet to the northwest corner of the land conveyed to Carl W. and Alice C. Hopps by deed recorded in Book 264, page 475, Official Records of Brevard County, Florida; thence for a second course, run north forty-seven (47) degrees, sixteen (16) minutes, forty-two (42) seconds east on the north line of the land conveyed to Carl W. and Alice C. Hopps aforesaid, a distance of 528 feet, more or less, to and into the waters of the Indian River; thence return to the point of beginning, and for a third course, run north seventy-five (75) degrees, nine (9) minutes east, a distance of 449.76 feet to an iron pipe on the west bank of the Indian River, and continue the said course to and into the waters of the Indian River; and thence for a fourth course, run south thirty-six (36) degrees, fifty-eight (58) minutes east in the waters edge of the Indian River, a distance of 46.18 feet, more or less, to the eastern terminus of the second course, which is the northeast corner of the land conveyed to Carl W. and Alice C. Hopps as aforesaid.

Together with the riparian and littoral rights and the submerged lands in Indian River appertaining to said property.

PARCEL NO. 6:

(Title vested by virtue of Judgment recorded in CCMS 47/102).

Beginning at a point on the west line of fractional Section 19, Township 23 South, Range 36 East, which point is 713.10 feet north of the northwest corner of said northwest quarter (NW 1/4) of the southwest quarter (SW 1/4) of said fractional Section 19; thence run north seventy-five (75) degrees, nine (9) minutes east parallel with the south line of the Delaspine Grant, 1548.24 feet to a point on the east right of way of U. S. No. 1 (Dixie Highway) as presently located; thence south fourteen (14) degrees, thirty-two (32) minutes, thirty (30) seconds east along said east right of way line 295 feet to the point of beginning; from said point of beginning, for a first course, continue south fourteen (14) degrees, thirty-two (32) minutes, thirty (30) seconds east along said east right of way line, two hundred (200) feet; thence for a second course, run north forty-nine (49) degrees, twenty-four (24) minutes, forty

Continued on next page

(49) seconds east, six hundred (600) feet, more or less, to and into the waters of the Indian River; thence return to the point of beginning; thence for a third course, run north forty-seven (47) degrees, sixteen (16) minutes, forty-two (42) seconds east, five hundred twenty-eight (528) feet, more or less, to and into the waters of the Indian River; thence for a fourth course, run southeasterly along the waters of the Indian River, two hundred (200) feet, more or less, to the above described termination of said second course. All being and lying in fractional Section Nineteen (19), Township Twenty-three (23) South, Range Thirty-six (36) East, in Brevard County, Florida. Together with all riparian, littoral or shore rights in the Indian River to the said land appertaining.

PARCEL NO. 7:

(Title vested by virtue of Deed recorded in ORB 524/946).

Commencing at a concrete monument which is the southwest corner of Government Lot two (2), Section Nineteen (19), Township Twenty-three (23) South, Range Thirty-six (36) East, Brevard County, Florida; thence run north along the west section line of said Section Nineteen (19), a distance of three hundred forty-nine and sixty-three hundredths (349.63) feet to an iron pipe; thence north eighty (80) degrees, thirteen (13) minutes, thirty (30) seconds east, a distance of one thousand five hundred seventy-nine and fifty hundredths (1579.50) feet to a concrete monument on the west right of way line of U. S. Highway No. 1; thence continuing north eighty (80) degrees, thirteen (13) minutes, thirty (30) seconds east a distance of sixty-six and twenty-three hundredths (66.23) feet across U. S. Highway No. 1 to a concrete monument on the east right of way of said U. S. Highway No. 1 and the point of beginning of the lands herein described; thence north forty-nine (49) degrees, seven (7) minutes, twenty (20) seconds east six hundred eight and seventy-eight hundredths (698.78) feet to an iron pipe on the shore of the Indian River; thence southeasterly along the shore line of the Indian River two hundred ninety-nine and five hundredths (299.05) feet to an iron pipe; thence south sixty-three (63) degrees, twenty (20) minutes, twenty-five (25) seconds west, six hundred sixty-three and ninety-five hundredths (663.95) feet to a concrete monument on the east right of way line of U. S. Highway No. 1; thence north fourteen (14) degrees, twenty-four (24) minutes, forty (40) seconds west, one hundred fifty (150) feet to a concrete monument and the point of beginning. TOGETHER with all riparian rights thereunto appertaining.

PARCEL NO. 8:

(Title vested by virtue of Deed recorded in ORB 525/974).

Start at a concrete monument at the southwest corner of Government Lot 2, Section 19, Township 23 South, Range 36 East, Brevard County, Florida, go north along Section line 349.63 feet to an iron pipe; thence north eighty (80) degrees, thirteen (13) minutes, thirty (30) seconds east, 1645.5 feet to an iron pipe set on the east right of way line of U. S. Highway No. 1, as presently located; thence south fourteen (14) degrees, thirty-six (36) minutes east along said east right of way line, a distance of 150 feet to a concrete monument for a point of beginning of lands hereby conveyed; thence north sixty-three (63) degrees, thirty-one (31) minutes, east along south line of lands described in Deed Book 410, page 622, Public Records of Brevard County, Florida, a distance of 664.1 feet to a stone set on the shore of the Indian River; thence

Continued on next page

southeasterly along said shore line, a distance of 76 feet, thence westerly to a point on the east right of way line of U. S. Highway No. 1, said point being 51 feet south-easterly measured along said right of way line from the point of beginning; thence northwesterly along said right of way line, a distance of 51 feet to the point of beginning.

In addition thereto, all riparian and littoral rights thereunto appertaining.

PARCEL NO. 9:
(Title vested by virtue of Deed recorded in ORB 525/974).

Beginning on the west shore of the Indian River at the southeast corner of Parcel No. 8, thence run southeasterly along the shore line of the Indian River to the southeast corner of property described in Deed Book 369, page 525, Public Records of Brevard County, Florida; thence continue westerly along said south line of property described in Deed Book 369, page 525, Public Records of Brevard County, Florida, a distance of 340 feet; thence run northerly to an iron pipe located on the south line of the property described as Parcel No. 8 above, said point being located 330 feet, more or less, measured along said south line of Parcel No. 8 from the Waters of the Indian River and easterly 310 feet measured along said south line from the east right of way line of U.S. Highway No. 1; thence easterly along the south line of property described as Parcel No. 8 to the point of beginning. In addition thereto, all riparian and littoral rights thereunto appertaining,

This conveyance is made subject to an easement ten (10) feet wide, extending from the land hereinabove described to the waters of the Indian River, which was reserved in the deed executed by Edward Lawton and Marie Lawton to Delmer H. Roberts, dated March 1, 1957, and recorded in Deed Book 442, page 251, Public Records of Brevard County, Florida.

PARCEL NO. 10:
(Title vested by virtue of Deed recorded in ORB 525/663).

From the Coquina monument at the northeast corner of U. S. Government Lot 3, being the northeast corner of the west-half (W 1/2) of the southwest quarter (SW 1/4) of fractional Section nineteen (19), Township twenty-three (23) South, Range thirty-six (36) East, Brevard County, Florida, run the northwesterly line of the Rosevear Terrace Subdivision (according to the plat of said subdivision recorded in Plat Book 4, page 70, and replatted according to plat recorded in Plat Book 8, page 40, Public Records of Brevard County, Florida), on a course of north thirty-six (36) degrees, thirty (30) minutes east, a distance of 307.1 feet to an iron pipe; thence run the northerly line of the said Rosevear Terrace Subdivision, being the northerly line of P. D. Shuping's land, on a course of north sixty-four (64) degrees, forty-eight (48) minutes, thirty-five (35) seconds east, a distance of 212.7 feet to a concrete post on the east side of the right of way of U. S. Highway No. 1, which point is the point of beginning of the land herein described; from the said point of beginning, run north fourteen (14) degrees, thirty-six (36) minutes west on the east side of the right of way of U. S. Highway No. 1, a distance of one hundred (100) feet, more or less, to the south line of the land conveyed by Edward and Marie Lawton to Delmer H. Roberts by deed recorded in Deed Book 437, page 232; thence run easterly on the south line of the land conveyed by Edward

Continued on next page

and Maria Lawton to Delmer H. Roberts, recorded in Deed Book 437, page 232 aforesaid, a distance of 310 feet, more or less, to an iron pipe in a ditch located at the northwest corner of the lands conveyed by Edward and Maria Lawton to Delmer H. Roberts by deed recorded in Deed Book 442, page 251; thence run southerly on the west line of the lands conveyed to Delmer H. Roberts in Deed Book 242, page 251, a distance of 100 feet, more or less, to the north line of the Rosevear Terrace Subdivision aforesaid; and thence run South sixty-four (64) degrees, forty-eight (48) minutes, thirty-five (35) seconds west on the north line of the Rosevear Terrace Subdivision aforesaid, a distance of 394.8 feet, more or less, to the point of beginning.

ALSO, all of the right, title and interest of the parties of the first part in and to the easement ten (10) feet wide, extending from the land hereinabove described to the waters of the Indian River, which was reserved in the deed executed by them to Delmer H. Roberts, dated March 1, 1957, and recorded in Deed Book 442, page 251, Public Records of Bravard County, Florida.

PARCEL NO. 11:

(Title vested by virtue of Judgment recorded in CCHB 47/102).

A tract of land situated in government lot two of Section nineteen (19), Township twenty-three (23) South, Range thirty-six (36) East, Bravard County, Florida, described as follows: From the Northeast corner of the west half of the southwest quarter (SW 1/4) of Section nineteen (19) aforesaid, which is a point of reference, run the boundary of the Rosevear Terrace Subdivision (the plat of which is recorded in Plat Book 4, page 70, Public Records of Bravard County, Florida) north thirty-six (36) degrees, thirty (30) minutes east, a distance of three hundred seven and one-tenth (307.1) feet, and thence north sixty-four (64) degrees, forty-eight (48) minutes, thirty-five (35) seconds east, a distance of two hundred twelve and seven tenths (212.7) feet to a point on the east side of the right of way of State Road No. 5, also known as U. S. Highway No. 1, which is the point of beginning of the land herein described, and from the said point of beginning, continue on the north line of the Rosevear Terrace Subdivision, north sixty four (64) degrees, forty-eight (48) minutes, thirty-five (35) seconds east, a distance of seven hundred thirty-four and eight tenths (734.8) feet, more or less, to the west bank of the Indian River; thence run southerly in the waters edge of the Indian River, a distance of one hundred ninety two (192) feet to a stake at the northeast corner of the lands of Conrad W. and Ruth D. Cramer, described in Deed Book 345, page 314; thence run westerly on the north line of the lands of Conrad W. and Ruth D. Cramer to a point on the east line of State Road No. 5, also known as U. S. Highway No. 1, which is 115 feet from the point of beginning; thence run northerly on the east line of the right of way of State Road No. 5, a distance of one hundred fifteen (115) feet to the point of beginning. Together with all riparian, littoral or shore rights in the Indian River to the said land appertaining.

PARCEL NO. 12:

(Title vested by virtue of Judgment recorded in CCHB 47/102).

A tract of land situated in government lot two (2) of Section nineteen (19), Township twenty-three (23) South, Range thirty-six (36) East, Bravard County, Florida, described as follows: From the northeast corner of the west-half (W 1/2) of
Continued on next page

the southwest quarter (SW 1/4) of Section nineteen (19) aforesaid, which is a point of reference, run the boundary of the Rosevear Terrace Subdivision (the plat of which is recorded in Plat Book 4, page 70, Public Records of Brevard County, Florida) north thirty-six (36) degrees, thirty (30) minutes east, a distance of three hundred seven and one-tenth (307.1) feet, and thence north sixty-four (64) degrees, forty-eight (48) minutes, thirty-five (35) seconds east, a distance of two hundred twelve and seven tenths (212.7) feet to a point on the east side of the right of way of State Road No. 5, also known as U. S. Highway No. 1, thence run southerly on the east line of the right of way of State Road No. 5, also known as U.S. Highway No. 1, a distance of one hundred fifteen (115) feet to the southwest corner of the lands of William Cramer, Jr., and Catherine Cramer, which is the point of beginning of the land herein described; thence run easterly on the south line of the lands of William Cramer, Jr., and Catherine Cramer to a point on the west shore of the Indian River, which is one hundred ninety two (192) feet southerly, as measured along the shore of the Indian River from the northeast corner of the Rosevear Terrace Subdivision; thence run southerly in the waters edge of the Indian River, a distance of one hundred and ninety two (192) feet to the northeast corner of the lands of Worth A. Overseaker and Maud I. Overseaker; thence run westerly on the north line of the lands of Worth A. Overseaker and Maud I. Overseaker to a point on the east right of way line of State Road No. 5, which is two hundred thirty (230) feet, measured on said right of way line from the north line of Rosevear Terrace Subdivision; thence run northerly on the east line of said State Road right of way line, a distance of one hundred fifteen (115) feet to the point of beginning. Together with all riparian, littoral or shore rights in the Indian River to the said land appertaining.

PARCEL NO. 13:

(Title vested by virtue of Deed recorded in ORB 525/567).

Parcel A: Begin at an iron pipe on the East right of way line of U. S. Highway No. 1, which iron pipe is the corner of Shuping and Cramer lands, for POINT OF BEGINNING; thence Eastward along Shuping and Cramer line to an iron pipe set on the high water mark of the Indian River; thence southeasterly along the high water mark of the Indian River, a distance of 384 feet to an iron pipe; thence Westerly to the East right of way line of U. S. Highway No. 1 to a point, which point is 230 feet from point of beginning, measured along the East right of way line of U. S. Highway No. 1; thence Northwesterly along said right of way line to a point of beginning, being part of Rosevear Terrace as per Plat recorded in Plat Book 4, page 70, of the Public Records of Brevard County, Florida, in Section 19, Township 23 South, Range 36 East, together with all riparian, littoral and shore rights thereunto belonging or in any wise appertaining.

Parcel B: Begin at an iron pipe at a point on the East right of way line of U. S. Highway No. 1, which point is 230 feet southeasterly from Shuping-Cramer corner post, for POINT OF BEGINNING; thence Easterly along the Southerly line of Warren A. Shuping and Catherine J. Shuping, to an iron pipe set on the high water mark of the Indian River (which iron pipe is 384 feet southeasterly from an iron pipe set on the Indian River, which iron pipe marks corner of Shuping-Cramer land); thence along the high water mark of the Indian River, a distance of 369.30 feet to an iron pipe which marks the corner of Shuping-Nash land; thence Westerly to a concrete post set on

Continued on next page

the East right of way line of U.S. Highway No. 1, which post is corner of Shuping-Nash land, which point is 231 feet measured along said right of way line from point of beginning; thence along the East right of way line of U. S. Highway No. 1 to point of beginning, being part of land in Rosevear Terrace as per Plat Book 4, page 70, of the Public Records of Brevard County, Florida, in Section 19, Township 23 South, Range 36 East, together with all and singular the rights, numbers, privileges, hereditaments, and appurtenances to the same belonging to or in any wise appertaining, and riparian, littoral and shore rights thereunto belonging or in any wise pertaining.

The land above described as PARCEL A and PARCEL B, being otherwise described as:

All that certain tract or parcel of land situate, lying and being in Government Lots 2 and 4, of Section 19, Township 23 south, Range 36 East, in Brevard County, Florida, and being more particularly described as follows:

Beginning at a concrete monument on the Easterly right of way line of U. S. Highway No. 1 (State Road No. 5), as presently located, 318.12 feet South of the North line of said Government Lot 4, (said concrete monument is South 40 degrees East 46.4 feet from the center of a concrete culvert under said U. S. Highway No. 1); thence, run South 89 degrees, 59 minutes, 40 seconds East, 1040 feet along the South line of Rosevear Terrace, according to plat of said subdivision recorded in Plat Book 4, page 70, of the Public Records of Brevard County, Florida, to a concrete monument set on the West bank of the Indian River, (an 8 inch palm bears South 58 degrees West 42 feet; a gum tree (7 inches) bears North 47 degrees West 53.5 feet), and thence continue on the same course to and into the waters of the Indian River; thence run Northwesterly, meandering the waters edge of the Indian River, a distance of 753 feet to an iron pipe set at the Southeast corner of the lands of Conrad W. Cramer and Ruth D. Cramer, husband and wife, as described in Deed Book 345, page 314, Public Records of Brevard County, Florida; thence run South 78 degrees, 14 minutes, 20 seconds west along the South line of said lands of Conrad W. Cramer and Ruth D. Cramer, as described in Deed Book 345, page 314, a distance of 824 feet to an iron pipe set on the Easterly right of way line of U.S. Highway No. 1 (State Road No. 5) as presently located; thence go South 15 degrees, 14 minutes, 40 seconds East along the Easterly right of way line of said U. S. Highway No. 1 (State Road No. 5) as presently located, a distance of 461 feet to the concrete monument set at the point of beginning, together with all riparian, littoral and shore rights thereunto belonging or in anywise pertaining.

PARCEL NO. 14:

(Title vested by virtue of Deed recorded in ORB 886/678).

That part of Government Lot 4, Section 19, Township 23 South, Range 36 East, Brevard County, Florida, more particularly described as follows, to-wit: Begin at the NW corner of the aforesaid Government Lot 4; thence run S on the W line of said Government Lot 4, 323.77 feet, to a coquina post; thence S 89 degrees, 35 minutes E 549.75 feet, or or less to a concrete post set on the E side of U. S. Highway No. 1, for the point of beginning. From said point of beginning run thence S 14 degrees, 45 minutes E along the E side of said Highway 275.49 feet, to a concrete post, which post is 266 feet, S of the point of beginning by right angle measurements; thence run S 89 degrees, 35 minutes E and parallel to the N line of said

Continued on next page

Government Lot 4 and 589.77 feet, S therefrom a distance of 1,007 feet, more or less, to a concrete post; thence continue E 30 feet, more or less, to and into the waters of the Indian River; thence Northwesterly meandering the waters of the Indian River to a point distant at right angle measurements S of the N line of said Government Lot 4, 323.77 feet, thence N 89 degrees, 35 minutes W and parallel to the N line of said Government Lot 4, 1,039.5 feet, more or less, to the point of beginning.

PARCEL NO. 15:

(Title vested by virtue of Deed recorded in ORB ____/____).

Begin at the Northwest corner of Government Lot 4, Section 19, Township 23 South, Range 36 East, Brevard County, Florida; thence South on the West line of said Lot 4 a distance of 323.77 feet to a coquina post; thence East parallel to the North line of said Lot 4 a distance of 549.75 feet to a concrete post on the East right of way line of U.S. Highway #1; thence Southeasterly along said East right of way line a distance of 266 feet South of the last course by perpendicular measure to a concrete post; thence East parallel to the North line of said Lot 4 a distance of 695.67 feet to a concrete post for a Point of Beginning; thence South a distance of 90 feet; thence East parallel to the North line of said Government Lot 4 a distance of 150 feet; thence North a distance of 90 feet; thence West along a line parallel to the North line of said Government Lot 4 a distance of 150 feet to the Point of Beginning; together with easement for road right of way 20 feet wide running East and West from the Indian River to said Highway and bordering said parcel on the South and together with all riparian, littoral and shore rights belonging or in anywise pertaining.

PARCEL NO. 16:

(Title vested by virtue of Deed recorded in ORB 858/333).

Begin at the Northwest corner of Government Lot 4, Section 19, Township 23 South, Range 36 East, Brevard County, Florida; thence South on the West line of said Lot 4 a distance of 323.77 feet to a coquina post; thence East parallel to the North line of said Lot 4 a distance of 549.75 feet to a concrete post on the East right-of-way line of U. S. Highway No. 1; thence Southeasterly along said East right-of-way line a distance of 266 feet (the 266 feet measured perpendicularly) to a concrete post; thence East parallel to North line of said Lot 4 a distance of 845 feet to a concrete post for point of beginning; thence South a distance of 90 feet; thence East parallel to the North line of said Lot 4 a distance of 90 feet; thence North a distance of 90 feet; thence West parallel to the North line of said Government Lot 4 a distance of 90 feet to the Point of Beginning and being in Government Lot 4, Section 19, Township 23 South, Range 36 East, together with easement for road right-of-way 20 feet wide running East and West from Indian River to said Highway and bordering said parcel on the South.

PARCEL NO. 17:

(Title vested by virtue of Deed recorded in ORB 858/336).

Begin at the Northwest corner of Government Lot 4, Section 19, Township 23 South, Range 36 East, Brevard County, Florida, thence South on the West line of said Lot 4 a distance of

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