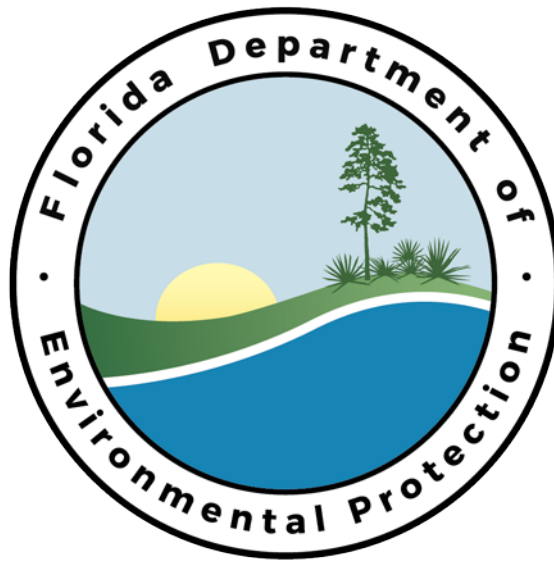


**STATE OF FLORIDA  
DEPARTMENT  
OF  
ENVIRONMENTAL PROTECTION**



**Conditions of Certification**

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

**PA 08-53B**

**Modified 05/12/2017**

## Table of Contents

|                                                                                      |           |
|--------------------------------------------------------------------------------------|-----------|
| <b>SECTION A. GENERAL CONDITIONS .....</b>                                           | <b>1</b>  |
| <b>I. SCOPE.....</b>                                                                 | <b>1</b>  |
| <b>II. APPLICABLE RULES .....</b>                                                    | <b>2</b>  |
| <b>III. REVISIONS TO DEPARTMENT STATUTES AND RULES .....</b>                         | <b>4</b>  |
| <b>IV. DEFINITIONS.....</b>                                                          | <b>4</b>  |
| <b>V. DEPARTMENT PERMITS UNDER FEDERAL PROGRAMS.....</b>                             | <b>6</b>  |
| A. Air .....                                                                         | 6         |
| B. Water .....                                                                       | 6         |
| <b>VI. DESIGN AND PERFORMANCE CRITERIA .....</b>                                     | <b>7</b>  |
| <b>VII. NOTIFICATION.....</b>                                                        | <b>8</b>  |
| <b>VIII. EMERGENCY CONDITION NOTIFICATION AND RESTORATION.....</b>                   | <b>8</b>  |
| <b>IX. CONSTRUCTION PRACTICES .....</b>                                              | <b>9</b>  |
| A. Local Building Codes.....                                                         | 9         |
| B. Open Burning.....                                                                 | 9         |
| C. Vegetation .....                                                                  | 9         |
| D. Existing Underground Utilities.....                                               | 9         |
| E. Electric and Magnetic Fields (EMF).....                                           | 9         |
| F. Existing Wells.....                                                               | 9         |
| G. Existing Septic Tanks .....                                                       | 9         |
| <b>X. RIGHT OF ENTRY .....</b>                                                       | <b>10</b> |
| <b>XI. DISPUTE RESOLUTION .....</b>                                                  | <b>10</b> |
| A. General .....                                                                     | 10        |
| B. Modifications .....                                                               | 10        |
| C. Post-Certification Submittals.....                                                | 11        |
| <b>XII. SEVERABILITY.....</b>                                                        | <b>11</b> |
| <b>XIII. ENFORCEMENT .....</b>                                                       | <b>11</b> |
| <b>XIV. REVOCATION OR SUSPENSION .....</b>                                           | <b>11</b> |
| <b>XV. REGULATORY COMPLIANCE.....</b>                                                | <b>12</b> |
| <b>XVI. CIVIL AND CRIMINAL LIABILITY.....</b>                                        | <b>12</b> |
| <b>XVII. USE OF STATE LANDS .....</b>                                                | <b>12</b> |
| <b>XVIII. PROCEDURAL RIGHTS .....</b>                                                | <b>13</b> |
| <b>XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS<br/>AND NOTICES .....</b> | <b>13</b> |
| <b>XX. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS .....</b>                        | <b>15</b> |
| A. Purpose of Submittals .....                                                       | 15        |
| B. Filings .....                                                                     | 15        |
| C. Completeness .....                                                                | 15        |
| D. Interagency Meetings.....                                                         | 15        |
| E. Determination of Compliance.....                                                  | 16        |
| F. Commencement of Construction.....                                                 | 16        |
| G. Revisions to Design Previously Reviewed for Compliance .....                      | 16        |
| <b>XXI. POST CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY....</b>                    | <b>16</b> |
| <b>XXII. POST CERTIFICATION AMENDMENTS.....</b>                                      | <b>17</b> |
| <b>XXIII. MODIFICATION OF CERTIFICATION .....</b>                                    | <b>17</b> |

|                |                                                                                      |           |
|----------------|--------------------------------------------------------------------------------------|-----------|
| <b>XXIV.</b>   | <b>COASTAL ZONE CONSISTENCY .....</b>                                                | <b>18</b> |
| <b>XXV.</b>    | <b>WATER QUALITY CERTIFICATION.....</b>                                              | <b>18</b> |
| <b>XXVI.</b>   | <b>TRANSFER OF CERTIFICATION .....</b>                                               | <b>18</b> |
| <b>XXVII.</b>  | <b>LABORATORIES AND QUALITY ASSURANCE .....</b>                                      | <b>19</b> |
| <b>XXVIII.</b> | <b>ENVIRONMENTAL RESOURCES .....</b>                                                 | <b>19</b> |
|                | <i>A. General .....</i>                                                              | <i>19</i> |
|                | <i>B. Surface Water Management Systems .....</i>                                     | <i>20</i> |
|                | <i>C. Wetland and Other Surface Water Impacts .....</i>                              | <i>22</i> |
| <b>XXIX.</b>   | <b>THIRD PARTY IMPACTS.....</b>                                                      | <b>22</b> |
| <b>XXX.</b>    | <b>RECORDS MAINTAINED AT THE FACILITY .....</b>                                      | <b>22</b> |
| <b>XXXI.</b>   | <b>WATER DISCHARGES .....</b>                                                        | <b>23</b> |
|                | <i>A. Discharges .....</i>                                                           | <i>23</i> |
|                | <i>B. Wastewater Incident Reporting.....</i>                                         | <i>23</i> |
| <b>XXXII.</b>  | <b>SOLID AND HAZARDOUS WASTE .....</b>                                               | <b>24</b> |
|                | <i>A. Solid Waste.....</i>                                                           | <i>24</i> |
|                | <i>B. Hazardous Waste, Used Oil, Petroleum Contact Water and Spent Mercury .....</i> | <i>24</i> |
|                | <i>C. Hazardous Substance Release Notification .....</i>                             | <i>25</i> |
|                | <i>D. Contaminated Site Cleanup .....</i>                                            | <i>25</i> |
| <b>XXXIII.</b> | <b>STORAGE TANK SYSTEMS .....</b>                                                    | <b>25</b> |
|                | <i>A. Incident Notification Requirements. ....</i>                                   | <i>25</i> |
|                | <i>B. Discharge Reporting Requirements .....</i>                                     | <i>26</i> |
|                | <i>C. Discharge Cleanup .....</i>                                                    | <i>26</i> |
|                | <i>D. Out of Service and Closure Requirements .....</i>                              | <i>26</i> |
|                | <b>SECTION B. SPECIFIC CONDITIONS .....</b>                                          | <b>27</b> |
| <b>I.</b>      | <b>DEPARTMENT OF ENVIRONMENTAL PROTECTION.....</b>                                   | <b>27</b> |
|                | <i>A. Groundwater .....</i>                                                          | <i>27</i> |
|                | <i>B. Public Easement.....</i>                                                       | <i>27</i> |
| <b>II.</b>     | <b>FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND .....</b>        | <b>27</b> |
| <b>III.</b>    | <b>DEPARTMENT OF TRANSPORTATION .....</b>                                            | <b>28</b> |
|                | <i>A. Post Certification Review Items.....</i>                                       | <i>28</i> |
|                | <i>B. Best Management Practices.....</i>                                             | <i>29</i> |
| <b>IV.</b>     | <b>FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION .....</b>                       | <b>29</b> |
|                | <i>A. West Indian Manatee .....</i>                                                  | <i>29</i> |
|                | <i>B. Terrestrial Wildlife.....</i>                                                  | <i>38</i> |
|                | <i>C. Listed Species Survey.....</i>                                                 | <i>39</i> |
|                | <i>D. Listed Species Locations .....</i>                                             | <i>39</i> |
|                | <i>E. Scientific Collecting/Institutional Authorizations.....</i>                    | <i>40</i> |
|                | <i>F. Migratory Bird Nest Authorizations .....</i>                                   | <i>40</i> |
| <b>V.</b>      | <b>DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES</b>                        | <b>40</b> |
| <b>VI.</b>     | <b>ST. JOHNS RIVER WATER MANAGEMENT DISTRICT .....</b>                               | <b>41</b> |
| <b>VII.</b>    | <b>EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL.....</b>                           | <b>45</b> |
| <b>VIII.</b>   | <b>BREVARD COUNTY .....</b>                                                          | <b>45</b> |
| <b>History</b> | <b>.....</b>                                                                         | <b>47</b> |

## ATTACHMENTS & APPENDICES

|                        |                                               |
|------------------------|-----------------------------------------------|
| <i>Attachment A.</i>   | <i>..... Survey map of site</i>               |
| <i>Attachment B.</i>   | <i>..... Survey map of certified facility</i> |
| <i>Attachment C.</i>   | <i>..... Mitigation Plan</i>                  |
| <i>Attachment D.</i>   | <i>..... Sovereign Submerged Lease</i>        |
| <i>Attachment E.</i>   | <i>..... Public Easement</i>                  |
| <i>Attachment F.</i>   | <i>..... Map 1 of plant intake canal</i>      |
| <i>Attachment G.</i>   | <i>..... Map 2 of plant intake canal</i>      |
| <br><i>Appendix I.</i> | <br><i>..... NPDES Permit</i>                 |

## 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. The Certified Facility includes but is not limited to 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

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

D. Within 60 days after completion of construction of the electrical power plant as defined by 403.503(14), F.S., but excluding off-site linear and non-linear associated facilities, the Licensee shall provide to the Department in pdf format: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the site as defined by Section 403.503(28), F.S., and an aerial photograph delineating the boundaries of the site. The survey map and aerial photograph shall be identified as the Site Delineation and attached hereto as part of Attachment A (Maps).

The Licensee shall notify the Department of any change to the site boundary depicted in the Site Delineation in Attachment A (Maps). The notification shall be accompanied by an updated land survey map (or legal description) and aerial photograph delineating the new boundaries of the site for review by the Department. Absent the above description/delineation of the site, the Department will consider the perimeter fence line of the property on which the electrical power plant's generating facility and on-site support facilities are located to be the boundaries of the site.

E. If both certified and un-certified Facilities lie within the boundaries of the site, the Licensee shall also comply with the requirements of this paragraph. Within 60 days after completion of construction of the plant and on-site associated facilities, but excluding off-site linear and non-linear associated facilities, the Licensee shall provide to the Department in pdf format: an acceptable documentation delineating the boundaries of the certified areas within the site such as an aerial photograph delineating these areas. The boundaries of the certified areas within the site shall include both the certified electrical power plant's generating facilities as defined in Section 403.503(28), F.S., and its on-site certified associated facilities (including on-site linear facilities) as defined by Section 403.503(7), F.S. The document shall be known as the Delineation of the Certified Area of the Site and attached hereto as part of Attachment A (Maps).

F. Within 120 days after completion of construction of any off-site associated non-linear facilities, the Licensee shall provide to the Department in .pdf format; a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the certified areas for each off-site non-linear Certified Facility; and an aerial photograph delineating the boundaries of the certified area for each off-site non-linear certified Facility. The survey map(s) and aerial photograph(s) shall be known as Delineation of the Certified Areas of the Offsite Non-linear Facilities and attached hereto as part of Attachment A (Maps).

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

Following any post-certification approvals that require a change to the boundaries of the certified area(s) depicted in the Delineation of Certified Off-Site Linear Facilities in Attachment A (Maps), the Licensee shall submit an updated aerial photograph/map, survey map or legal description.

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

## **II. APPLICABLE RULES**

The construction, operation, and maintenance of the Certified Facility shall be in accordance with all applicable non-procedural provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the applicable non-procedural portions of the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification or in a subsequent modification to the Conditions, under any federal permit, or as otherwise provided under Chapter 403:

### **Florida Administrative Code:**

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

18-14 (Administrative Fines for Damaging State Lands)

18-20 (Aquatic Preserves)

18-21 (Sovereign Submerged Lands Management)  
62-4 (Permits)  
62-17 (Electrical Power Plant Siting)  
62-25 (Regulation of Stormwater Discharge)  
62-40 (Water Resource Implementation Rule)  
62-150 (Hazardous Substance Release Notification)  
62-160 (Quality Assurance)  
62-204 (Air Pollution Control-General Provisions)  
62-210 (Stationary Sources-General Requirements)  
62-212 (Stationary Sources-Preconstruction Review)  
62-213 (Operation Permits for Major Sources of Air Pollution)  
62-214 (Requirements for Sources Subject to the Federal Acid Rain Program)  
62-256 (Open Burning)  
62-296 (Stationary Sources-Emission Standards)  
62-297 (Stationary Sources-Emission Monitoring)  
62-302 (Surface Water Quality Standards)  
62-304 (Total Maximum Daily Loads)  
62-330 (Environmental Resource Permitting)  
62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)  
62-342 (Mitigation Banks)  
62-345 (Uniform Mitigation Assessment Method)  
62-520 (Groundwater Classes, Standards and Exemptions)  
62-528 (Underground Injection Control)  
62-531 (Water Well Contractor Licensing Requirements)  
62-532 (Water Well Permitting and Construction Requirements)  
62-550 (Drinking Water Standards, Monitoring and Reporting)  
62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems)  
62-560 (Requirements for Public Water Systems That Are Out of Compliance)  
62-600 (Domestic Wastewater Facilities)  
62-601 (Domestic Wastewater Treatment Plant Monitoring)  
62-604 (Collection Systems and Transmission Facilities)  
62-610 (Reuse of Reclaimed Water and Land Application)  
62-620 (Wastewater Facility and Activities Permitting)  
62-621 (Generic Permits)  
62-650 (Water Quality Based Effluent Limitations)  
62-660 (Industrial Wastewater Facilities)  
62-699 (Classification and Staffing of Water or Domestic Wastewater Treatment Plants and Water Distribution Systems)  
62-701 (Solid Waste Management Facilities)  
62-710 (Used Oil Management)  
62-730 (Hazardous Waste)  
62-737 (Management of Spent Mercury-Containing Lamps and Devices Destined For Recycling)  
62-740 (Petroleum Contact Water)  
62-761 (Underground Storage Tank Systems)

62-762 (Aboveground Storage Tank Systems)  
62-769 (Florida Petroleum Liability and Restoration Insurance Program)  
62-777 (Contaminant Cleanup Target Levels)  
62-780 (Contaminated Site Clean-Up Criteria)  
62-814 (Electric and Magnetic Fields)

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

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

### **IV. DEFINITIONS**

The meaning of terms used herein shall be governed by the applicable definitions contained in Chapters 253, 373, 379 and 403, F.S., and any regulation adopted pursuant thereto. In the event of any dispute over the meaning of a term used in these Conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation or, in the alternative by the use of the commonly accepted meaning. As used herein, the following shall apply:

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

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

C. “Certified Area” means the area within the site in which the Certified Facilities are located. For off-site non-linear associated facilities this shall mean the area within which the certified off-site associated facility is located. For off-site linear facilities this term shall mean the area encompassed by the boundaries of the certified corridors, until such time as all property interests required for ROWs have been acquired, after which time the term will include only the area within the final ROWs in accordance with Section 403.503(11), F.S.

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

E. “DEO” means the Florida Department of Economic Opportunity.

- F. “DEM” shall mean the Florida Division of Emergency Management.
- G. “DEP” or “Department” means the Florida Department of Environmental Protection.
- H. “DHR” means the Florida Department of State, Division of Historical Resources.
- I. “DOT” means the Florida Department of Transportation.
- J. “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.
- K. “Feasible” or “practicable” means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- L. “FWC” means the Florida Fish and Wildlife Conservation Commission.
- M. “Licensee” means an applicant that has obtained a certification order for the subject project.
- N. “NPDES permit” means a federal National Pollutant Discharge Elimination System permit issued by DEP in accordance with the federal Clean Water Act.
- O. “Post-certification submittal” shall mean a submittal made by the Licensee pursuant to a Condition of Certification.
- P. “PSD permit” means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.
- Q. “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.
- R. “ROW” means the right-of-way to be selected by the Licensee within the certified corridor in accordance with the Conditions of Certification and as defined in Section 403.503(27), F.S.
- S. “Site” as defined in Section 403.503(28).
- T. “State Water Quality Standards” shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapters 62-302, and 62-520, F.A.C.
- U. “Surface Water Management System” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms “surface water management system” or “system” include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.
- V. “NED, NWD, CD, SED, SWD, SD” shall mean the applicable DEP district office.
- W. “NWF, SR, SJR, SWF, or SFWMD” means the Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida Water Management District, respectively.

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

Y. “Wetlands” shall mean those areas meeting the definition set forth in Section 373.019(27), F.S., as delineated pursuant to Chapter 62-340, F.A.C.

## **V. DEPARTMENT PERMITS UNDER FEDERAL PROGRAMS**

This certification is not a waiver of any other Department approval that may be required under federally delegated or approved programs. The provisions of the following federal permits shall be conditions of this certification to the extent the provisions of those permits apply to the Certified Facility(ies). The Licensee shall comply with the applicable provisions and limitations set forth in the permits listed below, and as those provisions may be modified, amended, or renewed in the future by the Department. The Department may consider a violation of any of these permits as a violation of this license.

### **A. Air**

All Air Construction Permits and Title V Air Operation Permits in force for the Certified Facilities are incorporated by reference herein as part of these Conditions. The [Air Construction Permits and Title V Air Operation Permits](#) can be found using the facility ID number FL-0090006.

*[Chapters 62-4, 62-204, 62-210, 62-212, 62-213, 62-214, 62-296, and 62-297, F.A.C.]*

### **B. Water**

#### **1. NPDES Industrial Wastewater Discharge**

Licensee shall comply with all applicable provisions of NPDES Permit No. FL0001473 (attached as Appendix I) as well as any subsequent modifications, amendments and/or renewals.

*[Chapter 62-620, F.A.C.]*

#### **2. Underground Injection Control**

Any construction or operation of injection wells shall be in accordance with all applicable provisions of UIC permit No. XXXXX (attached as Appendix II) as well as any subsequent modifications, amendments and/or renewals.

*[Chapter 62-528, F.A.C.]*

#### **3. NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP)**

Any storm water discharges associated with construction activities in a certified area shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. Prior to commencing construction activities on the site that:

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

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

*[Section 403.0885, F.S.; Rule 62-621.300, F.A.C.]*

4. NPDES Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity.

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

*[Section 403.0885, F.S.; Rule 62-621.300, F.A.C.]*

5. NPDES Generic Permits for Discharge from Petroleum Contaminated Sites.

If the activity involves a point source discharge of ground water from a petroleum contaminated site, the Licensee must obtain coverage under the Generic Permit for discharge from petroleum contaminated sites. Before discharge of ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed as required by Rule 62-621.300, F.A.C., to determine if the activity can be covered by this permit.

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

6. NPDES Generic Permit for Discharge from Ground Water from Dewatering Operations.

Any discharge of ground water from dewatering operations shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. For industrial activities that result in a discharge of groundwater into surface waters of the state, a Generic Permit for Discharge of Ground Water from Dewatering Operations shall be obtained. Dewatering operations seeking coverage under the NPDES Generic Permit for Stormwater Discharges from Large and Small Construction Activities under 62-621.300(4), F.A.C., are not required to obtain separate coverage under this permit.

## **VI. DESIGN AND PERFORMANCE CRITERIA**

Certification, including these Conditions, is predicated upon preliminary designs, concepts, and performance criteria described in the SCA or in testimony and exhibits in support of certification. Final engineering design will be consistent and in substantial compliance with the preliminary information described in the SCA or as explained at the certification hearing (if any). Conformance to those criteria, unless specifically modified in accordance with Sections 403.516 F.S., and Rule 62-17.211, F.A.C., is binding upon the Licensee in the design, construction, operation and maintenance of the Certified Facility.

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

## **VII. NOTIFICATION**

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 appropriate DEP District and/or Branch Office 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.

All notifications which are made in writing shall additionally be immediately provided to the Siting Coordination Office (SCO) via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us).

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

B. The licensee shall immediately notify the SCO in writing (email acceptable) in writing of any previously submitted information that is later discovered to be inaccurate.

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

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

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

*[Section 403.5112, F.S.]*

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

If the Licensee is temporarily unable to comply with any of the conditions of the License due to breakdown of equipment or destruction by hazard of fire, wind or following an emergency as defined by Sections 252.34(3), (6), (7) or (9), F.S., the Licensee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the Licensee from any liability for failure to comply with Department rules. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

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

## **IX. CONSTRUCTION PRACTICES**

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

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

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

### **B. Open Burning**

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

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

### **C. Vegetation**

For areas located in any Florida Department of Transportation (DOT) ROW, Chapter 4.6 of the [Florida DOT Utility Accommodation Manual](#) shall serve as guidelines for best management practices.

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

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

*[Chapter 556, F.S.]*

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

Any associated transmission lines and electrical substations shall comply with the applicable requirements of Chapter 62-814, F.A.C.

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

### **F. Existing Wells**

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

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

### **G. Existing Septic Tanks**

Abandonment of Existing Septic Tanks Any existing septic tanks to be impacted by construction and that will no longer be used shall be abandoned in accordance with Rule 64E-6.011, F.A.C., unless these Conditions provide otherwise.

## **X. RIGHT OF ENTRY**

A. Upon presentation of credentials or other documents as may be required by law, the Licensee shall allow authorized representatives of the Department or other agencies with jurisdiction over a portion of the Certified Facility and any authorized off-site mitigation/compensation or otherwise associated areas:

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

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

B. When requested by the Department, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within 10 working days, or such longer period as may be mutually agreed upon by the Department and the Licensee, furnish any information required by law, which is needed to determine compliance with the certification.

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

## **XI. DISPUTE RESOLUTION**

### **A. General**

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

### **B. Modifications**

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

**C. Post-Certification Submittals**

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

*[Sections 120.57, F.S. and Rule 62-17.211, F.A.C.]*

**XII. SEVERABILITY**

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

**XIII. ENFORCEMENT**

A. The terms, conditions, requirements, limitations, and restrictions set forth in these Conditions are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, [For TLSA – 403.533] F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, license termination, license revocation, or license revision. The Licensee is placed on notice that the Department may review this certification periodically and may initiate enforcement action for any violation of these Conditions.

B. All records, notes, monitoring data, and other information relating to the construction or operation of the Certified Facility which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the Certified Facility and arising under the Florida Statutes or Department rules, subject to the restrictions in Sections 403.111 and 403.73, F.S. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

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

**XIV. 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 Sections 403.512 F.S. This certification is valid only for the specific processes and operations identified in the SCA and approved in the final order of certification and indicated in the testimony and exhibits in support of certification, or approved in a subsequent amendment or modification of the certification. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the

Certified Facility that are the cause of such action, and other portions of the Certified Facility shall remain unaffected by such action.

*[Sections 403.512 F.S.; subsection 62-4.160(2), F.A.C.]*

## **XV. REGULATORY COMPLIANCE**

As provided in Sections 403.087(7) and 403.722(5), F.S., except as specifically provided in the final order of certification, a subsequent modification or amendment, or these conditions, the issuance of this license does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This license is not a waiver of or approval of any other Department license/permit 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 public or private property caused by the construction or operation of the Certified Facility, or from penalties therefore.

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

## **XVI. CIVIL AND CRIMINAL LIABILITY**

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

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

## **XVII. USE OF STATE LANDS**

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

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

C. If a portion of the Certified Facility is located on sovereign submerged lands or state-owned uplands owned by the Board of Trustees of the Internal Improvement Trust Fund,

pursuant to Article X, Section 11 of the Florida Constitution, then the proposed activity on such lands requires a proprietary authorization. Under such circumstances, the proposed activity is not exempt from the need to obtain a proprietary authorization. Unless otherwise provided in the final order of certification or these conditions, the Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Rules 18-2.018 or 18-21.0051, F.A.C.

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

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

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

## **XVIII. PROCEDURAL RIGHTS**

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

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

## **XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES**

Florida Department of Environmental Protection  
Siting Coordination Office, MS 5500  
2600 Blair Stone Rd.  
Tallahassee, FL 32399-3900  
[SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us)

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

Florida Department of Economic Development  
Office of the Secretary  
107 East Madison St.  
Tallahassee, FL 32399-2100

Florida Fish & Wildlife Conservation Commission  
Conservation Planning Services  
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.]*

## **XX. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS**

### **A. Purpose of Submittals**

Conditions which provide for the post-certification submittal of information to DEP or other agencies by the Licensee are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the Certified Facility and the construction and maintenance of the Certified Facility. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with these Conditions, without further agency action. A submittal of information or determination of compliance pursuant to a post-certification submittal under this Condition does not provide a point of entry for a third party.

### **B. Filings**

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

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

### **C. Completeness**

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

If any portion of a post-certification submittal is found to be incomplete, the Licensee shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

*[subparagraph 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 these Conditions 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, a field inspection shall be conducted with the Licensee and 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 of whether there is demonstration of compliance with these Conditions. If it is determined that compliance with the Conditions has not been provided, the Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall constitute a determination of compliance. A post-certification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

**F. Commencement of Construction**

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

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

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

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

**XXI. POST CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY**

Within 90 days after certification, and within 90 days after any subsequent modification or certification, the Licensee shall provide the SCO a complete summary of those post-certification submittals that are identified in these Conditions when due-dates for the information required of the Licensee have been identified. A summary shall be provided as a separate document for each transmission line, if any. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the SCO, in a sortable spreadsheet, electronically, in the format shown below or equivalent. For subsequent modifications and certifications, a Post-Certification Submittal Requirements Summary shall be required for only those resulting in new or altered post-certification requirements.

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

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

## **XXII. 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.]*

## **XXIII. MODIFICATION OF CERTIFICATION**

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

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

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

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

E. Any anticipated facility change that results in a change to the Site Delineation or the Delineation of the Certified Area, attached hereto as part of Attachment A (Maps), must be accompanied by a map or aerial photo showing the proposed new boundaries of the site and/or certified area. Within 120 days after completion of construction of the approved facility change,

the Licensee shall provide the information required by Section A. General Conditions, Condition I. Scope, paragraphs D, E, F, or G, as appropriate.

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

#### **XXIV. COASTAL ZONE CONSISTENCY**

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

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

#### **XXV. WATER QUALITY CERTIFICATION**

Pursuant to the Operating Agreement between the Department, Water Management Districts and U.S. Army Corps of Engineers, a written final order granting 'certification' constitutes certification by the Department that the project activities comply with applicable state water quality standards.

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

#### **XXVI. TRANSFER OF CERTIFICATION**

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

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

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

## **XXVII. LABORATORIES AND QUALITY ASSURANCE**

Chemical, physical, biological, microbiological and toxicological data collected as a requirement of these Conditions must be reliable, and collected and analyzed by scientifically sound procedures. Unless otherwise specified in these Conditions, the Licensee shall adhere to the minimum field and laboratory quality assurance, methodological and reporting requirements of the Department as set forth in Chapter 62-160, F.A.C. Standard Operating Procedures can be downloaded from the following website: [Standard Operating Procedures](#).  
[Chapter 62-160, F.A.C.]

## **XXVIII. ENVIRONMENTAL RESOURCES**

### **A. General**

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

a. Prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the appropriate DEP District for review, all information necessary for a complete *Joint Application for Environmental Resource Permit* (ERP), DEP Forms 62-330.060, F.A.C. A copy of the submittal shall also be provided to the SCO. Information may be submitted by discrete portions of the Certified Facilities for a determination of compliance with these COC.

This form may: a) be submitted concurrently with a SCA; b) be submitted as part of an amendment request or a petition for modification; or c) be submitted as a post-certification submittal following approval of a project through certification, modification, or amendment. Such ERP submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapters 62-330, F.A.C., as applicable unless otherwise stated in these Conditions. While the information is provided for review via submittal of the Environmental Resources Permit form, pursuant to section 403.511, Florida Statutes, issuance of a separate Environmental Resources Permit is not required for certified facilities.

Those forms submitted as part of a SCA, an amendment, or modification, shall be processed concurrently with, and under the respective certification, amendment, or modification procedures. Those forms submitted as a post-certification submittal (after certification, modification, or amendment and prior to construction) shall be processed in accordance with Section A, General Conditions, Condition XX, Procedures for Post-Certification Submittals.

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

b. Concurrent with submittal of the DEP form required in Subparagraph A.1.a. above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department compliance review. Available DEP-approved wetland

and surface water delineations within the boundaries of a certified site or a portion thereof may be used and reproduced for this delineation submittal and verification.

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

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

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

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by Subparagraph A.1.a. above, including plans or other supporting documentation, shall not be considered binding on the Department unless a specific condition of this Certification or a formal wetlands jurisdictional determination under Section 373.421(2), F.S., provides otherwise.

*[Sections 373.421, 403.504, 403.523, and 403.9404, F.S.]*

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

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

2. All construction, operation, and maintenance of the SWMS(s) for the Certified Facilities shall be as set forth in the plans, specifications and performance criteria contained in the SCA and other materials presented during the certification proceeding, post-certification submittals, and as otherwise approved. If specific requirements are necessary for construction, operation, and/or maintenance of an approved SWMS, those requirements shall be incorporated into a SWMS Plan for that system and included in Attachment B (Surface Water Management System Plans). Any alteration or modification to the SWMS Plan or the SWMS as certified requires prior approval from the Department.

3. To allow for stabilization of all disturbed areas, immediately prior to construction, during construction of the SWMS, and for the period of time after construction of the SWMS, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the licensed work, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in *the State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007) unless a project-specific erosion and sediment control plan is approved as part of this License. If project-specific Conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those

specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual*. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

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

5. At least 48 hours prior to the commencement of construction of any new SWMS for any part of a Certified Facility authorized by this certification, the Licensee shall submit to the Department a written notification of commencement using an “Environmental Resource Permit Construction Commencement Notice” (DEP Form 62-330.350(1), F.A.C.), indicating the actual start date and the expected completion date.

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

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

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

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

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

*[Section 373.414, F.S.; Chapters 62-25, 62-302, 62-330, and Rule 62-4.242, F.A.C.]*

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

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

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

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

**XXIX. THIRD PARTY IMPACTS**

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

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

**XXX. RECORDS MAINTAINED AT THE FACILITY**

A. These Conditions or a copy thereof shall be kept at the site.

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

C. Records of monitoring information shall include:

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

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

## XXXI. WATER DISCHARGES

### A. *Discharges*

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

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

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

### B. *Wastewater Incident Reporting*

1. The Licensee shall report to the appropriate district office any noncompliance with industrial wastewater requirements which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Licensee becomes aware of the circumstances.

The Licensee shall provide the following information, to the extent known, to the applicable DEP District Office in the 24-hr oral report:

- a. Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
- b. Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
- c. Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
- d. Any unauthorized discharge to surface or ground waters.

A written submission shall also be provided within five days of the time the Licensee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

2. For unauthorized releases or spills of treated or untreated wastewater reported that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the Department by

calling the STATE WARNING POINT NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the Licensee becomes aware of the discharge. The Licensee, to the extent known, shall provide the following information to the State Warning Point:

- a. Name, address, and telephone number of person reporting;
- b. Name, address, and telephone number of Licensee or responsible person for the discharge;
- c. Date and time of the discharge and status of discharge (ongoing or ceased);
- d. Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
- e. Estimated amount of the discharge;
- f. Location or address of the discharge;
- g. Source and cause of the discharge;
- h. Whether the discharge was contained on-site, and cleanup actions taken to date;
- i. Description of area affected by the discharge, including name of water body affected, if any; and
- j. Other persons or agencies contacted.

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

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

## **XXXII. SOLID AND HAZARDOUS WASTE**

### **A. Solid Waste**

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

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

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

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-730, F.A.C., for any hazardous waste generated within the Certified Facility. An EPA identification number must be obtained before beginning hazardous waste activities unless the facility is a Conditionally Exempt Small Quantity Generators (CESQGs). CESQGs generate no more than 100 kg (220 lbs) of hazardous waste in any month.

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

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

*The Licensee shall comply with all applicable provisions of DEP Chapter 62-740, F.A.C. for any petroleum contact water located within the Certified Facility.*

*[Chapters 62-710, 62-730, 62-737, and 62-740, F.A.C.]*

**C. Hazardous Substance Release Notification**

1. Any owner or operator of a facility who has knowledge of any release of a hazardous substance from a Certified Facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the STATE WARNING POINT NUMBER, (800) 320-0519, as soon as possible, but not later than one working day of discovery of the release.

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

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

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

**D. Contaminated Site Cleanup**

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

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

**XXXIII. STORAGE TANK SYSTEMS**

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

**A. Incident Notification Requirements.**

Notification of the discovery of the loss from a storage tank system of a regulated substance exceeding 100 gallons on impervious surfaces, other than secondary containment, such as driveways, airport runways, or other similar asphalt or concrete surfaces, provided that the loss does not come in contact with pervious surfaces or of the discovery of any other incident listed in subsections 62-761.450(2) or 62-762.450(2), F.A.C., shall be made to the County on Incident Notification Form 62-761.900(6) within 24 hours or before the close of the County's next business day.

**B. Discharge Reporting Requirements**

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

**C. Discharge Cleanup**

If a discharge of a regulated substance occurs at a certified facility, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules. The Licensee is advised that other federal, state, or local requirements may apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with that Chapter.

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

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

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

## **SECTION B. SPECIFIC CONDITIONS**

### **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. Public Easement**

The Licensee obtained a public easement for the existing spit of land extending east into the Indian River (See Attachment E).

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

The terms, conditions, and provisions of the required state lands authorizations (Attachment D) shall be met. Construction of any activity shall not commence on sovereignty submerged lands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease/easement documents have been executed to the satisfaction of the Department.

### 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

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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.

### **IV. 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 Attachments 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.

(8) The operation of the maintenance gate within the manatee heating area will be performed under the following constraints:

- i. Gate shall not be operated from November 15 – March 31.
- ii. Manual hand crank operation only.
- iii. At least one person shall be designated as a manatee observer when gate is being operated.
- iv. Gate shall not be operated at night or when manatees cannot be seen within 50 feet of the gate due to inclement weather 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., 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. Until the converted CCEC is in operation, aerial survey flights encompassing Brevard County shall be conducted on a weekly basis during the interim period during the winter months (October 15 through March 31) unless weather or mechanical difficulties require the cancellation of a flight; however, in no case shall less than 3 surveys be conducted per month. 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 visual assessment of the condition and general distribution of manatees using the interim warm-water refuge during the winter months. Visual assessments will be done once per week from October 15 through October 31 and daily from November 1 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

c. At least one dedicated observer that has been approved by the Florida Fish and Wildlife Conservation Commission (FWC) shall be present when in water work is being performed and shall perform no other duties that may interfere with their ability to observe for protected marine species. FWC approval must be specifically for this project and approval must occur prior to work commencement as per FWC guidelines outlined at the following website: <http://www.myfwc.com/wildlifehabitats/managed/manatee/watch-program/>. Observer(s) must have prior on-the-job experience observing protected marine species (such as manatees and marine turtles) during previous dredging and marine construction work where the activities were similar in nature to this project. Movement of a work barge or other associated vessels shall be minimized to the greatest extent possible at night. A final report including names of observers, contact information, protected marine species sightings and actions taken shall be sent to the Florida Fish and Wildlife Conservation Commission at [ImperiledSpecies@myfwc.com](mailto:ImperiledSpecies@myfwc.com), no later than 30 days after the final project completion.

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.

e. No nighttime mechanical dredging, such as clamshell shall occur.

#### 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.

#### 8. Access to Manatee Protection Zones

For all activities necessary to perform essential operations, including in-water maintenance and inspection of equipment, emergency operations, and environmental monitoring within a No Entry or Motorboats Prohibited Manatee Protection Zone as defined by 68C-22, F.A.C., the following requirements are applicable. These requirements supplant the need for Licensee to obtain a permit to access these zones pursuant to 68C-22.003, F.A.C.

a. Vessels used to access the zone should be of the smallest size and horsepower needed to accomplish the required tasks, and all vessels should be clearly marked as belonging to the Licensee or authorized contractor performing the work on behalf of the Licensee. Whenever practicable, vessels should be equipped with a propeller guard. Vessel operation within the zone must be at no greater than Idle Speed.

b. At least one person on each vessel must be designated as a manatee observer. Said observer must have experience in manatee observation and be equipped with polarized sunglasses to aid in observation. The observer must be on the vessel at all times, maintain a vigilant watch, and advise all personnel as to the presence and location of nearby manatees.

c. Except in emergency situations, no in-water activity may be performed within 50 feet of a manatee. Manatees may not be approached, pursued, fed, watered, touched, or otherwise interacted with in any manner that causes disruption of their normal behavior. If one or more manatees are observed within 50 feet, all in-water activities must be stopped and may only be resumed after all manatees have moved away of their own volition.

d. Except in emergency situations, no in-water work may be performed before sunrise or after sunset (when the ability to see manatees is minimal).

e. All personnel entering the zone must be informed of the possible presence of manatees, the characteristics used to identify the presence of manatees, and the conditions and requirements set forth herein. All personnel must be advised 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.

f. Any collision with and/or injury to a manatee must be reported immediately to the FWC Division of Law Enforcement (888-404-3922) and the FWC Imperiled Species Management Section (850-922-4330; fax: 850-922-4338).

g. The Licensee shall maintain records onsite detailing the nature and scope of all activities conducted within the restricted area during the previous year, including dates of activity and the number of vessels involved as well as the type and configuration of the vessels, by date. These records should be made available to FWC upon request.

9. Environmental Monitoring for the Horseshoe Crab Deterrent Wall

FPL shall consult with the FWC to develop a Horseshoe Crab Deterrent Structure (Structure) Maintenance and Monitoring Plan (Plan). The Plan will identify Structure maintenance activities to minimally include inspection, repairs, debris removal and biofouling organism removal on a scheduled basis, and reporting of such activities on a scheduled basis. The Plan will also identify Structure monitoring activities to minimally include data collection, data analysis and, reporting at a sufficient level and schedule necessary to evaluate efficacy of the structure. This Plan must be agreed upon by both FWC and FDEP within 60 days of receipt, and can be subsequently amended at any time provided such amendments are also agreed upon by both FWC and FDEP.

*[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.

*[Rules 68A-9.002 & 68A-27.005]*

### **V. 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.]*

## **VI. 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         |
| 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.]*

## **VII. 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]*

## **VIII. 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 10/09/2009

Modified (A) 12/28/11; signed by Siting Program Administrator Mulkey

Modified (B) 05/12/17; signed by Siting Program Administrator Mulkey

## **ATTACHMENT A: SURVEY MAP OF SITE**

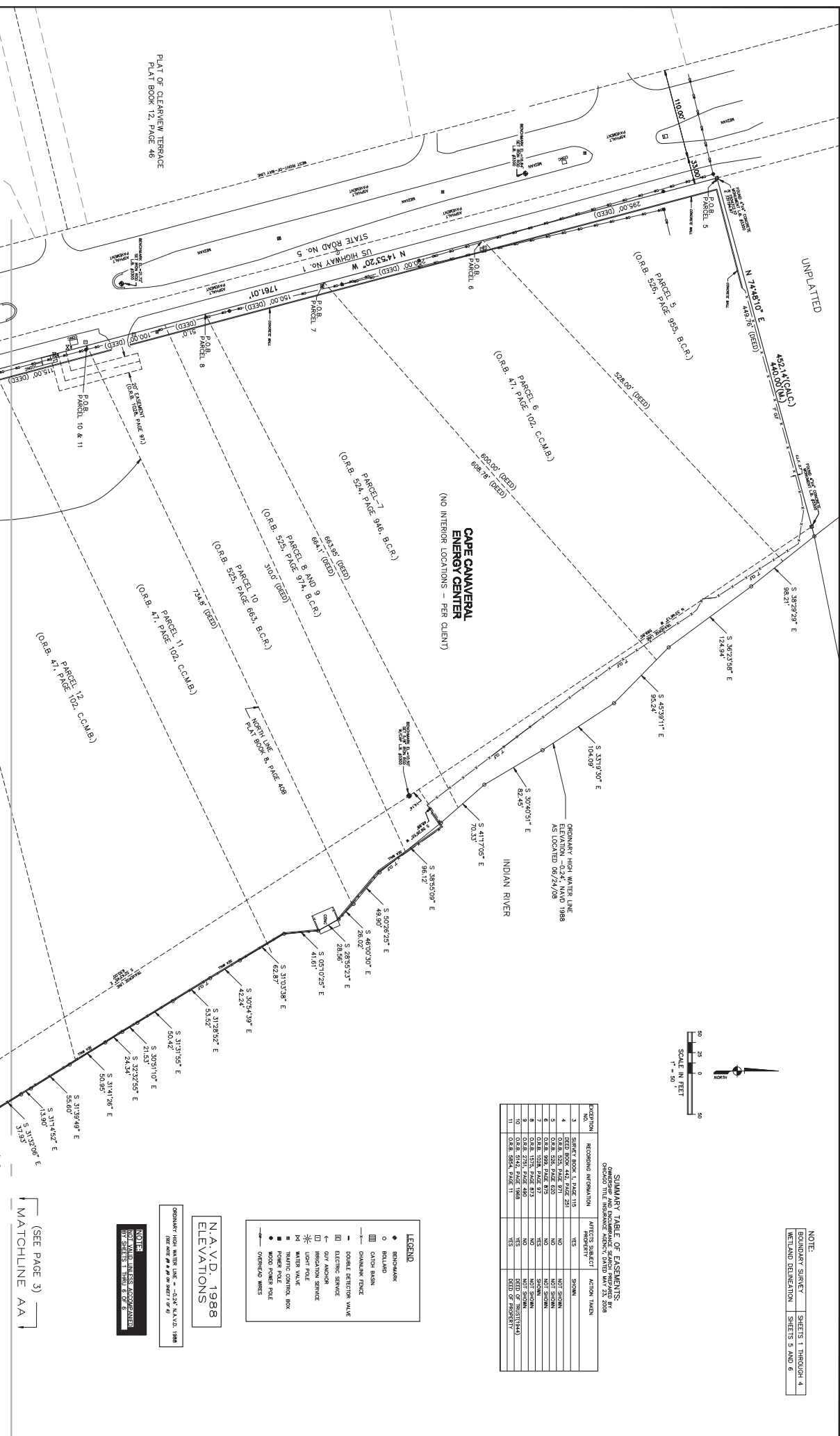
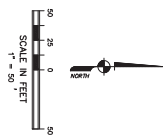
*To be attached after certification pursuant to Section A. Condition I.C.*



**NOTE:**

| EXCPTION NO. | RECEIVING INFORMATION  | AFFICTS SELECT PROPERTY | ACTION TAKEN     |
|--------------|------------------------|-------------------------|------------------|
| 3            | SHIRT ROOM 1, PAGE 115 | YES                     | SHOWN            |
| 4            | 0.6R 525, PAGE 97      |                         | NOT SHOWN        |
| 5            | 0.6R 525, PAGE 97      |                         | NOT SHOWN        |
| 6            | 0.6R 525, PAGE 97      |                         | NOT SHOWN        |
| 7            | 0.6R 525, PAGE 97      | YES                     | SHOWN            |
| 8            | 0.6R 525, PAGE 97      | YES                     | NOT SHOWN        |
| 9            | 0.6R 525, PAGE 97      | YES                     | NOT SHOWN        |
| 10           | 0.6R 525, PAGE 97      | YES                     | NOT SHOWN        |
| 11           | 0.6R 525, PAGE 97      | YES                     | DEED OF PROPERTY |

SUMMARY TABLE OF EASEMENTS  
OWNERSHIP AND ENCUMBRANCE SEARCH PREPARED BY  
CHICAGO TITLE INSURANCE AGENCY, DATED MAY 23,



N.A.V.D. 1988  
ELEVATIONS

ORDINARY HIGH WATER LINE = -0.24' N.A. V.D. 1985  
(SEE NOTE #8 & #9 ON SHEET 1 OF 6)

**NOTE:**  
NOT VALID UNLESS ACCOMPANIED  
BY SHEETS 1 THRU 6 OF 6

(SEE PAGE 3) —  
MATCHLINE AA

## BOUNDARY

## SUMMARY

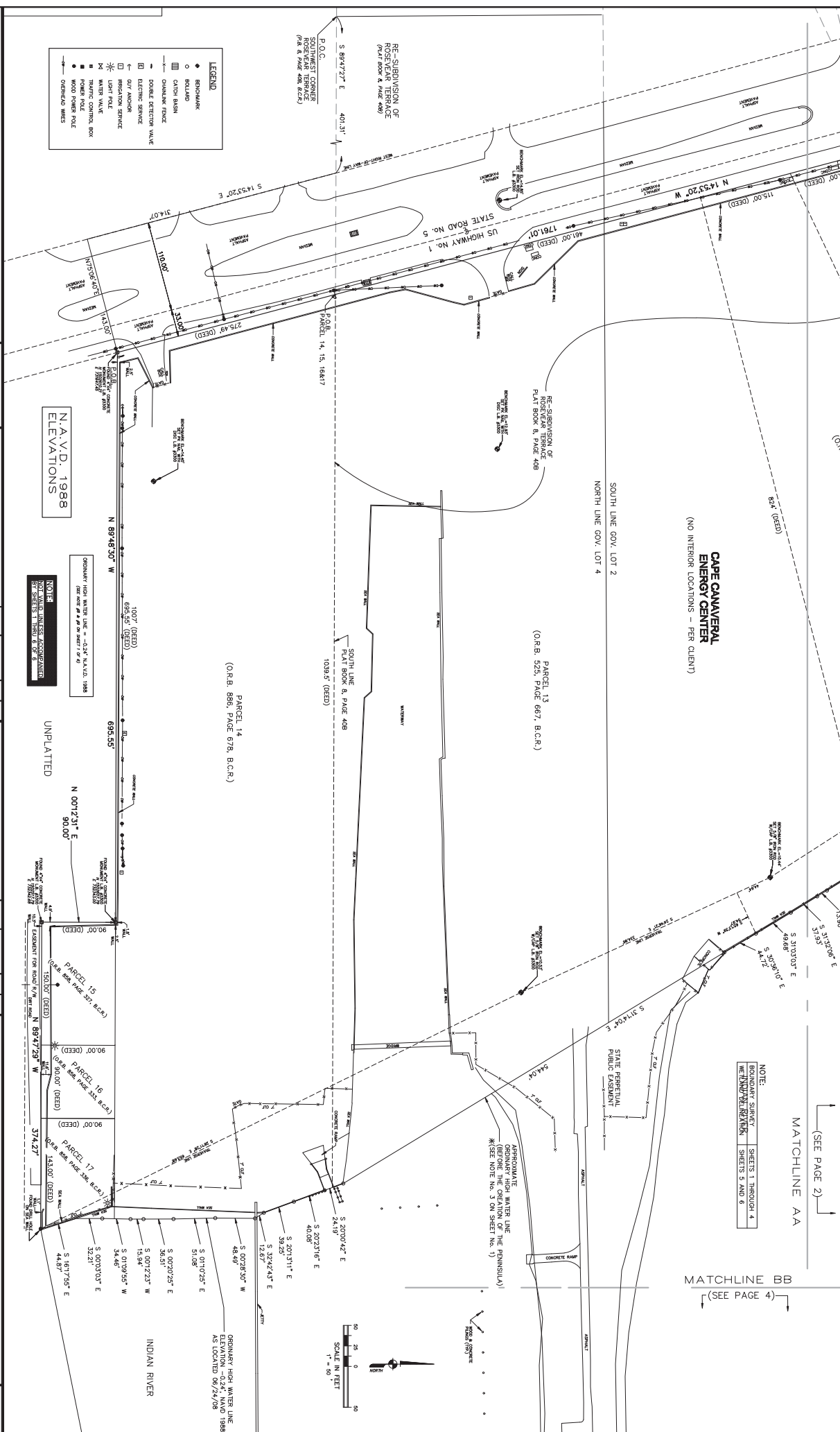
CAPE CANAVERAL  
ENERGY CENTER  
SECTION 18, TOWNSHIP 23 S., RANGE 36 E  
BREVARD COUNTY  
FLORIDA

9 8 2

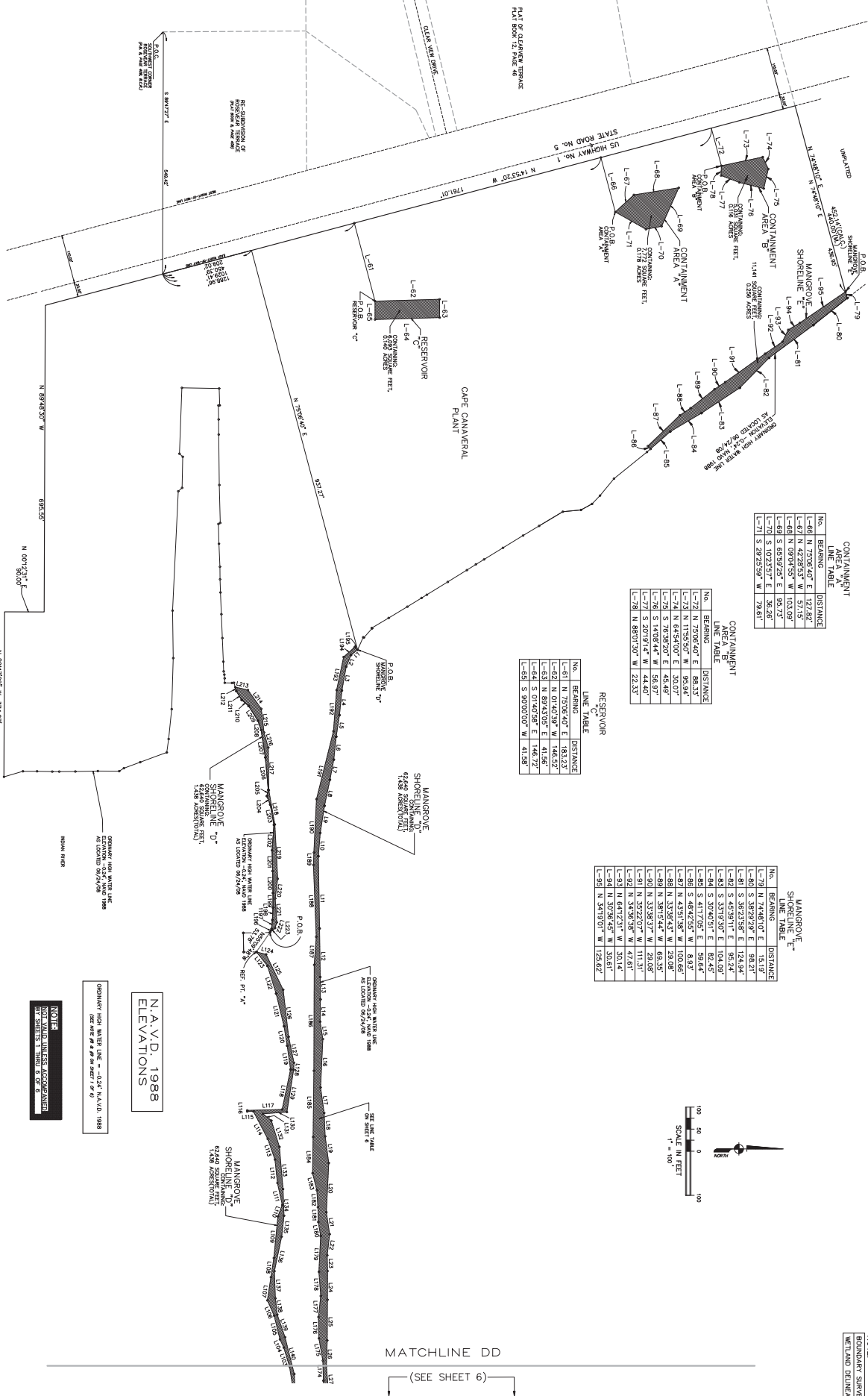
**AVIROM & ASSOCIATES, INC.**  
**SURVEYING & MAPPING**  
 60 S.W. 2ND AVENUE, SUITE 102  
 BOCA RATON, FLORIDA 33432  
 TEL. (661) 362-2344, FAX (661) 364-7125  
 WWW.AVIROM-ENGINEER.COM

AVIROM & ASSOCIATES, INC. is an Equal Opportunity Employer. Minorities and women are encouraged to apply. This is a non-discriminatory advertisement. This is not a solicitation of an offer of insurance. For more information, please contact your insurance agent.

PLAT OF CLEARVIEW TERRACE  
PLAT BOOK 12, PAGE 46

[illegible]



N.A.V.D. 1988  
ELEVATIONS

**NOTE:**  
NOT VALID UNLESS ACCOMPANIED  
BY SHEETS 1 THRU 6 OF 6

ORDINARY HIGH WATER LINE = -0.24' N.  
(SEE NOTE #8 & #9 ON SHEET 1 OF 6)

**AVIKOM & ASSOCIATES, INC.**  
**SURVEYING & MAPPING**  
60 S.W. 2ND AVENUE, SUITE 102  
BOCA RATON, FLORIDA 33432  
TEL. (561) 382-2554, FAX (561) 384-7125  
[WWW.AVIKOM-SURVEY.COM](http://WWW.AVIKOM-SURVEY.COM)

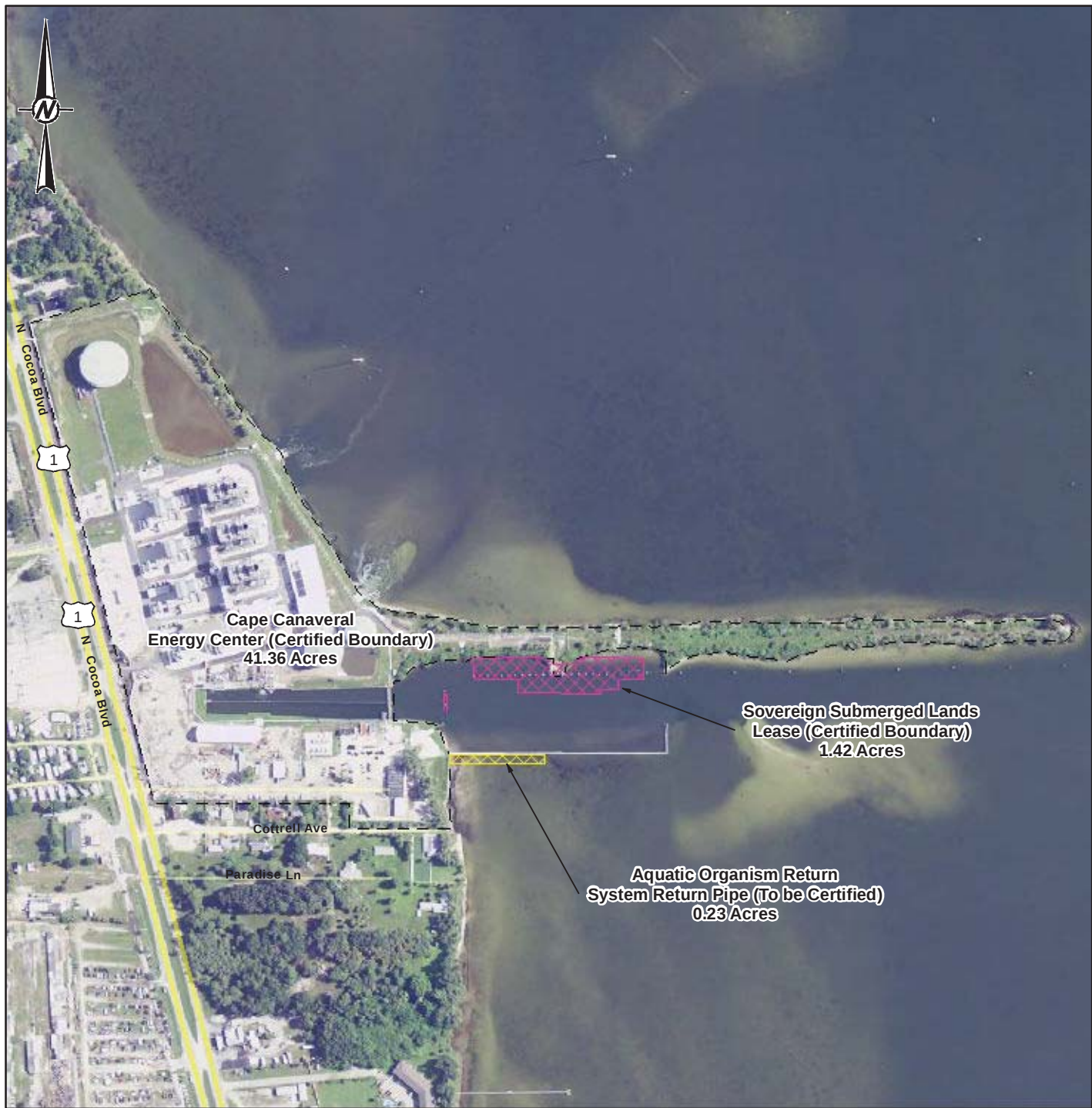
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**WETLAND  
DELINEATION  
CAPE CANAVERAL  
ENERGY CENTER  
SECTION 19, TOWNSHIP 23 S., RANGE 36 E.  
BREVARD COUNTY  
FLORIDA**



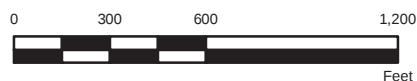
## **ATTACHMENT B: SURVEY MAP OF CERTIFIED FACILITY**

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



LEGEND

- Cape Canaveral Energy Center (Certified Boundary)
- Sovereign Submerged Lands Lease (Certified Boundary)
- Aquatic Organism Return System Return Pipe (To be Certified)



REFERENCE(S)

COORDINATE SYSTEM: WGS 1984 WEB MERCATOR AUXILIARY SPHERE  
 PROJECTION: MERCATOR AUXILIARY SPHERE  
 DATUM: WGS 1984

CLIENT  
 FPL

PROJECT  
 CERTIFIED SITE BOUNDARIES

TITLE  
**CAPE CANAVERAL ENERGY CENTER  
 SITE CERTIFICATION BOUNDARY**

CONSULTANT



YYYY-MM-DD 2015-03-30

DESIGNED NRL

PREPARED NRL

REVIEWED KFK

APPROVED KFK

PROJECT NO.  
 1238765401

CONTROL  
 B003

REV.  
 0

FIGURE  
**1**

## **ATTACHMENT C: MITIGATION PLAN**

## Attachment C: Construction and Mitigation Monitoring

### Manatee Heater and Horseshoe Crab Wall (Mod B)

#### Turbidity & Water Quality:

1. Turbidity must be controlled to prevent violations of water quality pursuant to Rule 62-302.530(69), Florida Administrative Code (F.A.C.). Turbidity shall not exceed 29 Nephelometric Turbidity Units (NTU) above natural background conditions. Also, turbidity of the effluent from the Dredge Material Management Area (DMMA) discharged back in to the Indian River Lagoon shall not exceed 29 NTU above natural background of the receiving surface waters.
2. A mixing zone for turbidity is granted with the following size and configuration constraints: The mixing zone shall extend no further than the floating turbidity barrier or not more than 150 meters from the cutterhead, return flow discharge, or other points of turbidity generation, whichever distance is less [Rule 62-4.244(5)(c), F.A.C.].
3. Measurements must be acquired in adherence to the Department's Standard Operating Procedure (SOP) for field turbidity (FT 1600), available at the website: <http://www.dep.state.fl.us/water/sas/sop/sops.htm>. More specifically, the instruments used to measure turbidity shall be fully calibrated within one month prior to commencement of the project, and at least once a month during the project. Calibration shall be verified each morning prior to use, and after each time the instrument is turned on, using a turbidity "standard" that is different from the one used during calibration. Calibration procedures shall be recorded in a permanent logbook. Copies must be submitted with the data.
4. Monitoring for turbidity shall be conducted for the duration of the project. Sampling will commence prior to, but no more than 24 hours before initiation of any dredging or filling activities.
5. A minimum of two sampling sites shall be established within the mixing zone as described in Specific Condition 2 above. The first site will be located at the mixing zone boundary (Compliance Sample (CS)); if required, the second site will be located 50 meters downstream from the CS; and, the third site shall be located 100 meters downstream from the CS. These sites shall be established on a transect extending down current from the turbidity source.

Samples shall be collected from surface and mid-depth and one foot above bottom. Mid-depth samples are sufficient in water that is less than five feet deep. Sampling will be restricted to the axis of the visible plume. Samples will be collected at the intersection of the mixing zone boundary and a line parallel with the water current and extending from the source of turbidity if a plume is not visible.

Background samples shall be collected at two sites at least 500 meters upstream. These samples will be collected at surface, mid-depth, and one-foot above bottom. The two background sites will be marked by temporary buoys and shall be maintained for the

## Attachment C: Construction and Mitigation Monitoring

duration of the sampling program. These sites shall not be changed without specific written authorization by the Department.

Samples shall be collected with a Kemmerer, Van Dorn, or a similar sampler that is designed to collect in situ water samples. Samples shall be analyzed immediately after collection with a turbidimeter that produces results in Nephelometric Turbidity Units. The field sample results shall be accurately recorded to the precision capabilities (decimal place) of the instrument. Field turbidimeter results shall be rounded up to the next whole number (for example, 15.23 NTUs shall be recorded, however, the results shall be interpreted as 16 NTUs). If monitoring reveals turbidity levels greater than or equal to the turbidity limits contained in Specific Condition 1 above, the permittee shall cease all work pursuant to Specific Condition 9 below.

6. Turbidity monitoring reports shall be submitted to the Department at DEP\_CD@dep.state.fl.us. each Monday following project commencement. Reports shall include the permittee name and permit number. When submitting this information to the Department, please include, at the top of each page or as a cover page to the submittal: "This information is being provided in partial fulfillment of the monitoring requirements in Permit No. 05-305821-009." Failure to submit reports in a timely manner constitutes a violation of the permit and may be grounds for revocation.
7. Monitoring data shall contain the following information:
  - a. Permit number;
  - b. Dates of sampling and analysis;
  - c. A statement describing the methods used in collection and analysis of the samples;
  - d. A map showing the sampling locations, along with the latitude and longitude of each location;
  - e. Copies of the Quality Assurance/Quality Control log; and
  - f. A statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, and accuracy of the data;
8. Monitoring reports shall also include the following information for each sample that is taken:
  - a. Time of day samples taken;
  - b. Depth of water body;
  - c. Depth of sample;
  - d. Tidal stage and direction of flow; and
  - e. Antecedent weather conditions, including wind direction and velocity.

The compliance locations specified in Specific Condition 5 above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction.

9. If monitoring reveals turbidity levels greater than or equal to the turbidity limits contained in Specific Condition 1 above, the permittee shall take the following measures:

## Attachment C: Construction and Mitigation Monitoring

- a. Immediately cease all work contributing to the water quality violation. Work which may contribute to the violation shall not resume until corrective measures have been taken and turbidity levels have returned to acceptable levels; and
- b. Stabilize exposed soils contributing to the violation. Modify work procedures responsible for the violation, install additional turbidity containment devices, repair non-functioning turbidity containment devices; and
- c. Increase monitoring frequency to every 2 hours until turbidity levels are within acceptable limits as specified in Specific Condition 1. Interim samples collected following the exceedance(s) shall be collected in the same manner and locations as the routine monitoring. Operations may not resume until the water quality standard for turbidity has returned to natural background conditions.
- d. The exceedance(s) shall be immediately reported to the Department, Central District Office (407)897-4100. The report shall include the description of the corrective actions being taken or proposed to be taken. The report shall be made to the Department as soon as normal business hours resume if exceedance(s) are noted after normal business hours, on holidays, or on weekends. A copy of the monitoring data sheets, which indicate violation(s), shall be forwarded immediately to the Department at [DEP\\_CD@dep.state.fl.us](mailto:DEP_CD@dep.state.fl.us).

Failure to report exceedance(s) or to follow correct procedures before resuming work shall constitute grounds for permit revocation and may subject the permittee to formal enforcement action.

### Polymer Use:

10. The licensee is authorized to implement the polymer FLOPAM C-6207 at a dosing rate not exceeding 3 pounds per ton. The use of any additional polymers or flocculants will require toxicity testing for marine organisms and must be approved by the Department prior to application.

### Mitigation Plan:

11. Mitigation to offset impacts associated with dredging include the restoration of a historic dredge hole in the Indian River, Class III Waters, to surrounding, natural elevations through the placement of 1,580 cubic yards of sediment. The mitigation shall comply with the mitigation and restoration plan in Attachment C-1.

### Dredge Material Management Area (DMMA)

The dredging portion of the project consists of dredging muck and flocculent sediment from the eastern portion of the intake canal. The estimated quantity of material to be removed is 4,000 cubic yards. At the DMMA, there will be a polymer injection manifold in the discharge lines

## Attachment C: Construction and Mitigation Monitoring

approximately 50 feet from the line termination. The discharge line will split and each pump system will fill two Geotubes. The Geotubes will receive the discharge water, fill and then bleed filtered water off into the containment area. The DMMA containment area will feature containment berms, an HDPE liner, the geotubes, and a sump area. The sump area will have a pump which will pump clean water back to the mixing zone.

12. The dredged material will be handled as described in the following documents and the specific conditions below:
  - a. The Ballard Marine Construction Dredge Plan Rev 3.1, dated 9/29/2016. It was an enclosure to the 11/28/2016 FPL submittal to Ms. Cindy Mulkey titled “Post-Certification Modification Request – Manatee Heater Area and Horseshoe Crab Wall.” This letter was a request to modify the conditions of certification for the Cape Canaveral Energy Center.
  - b. The letter sent to Ms. Kim Eisele with the same title and date. This letter was a response to the Department’s Request for Additional information, dated 6/20/2016.
  - c. The letter sent to Ms. Kim Eisele with the same title, but dated 1/27/2017. This letter was a response to the Department’s Request for Additional information, dated 12/28/2016.
  - d. Engineering drawing package “Manatee Heating Area and \Horseshoe Crab Deterrent Wall,” last revision dated 9/26/2016. Signed/sealed by Josh Schmitz, P.E., 9/30/2016.
13. Prior to dredging, sediment sampling and analysis will be conducted as described in Item 13 of the 11/28/2016 FPL submittal to Ms. Kim Eisele titled “Post-Certification Modification Request – Manatee Heater Area and Horseshoe Crab Wall.” This letter was a response to the Department’s Request for Additional information, dated 6/20/2016.
14. Once the material in the tubes has consolidated and dried out sufficiently, the tubes will be cut open and the material stock piled in one end of the containment area, the liner will be removed from one end and the dredge material will be moved to the now unlined area while the rest of the liner and tubes are removed.
15. Stock piles which could generate turbidity from run-off will always be in a containment area (either lined or unlined) until final grading takes place. Best management practices will be utilized to ensure there is no offsite erosion or sedimentation during construction.
16. Some of the stock piled dredge material can be used for the Seagrass Habitat Mitigation Plan to restore the topographic elevation of an historic dredge hole in the Indian River. Approximately 1,600 cubic yards (cy) of the expected 4,000 cy of dredged material may be used as fill within the hole.
17. Any dredged material not used to fill the 0.43-acre dredge hole/borrow pit must be tested before a decision is made about its subsequent use or disposal.
  - a. The dredge material in the geotubes must be tested for Polycyclic Aromatic Hydrocarbons (PAHs), Total Recoverable Petroleum Hydrocarbons (TRPH),

## Attachment C: Construction and Mitigation Monitoring

Aluminum, Arsenic, Barium, Cadmium, Chromium, Copper, Lead, Mercury, Selenium, Silver, and Zinc.

- b. Once the material in a geotube has consolidated and dried out sufficiently and the 200-foot long tube cut open, a discrete sample shall be taken from the approximate volume center at the 50-foot, 100-foot, and 150-foot location along the tube.
  - c. The analytical results shall be compared to the Soil Cleanup Target Levels for Residential Direct Exposure (Residential SCTLs). These are in Table II of Chapter 62-777, F.A.C.
    - i. All PAH-type chemical concentrations will be used to calculate a “total benzo(a)pyrene equivalents” value. This value will be compared to the benzo(a)pyrene SCTL.
    - ii. If all the results are less than the Residential SCTLs, no further testing is required. The dredged material can be used at that location.
    - iii. If any results exceed the Residential SCTLs, you must schedule a meeting with the Department to discuss them and determine the next actions. The following are possible actions:
      - (1) More sampling might be required.
      - (2) If the results are higher than the Residential SCTLs but less than the industrial/commercial SCTLs, FPL and FDEP need to discuss what actions could allow for the dredged material to remain on site.
      - (3) If the results are higher than the industrial/commercial SCTLs, the dredged material may have to be removed from the site and disposed in a Class I landfill.
18. The organization collecting samples at this site must use the Field and Laboratory Standard Operating Procedures (DEP-SOP-001/01) referenced in Chapter 62-160, F.A.C. The material in the geotubes should be sampled in accordance with FT 3000. The laboratory designated to conduct the chemical analyses must be certified by the Florida Department of Health Environmental Laboratory Certification Program (DoH ELCP). This Certification must be for the test method and analyte(s) that are reported.
  19. No impermeable surfaces are allowed to remain at the DMMA after completion of the work. The geo-tubes, liner material used in the DMMA, and other non-soil components of the DMMA will be recovered or disposed of in a landfill.
  20. After final grading and removal of all parts of the DMMA, the silt fencing placed around the DMMA before construction must remain until the vegetation has been re-established. Best management practices will be utilized to ensure there is no offsite erosion or sedimentation during or after construction.
  21. The outfall from the DMMA will be removed after final grading of the site has restored the original configuration. The outfall from the DMMA must remain as the last item to be removed allowing for its monitoring and operation until it is no longer needed.

**FLORIDA POWER & LIGHT**

**CCEC MANATEE HEATER AREA MITIGATION PLAN**

**BREVARD COUNTY, FLORIDA**

***Prepared for:***

Florida Power & Light  
700 Universe Boulevard  
Juno Beach, Florida 33408

***Prepared By:***

Tetra Tech, Inc.  
759 South Federal Highway  
Suite 314  
Stuart, FL 34994

**February 2017**

## TABLE OF CONTENTS

|           |                                                            |            |
|-----------|------------------------------------------------------------|------------|
| <b>1.</b> | <b>INTRODUCTION.....</b>                                   | <b>1-1</b> |
| 1.1       | Purpose and Need .....                                     | 1-1        |
| 1.2       | Project Description .....                                  | 1-1        |
| 1.3       | Avoidance and Minimization.....                            | 1-2        |
| <b>2.</b> | <b>IMPACTS ANALYSIS .....</b>                              | <b>2-1</b> |
| <b>3.</b> | <b>BATHYMETRIC SURVEY &amp; BIOLOGICAL EVALUATION.....</b> | <b>3-1</b> |
| 3.1       | Methods .....                                              | 3-1        |
|           | Bathymetric Survey.....                                    | 3-1        |
|           | Biological Evaluation .....                                | 3-1        |
| 3.2       | Findings.....                                              | 3-1        |
|           | Bathymetric Survey.....                                    | 3-1        |
|           | Biological Evaluation .....                                | 3-2        |
| 3.3       | Protected Species.....                                     | 3-5        |
| <b>4.</b> | <b>RESTORATION PLAN.....</b>                               | <b>4-1</b> |
| 4.1       | Topographic Restoration.....                               | 4-1        |
|           | 4.1.1 Fill Procurement, Transport, and Staging .....       | 4-1        |
|           | 4.1.2 Placement barge mobilization .....                   | 4-1        |
|           | 4.1.3 Turbidity containment.....                           | 4-1        |
|           | 4.1.4 Sediment Placement.....                              | 4-2        |
|           | 4.1.5 Bathymetric survey and grading.....                  | 4-3        |
| 4.2       | Threatened and Endangered Species Signage .....            | 4-4        |
| 4.3       | Water Quality Monitoring .....                             | 4-4        |
| 4.4       | Post-Construction Survey.....                              | 4-4        |
| <b>5.</b> | <b>SUMMARY .....</b>                                       | <b>5-1</b> |
| <b>6.</b> | <b>REFERENCES .....</b>                                    | <b>6-1</b> |

## LIST OF FIGURES

|                                                                       |     |
|-----------------------------------------------------------------------|-----|
| Figure 1-1. Project Vicinity Map.....                                 | 1-3 |
| Figure 2-1. Dredge Impact Area.....                                   | 2-3 |
| Figure 3-1. Proposed mitigation area.....                             | 3-3 |
| Figure 4-1. Bathymetric survey projected over location index map..... |     |
| Figure 3-3. FWC manatee signage.....                                  |     |

## LIST OF PHOTOS

|                                                         |                                     |
|---------------------------------------------------------|-------------------------------------|
| Photo 3-1. Example of covered fill conveyor system..... | <b>Error! Bookmark not defined.</b> |
| Photo 3-2. Fill conveyor loading placement barge .....  | 4-2                                 |

## APPENDICES

|                                                      |  |
|------------------------------------------------------|--|
| Appendix A. Florida Power and Light Project Drawings |  |
| Appendix B. UMAM Evaluation Matrix                   |  |

## Acronyms and Abbreviations

|                 |                                                   |
|-----------------|---------------------------------------------------|
| CCEC            | Cape Canaveral Energy Center                      |
| cy              | cubic yard                                        |
| DGPS            | Differential Global Positioning System            |
| FDEP            | Florida Department of Environmental Protection    |
| FLUCCS          | Florida Land Use and Cover Classification System  |
| FPL             | Florida Power & Light                             |
| fsw             | feet of seawater                                  |
| ft.             | foot/feet                                         |
| ft <sup>2</sup> | square feet                                       |
| FWC             | Florida Fish and Wildlife Conservation Commission |
| FWS             | U.S. Fish & Wildlife Service                      |
| in.             | inch/inches                                       |
| kg              | kilogram                                          |
| m               | meter                                             |
| m <sup>2</sup>  | square meters                                     |
| NAVD            | North American Vertical Datum                     |
| NOAA            | National Oceanic and Atmospheric Administration   |
| NTU             | nephelometric turbidity unit                      |
| Project         | Cape Canaveral Energy Center Project              |
| SAV             | Submerged Aquatic Vegetation                      |
| WGS84           | World Geodetic System 1984                        |

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## 1. INTRODUCTION

---

Florida Power & Light Company (FPL) has operated the Cape Canaveral Energy Center (CCEC) (formerly the Cape Canaveral Plant) since the 1960's. In 2014, the Plant was converted to Cape Canaveral Next Generation Clean Energy Center, located in Brevard County, FL. The CCEC is certified and licensed by the Florida Department of Environmental Protection's Siting Coordination Office and includes all regulatory activities which are applicable under state, regional, and local agencies. The CCEC is regulated under the Power Plant Siting Act (PPSA), the Transmission Line Siting Act (TLSA), and the Natural Gas Transmission Pipeline Siting Act (NGPSA). FPL's CCEC Site Certification also includes a Manatee Protection Plan (August 8, 2000) developed in compliance with the CCEC DEP Permit No. FL 0001473, the facilities State Industrial Wastewater Permit.

On November 28, 2016 FPL submitted a petition for modification to the CCEC Site Certification including relocation of the manatee heater enclosure and associated dredging, construction of a Dredged Material Management Area (DMMA), and installation of a new horseshoe crab deterrent wall. Unavoidable impacts to the benthic habitat of the Indian River Lagoon will result from the installation of the manatee heater enclosure.

Tetra Tech, Inc., (Tetra Tech) was contracted by FPL to prepare a mitigation plan to offset impacts from dredging activities related to the required Interim Warm Water Refuge Heating System required under FDEP's Site Certification (PA08-53A) issued on December 28, 2011 and subject to the petition for modification submitted on November 28, 2016. The proposed mitigation entails restoring topographic elevation of a 0.43-acre dredge hole/borrow pit approximately

### 1.1 Purpose and Need

The FDEP's Site Certification (PA08-53A) issued on December 28, 2011 requires that an Interim Warm-Water Refuge Heating System be installed in order to prevent an increased risk of manatee cold stress death during the CCEC conversion construction period. The interim warm water refuge is 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 shorelines' easternmost point. The interim heating system has been designed such that the system will provide a water temperature at or above 68°F within the identified warm-water refuge when ambient water temperatures are below 65°F. The interim heating system at the CCEC site shall be installed and operational by November 15, 2017 which is the start of manatee season.

### 1.2 Project Description

FPL proposes to dredge two areas east of the existing CCEC property in order to relocate the manatee heating area required by the site certification. Additionally, FPL will be installing a Dredge Disposal Management Area (on adjacent uplands), a sheetpile wall, piping, and a maintenance dock for access. The project impact area is identified as a warm water aggregation area for manatees. All work will be performed in accordance with the standard manatee conditions for in-water work. Turbidity curtains will be installed to protect water quality.

### **1.3 Avoidance and Minimization**

FPL has made every effort to avoid and minimize impacts to benthic habitat and water quality. Best management practices have been incorporated into the Project design in order to protect water quality during in-water work. Additionally the DMMA has been designed to ensure dredge effluent has sufficient settling time to reduce suspended material and the potential for turbid water to be discharged back into the Indian River Lagoon.



**Figure 1-1. Project Vicinity Map**

Back of figure

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## **2. IMPACTS ANALYSIS**

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Unavoidable permanent impacts to benthic habitat are anticipated as a result of the installation of the Interim Warm-Water Refuge Heating System. Avoidance and minimization of impacts was the basis for project planning and design. A description of the anticipated impacts to natural resource follows.

Approximately 0.61 acres of permanent impacts to habitat are expected from the proposed project. The impacts will occur within the intake canal and the Indian River Lagoon immediately east of the CCEC.

A Unified Mitigation Assessment Methodology (UMAM) evaluation was performed as a basis for the proposed mitigation plan. The UMAM analysis resulted in a functional loss score of 0.061 for the impact area. The project proposes to permanently impact 0.61 acres of seagrass habitat; therefore, using the UMAM analysis 0.44 acres of seagrass habitat mitigation should be required to offset the proposed impacts. The UMAM evaluation matrix is provided in Appendix B.





Figure 2-1. Dredge Impact Area



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### **3. BATHYMETRIC SURVEY & BIOLOGICAL EVALUATION**

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A bathymetric survey and biological evaluation were conducted on February 16, 2017 at potential mitigation sites to document physical attributes, ecological communities, identify potential environmental concerns during implementation, and make specific recommendations concerning construction activities associated with the restoration actions. The survey identified access routes and environmental precautions. Data gathered during the site visit provided the basis for development of the restoration prescription and design criteria.

#### **3.1 Methods**

##### ***Bathymetric Survey***

The bathymetric survey was conducted to evaluate the physical dimensions (i.e., planar area and volume) of the mitigation area (dredge hole). The survey provides data that is used to quantify the volume of material needed to topographically restore the hole, raising the grade to match that of the surrounding area.

The dredge hole was delineated and bathymetrically surveyed using a Trimble® DGPS unit, a Furuno® P66 single beam echosounder (SBE), and Hypack® marine surveying, positioning, and navigation software. Data was collected in WGS84 (World Geodetic System 1984), North American Datum of 1983 (NAD 83), Universal Transverse Mercator (UTM), Zone 17N, Meters at a rate of one data point per second. The Trimble® DGPS receives differential corrections from U.S. Coast Guard Continuously Operating Reference Stations and provides sub-meter horizontal accuracy.

Data were processed with Hypack® Single Beam Editor and subsequently exported in a .xyz format. The raw XYZ data was imported into ArcGIS® (ArcMap™ 9.3) where data layers were created and analyzed. A georeferenced map of the dredge hole was produced, and the planar area and volume of the hole was calculated using Xtools Pro (independent ArcGIS extension [source: Data East, LLC.]) and the 3D Analyst extension in ArcMap™, respectively.

##### ***Biological Evaluation***

Two Tetra Tech biologists with experience in benthic habitat assessments performed a biological evaluation of the mitigation site and surrounding areas. The evaluation included reconnaissance of the dredge hole extents and the immediately surrounding area.

#### **3.2 Findings**

##### ***Bathymetric Survey***

Depths within the survey area range from 1 ft. to 8.5 ft. The mitigation boundary was selected based on topographically restoring the dredge hole to the surrounding natural grade. The proposed upper limit of fill is set to the 4.5 feet of seawater (fsw) with a total planar area of approximately 0.43 acres. The calculated volume below the 4.5-ft contour is approximately 1,250 CY. Figure 3-1 presents the results of the survey graphically.

### ***Biological Evaluation***

With the exception of the downward slope of the dredge hole, the bottom topography is relatively flat. Sediments outside of the hole can be characterized as fine grained sand with organic material. Sediments within the dredge hole were similar to those outside of the dredge hole, however, have a higher fraction of organics.

No submerged aquatic vegetation (SAV) or epibenthic cover was documented within or in the vicinity of the dredge hole. Similarly, no marine fauna were observed utilizing the area. Two avian species, the brown pelican (*Pelecanus occidentalis*) and greater scaup (*Aythya marila*) were observed feeding in the surrounding area. Photographic documentation was not feasible as underwater visibility was 1-ft. or less at the time of the survey.

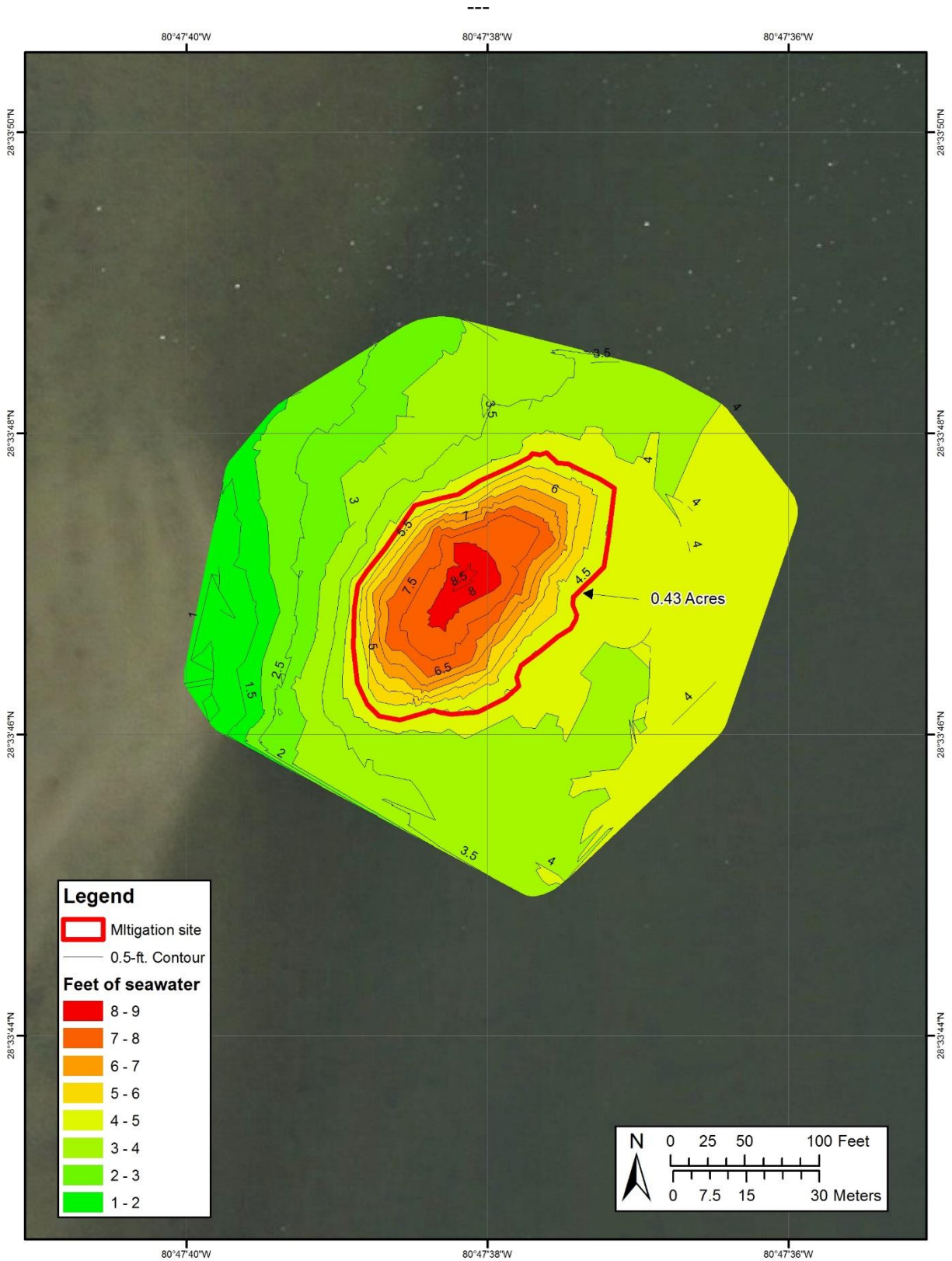


Figure 3-1. Proposed mitigation area

Back of figure

### 3.3 Protected Species

The Florida Fish and Wildlife Conservation Commission (FWC) publication Florida's Endangered and Threatened Species (Updated January 2016) was used to determine the status of listed species with the potential to utilize the proposed Project site. No listed species were observed during the February 16 site visit; however, based on geographic range, several listed species have the potential to utilize the CCEC area (Table 2-3).

There are seven aquatic species known to occur within marine habitats adjacent to the CCEC that are protected under the Endangered Species Act or are candidates for listing. These are the small-toothed sawfish (*Pristis pectinata*), five species of sea turtle, and the Florida manatee (*Trichechus manatus*). Additionally, two avian species are known to occur in the CCEC vicinity. Table 2-1 includes the list of protected species that have been known to utilize the CCEC area. Although these species were not documented during the survey, brief discussions of potentially occurring protected species are provided below.

#### ***Small-toothed sawfish (Pristis pectinata)***

The small-toothed sawfish is a state and federally endangered species that inhabits inshore bars, seagrass beds, and mangrove areas. Due to its preference for these habitat types, the small-toothed sawfish could potentially utilize the CCEC canal and mitigation area; however it is unlikely in the canal due to the poor habitat quality of the turning basin.

#### ***Florida manatee (Trichechus manatus)***

The manatee is a state and federally endangered species that frequents warm water estuarine habitats including rivers, marshes, bays, and sounds in Florida. They use warm water refuges in the cooler months, including freshwater springs and heated effluent from power plants. Manatees are federal- and state-listed as endangered, and their critical habitat includes marine waters adjacent to the CCEC and associated canal. Manatees have been observed in the barge turning basin and nearby state canals.

#### ***Sea turtles***

Sea turtles (4 species with protection status of Endangered or Threatened) are found in marine habitats such as seagrass meadows, rock ledges, oyster bars, and coral reefs. Marine habitats in the vicinity of the CCEC provide suitable habitat for sea turtles, and the shoreline adjacent to the canal and proposed mitigation area provide the beach habitat preferred by sea turtles for nesting.

#### ***Brown pelican***

The brown pelican is a state species of special concern that thrives near coasts and on islands. Brown pelicans rely in part on the actions of marine predators such as large fish, sharks and dolphins to force schools of fish to the surface where the pelicans can catch them. Pelicans will breed only in areas with enough food to support the breeding colony. Roosting and resting sites where brown pelicans can dry their feathers and rest without disturbance are also important. (USFWS 2016). This is the only listed species to be observed during the February 16, 2017 survey.

### ***Black skimmer***

The black skimmer is a state species of special concern that inhabits areas along the coasts of Florida including estuaries, beaches, and sandbars. The black skimmer's diet primarily consists of fish. They build nests along beaches, sandbars, and islands developed by dredged-up material. (FWC 2017). Disturbance of this species is not likely during project implementation as no land-based activities are expected to occur along the beach.

| <b>Table 2-1. Federally Listed and Florida-State Listed Species Potentially Existing near CCEC</b>                                                                                                                |                                |                                     |                                   |                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------------------------|-----------------------------------|-------------------------------|
| <b>Common Name</b>                                                                                                                                                                                                | <b>Scientific Name</b>         | <b>Federal Status<sup>(a)</sup></b> | <b>State Status<sup>(a)</sup></b> | <b>Observed during survey</b> |
| <b>Fish</b>                                                                                                                                                                                                       |                                |                                     |                                   |                               |
| Small-toothed sawfish                                                                                                                                                                                             | <i>Pristis pectinata</i>       | E                                   | —                                 | N                             |
| Common snook                                                                                                                                                                                                      | <i>Centropomus undecimalis</i> | —                                   | S                                 | N                             |
| <b>Mammals</b>                                                                                                                                                                                                    |                                |                                     |                                   |                               |
| Florida manatee                                                                                                                                                                                                   | <i>Trichechus latirostris</i>  | E                                   | E                                 | N                             |
| <b>Birds</b>                                                                                                                                                                                                      |                                |                                     |                                   |                               |
| Brown pelican                                                                                                                                                                                                     | <i>Pelecanus occidentalis</i>  |                                     | S                                 | Y                             |
| Black skimmer                                                                                                                                                                                                     | <i>Rynchops niger</i>          |                                     | S                                 | N                             |
| <b>Reptiles</b>                                                                                                                                                                                                   |                                |                                     |                                   |                               |
| Green sea turtle                                                                                                                                                                                                  | <i>Chelonia mydas</i>          | E                                   | E                                 | N                             |
| Hawksbill sea turtle                                                                                                                                                                                              | <i>Erytmochelys imbricata</i>  | E                                   | E                                 | N                             |
| Leatherback sea turtle                                                                                                                                                                                            | <i>Dermochelys coriacea</i>    | E                                   | E                                 | N                             |
| Kemp's ridley sea turtle                                                                                                                                                                                          | <i>Lepidochelys kemp</i>       | E                                   | E                                 | N                             |
| Loggerhead sea turtle                                                                                                                                                                                             | <i>Caretta caretta</i>         | T                                   | T                                 | N                             |
| (a) E = Endangered; T = Threatened; T(S/A) = Threatened due to similarity of appearance; C = Candidate for federal listing; S = Florida species of special concern; SOC = NOAA species of concern; — = No listing |                                |                                     |                                   |                               |

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## 4. RESTORATION PLAN

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This section describes the methods and techniques planned for restoration implementation of the dredge hole/borrow pit. The proposed restoration action involves topographically restoring the dredge hole to an elevation of 4.5 fsw. Restoration will consist of a combination of specific activities that include material staging, sediment placement, and grading. The approach to restoration activities is presented below.

### 4.1 Topographic Restoration

Topographic restoration will be achieved by placing approximately 1,580 (**1,216** cubic yards (cy) and 365 cy for compaction and loss) of loose (raw) sediment fill within the hole. The fill volume was calculated using topographic survey data collected as described in Section 2.1, above. The volume includes an additional 30% of material to account for inadvertent loss due to compaction, material handling, loss of fines, etc. The 30% factor is an estimate based on past experience with similar projects.

The dredge hole was evaluated to determine the work zone, vessel access corridor, the appropriate methods for delivery and transfer of fill material, placement of the fill material, and turbidity containment. Figure 3-1 illustrates the fill area planned. The proposed approach and methods for topographic restoration are described below.

#### 4.1.1 *Fill Procurement, Transport, and Staging*

Sediment fill will be obtained from a local quarry. A single carbonate material with a grain size distribution dominated by fine sands with low fractions of medium and coarse sands will be used. Fill material will be delivered via truck directly to the staging area. A Fill material will be stored on site and transferred onto the placement barge from the project staging area. Fill material will be staged in a contained environment to avoid loss of material to adjacent aquatic resources. The staging area will be returned to pre-project conditions following project completion, with final cleanup notification provided to the FPL representative.

#### 4.1.2 *Placement barge mobilization*

A barge (placement barge) with an on-board long reach excavator will be mobilized to the site for placement of the material within the fill area. The placement barge will remain at the fill area until fill activities have been completed. Access routes were identified to accommodate the maximum draft (4 ft.) of the tug and barges. Access routes will keep the tug and barge in water depths greater than 5 fsw at all times.

#### 4.1.3 *Turbidity containment*

Prior to mobilization of the placement barge to the dredge hole, a turbidity containment system will be installed. The placement barge will remain spudded down immediately adjacent to the turbidity containment throughout the fill operations. At no time will the turbidity containment be breached during the fill operations.

Turbidity curtains will be placed around the perimeter of the dredge hole to minimize potential siltation and turbidity of the adjacent benthic communities. Turbidity curtains will be placed such that the bottom edge of the material is in contact with the river bottom. Turbidity curtains will be anchored securely for use in high current/dynamic conditions. Piles (12- in. diameter or greater) will be used around the perimeter of the hole to secure the turbidity curtain. Sand screws may be used to supplement the installation as needed. All possible turbidity leak points (seams, bottom of curtain, etc.) will be secured and monitored during filling operations. Turbidity curtains will be furnished with excess material (flaps) at each end so they may be rolled together to seal the seam created by securing two sections together. Additionally, curtains will have a 3-ft. barrier above the water line to inhibit manatees from entering the fill zone. The turbidity curtains will be highly visible and manufactured from entanglement-free material that is safe to use in the presence of marine mammals, sea turtles, and other marine fauna. Curtains will be removed once turbidity within the hole reaches an acceptable level.

#### 4.1.4 ***Sediment Placement***

Sediment placement operations will commence following turbidity curtain installation. Loose fill will be transferred using a long-reach excavator and conveyor system (if necessary due to restricting water depths) from the staging area to a material placement barge (see Photo 4-1). The use of a conveyor system provides a low-to no-impact fill material transfer route through mangroves, coastal vegetation, and shallow water habitats. All sections of the conveyor system that cross sensitive habitat will be covered from above and below to limit wind loss and catch material that may drop from the conveyor system. The covers are generally constructed of half sectioned corrugated style pipe installed above and below the conveyor belt.



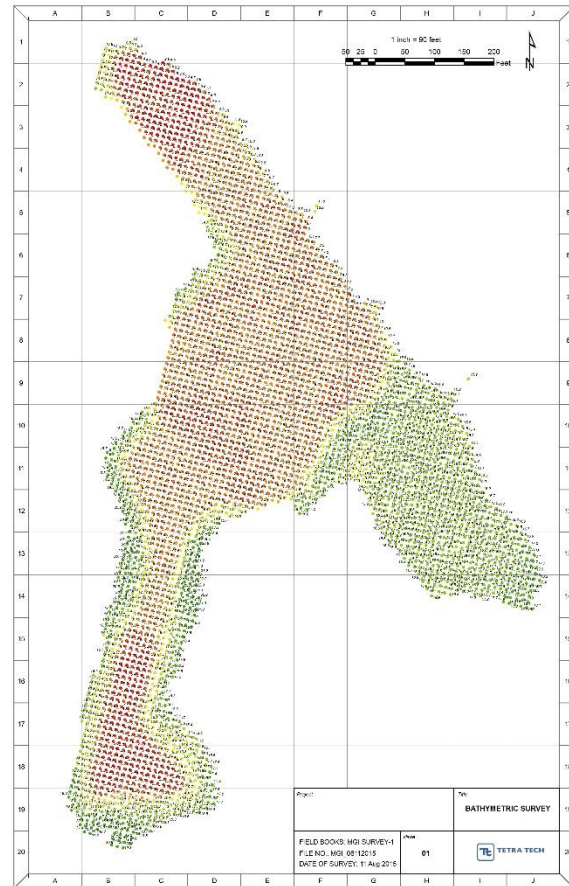
**Photo 4-1. Fill conveyor loading placement barge**

Sediment fill will be transferred from the staging area directly to a transport barge for delivery to fill site. A fender system or piles will be installed water-ward of the conveyor system for the placement barge to secure itself to during the fill transfer. Having a secure fender system will minimize the potential for impacts from the placement barge to the shoreline during transfer of fill material. Once the full capacity of fill material has been transferred, the transport barge equipped with GPS and Hypack positioning software will deliver the fill material to the placement barge.

#### 4.1.5 Bathymetric survey and grading

The dredge hole will be bathymetrically surveyed on a regular basis in order to monitor fill progress. Surveys will provide data on placement efficiency (fill material delivered versus placed), evenness, and progress. A location index map (grid pattern over the fill area) will provide the basis for progress monitoring. Figure 4-1 provides an example of a location index map from a similar topographic restoration project.

Grading will be conducted following placement activities. A large steel I-beam will towed by a tug throughout the fill area. The tug operator using Hypack software will have a real-time view of position over the latest bathymetric survey. This will allow for focused grading based on the current conditions. The operator will drag the bar over high areas of fill towards adjacent low areas in an attempt to level the seafloor.



**Figure 4-1. Bathymetric survey projected over location index map**

## 4.2 Threatened and Endangered Species Signage

All staff involved with filling operations will be instructed and trained as per Florida Fish and Wildlife Conservation Commission (FWC) Standard Manatee Conditions for In-Water Work as well as the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA-NMFS) Marine Sea Turtle and Smalltooth Sawfish Construction Conditions. Idle speed/manatee protection signage will be maintained on board during all restoration activities. One sign which reads Caution: Boaters shall be posted in a location where it is prominently visible to all staff. A second sign measuring at least 8.5 by 11-in. explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations (Figure 3-3) will be posted in a location prominently visible to all personnel engaged in water-related activities ([www.myfwc.com](http://www.myfwc.com)). Signage will be maintained at both the location of the materials barge and the restoration site. A biologist will be on site at all times during restoration implementation to monitor for the presence of Threatened and Endangered Species. If any Threatened and Endangered Species comes within 50 feet of the work zone, filling operations will cease until the protected species has left the work zone on its own accord.



**Figure 3-3. FWC manatee signage**

## 4.3 Water Quality Monitoring

Using a portable turbidimeter (Hach 2100Q), turbidity measurements will be collected at 6-hour intervals from upstream, downstream, and within the work area. Samples will be collected outside the turbidity containment from no further than 50 ft. from the point of discharge within the densest portion of any visible plume. If the turbidity exceeds the state water quality standards (DEP 62-302.530) for an Outstanding Florida Water (zero NTU's above background) then backfill operations will cease until water quality standards are returned to background levels. If water quality standards are exceeded more than twice a day, the backfill operations will be stopped and then evaluated for implementation of mitigation measures.

## 4.4 Post-Construction Survey

A post-construction survey will be performed immediately after mitigation actions have been completed (e.g., fill placement) and it is safe for scientific divers to enter the area. The post-mitigation survey will evaluate the mitigation area to identify any incidental or unanticipated impacts from construction. Post construction activities will include the following:

- Towed divers equipped to document the post-construction conditions of the benthic habitat
- Bathymetric survey
- Post Construction photo-documentation

---

## 5. SUMMARY

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Currently the dredge hole has no epibenthic floral or faunal coverage. The vertically cut banks along with poor water quality (high turbidity) currently provides suboptimal marine habitat. Filling of the hole is expected to improve benthic habitat both within the dredge hole and adjacent areas. The overall intent of the Project is to increase seagrass habitat within and in the vicinity of the dredge hole by backfilling the hole to a minimum depth 4.5 fsw. Additionally, indirect benefits to marine habitats are expected as a result of the overall improvements to water quality.

Based on the site survey, direct impacts to benthic resources are not expected as a result of the mitigation project. Indirect impacts such as shading, sedimentation, turbidity, and mechanical injury are expected to be negligible. The use of specialized turbidity containment and equipment and the methods specified herein will avoid and minimize both direct and indirect impacts to both sessile and motile biota. All standard construction conditions for manatees and smalltooth sawfish will be abided by during construction to avoid any potential affects. Additionally, biologists will be on-site during all construction to observe any protected species within the project vicinity and advise any additional measures needed to avoid harm or harassment to protected species.

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## 6. REFERENCES

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- US Fish and Wildlife Service. <http://www.fws.gov/oregonfwo/Species/Data/BrownPelican/>. Accessed May 25, 2016.
- Florida Fish and Wildlife Conservation Commission. <http://myfwc.com/wildlifehabitats/imperiled/profiles/birds/least-tern/>. Accessed May 25, 2016.
- United States Nuclear Regulatory Commission. <http://www.nrc.gov/docs/ML1036/ML103630163.pdf>. Accessed May 25, 2016.

## **ATTACHMENT D: SOVEREIGN SUBMERGED LEASE**

CSL Cover Sheet

DM ID \_\_\_\_\_

Document Type: Current Submerged Land Leases

Instrument: ☒ Parent Lease   ☐ Amendment to Lease   ☐ Assignment of Lease  
  
☐ Release   ☐ Partial Release   ☐ Easement   ☐ Use Agreement   ☐ Sublease  
  
☐ Amendment to Sublease   ☐ Assignment of Sublease   ☐ Release of Sublease  
  
☐ Partial Release of Sublease   ☐ Other

Lease Number: 050024374

PA Number: \_\_\_\_\_

Document Date: 4/18/13

Submerged: X (Y) \_\_\_\_\_ (N) \_\_\_\_\_

Water Body: Indian River

Original County: Brevard

Section: 19

Township: 23 S

Range: 36 E

Total Area / Area Unit: 1.53 (A) Acreage   (S) Square Feet

County Book / Page / Type: \_\_\_\_\_ / B \_\_\_\_\_ / P \_\_\_\_\_ / O \_\_\_\_\_

OR Instrument Number: \_\_\_\_\_

Comments:  
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Date Prepped 5/9/13

This Instrument Prepared By:  
Pattie J. Scott  
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 FILE 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 66,620 square feet, more or less, as is more particularly described and shown on Attachment A, dated September 10, 2009.

TO HAVE THE USE OF the hereinabove described premises from January 1, 2013, the effective date of this lease renewal, through January 1, 2018, 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 a 1-slip commercial docking facility with a lift, concrete boat ramp and unloading facility to be used exclusively for mooring of barges and tugs 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 State of Florida Department of Health, whichever agency has jurisdiction, and without liveaboards as defined in paragraph 26 as shown and conditioned in Attachment A, and the State of Florida Department of Environmental Protection Consolidated Environmental Resource Permit No. 05-290819-001, dated December 15, 2009, incorporated herein and made a part of this lease by reference. 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 \$10,672.12, 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 this lease shall be adjusted pursuant to provisions of Rule 18-21.011, Florida Administrative Code. The State of Florida Department of Environmental Protection, Division of State Lands (the "Division") will notify the Lessee in writing of the amount and the due date of each subsequent annual lease payment during the remaining term of this lease. All lease fees due hereunder shall be remitted to the Division as agent for the Lessor.

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(31), 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 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. (C) The Lessee shall submit to the Lessor each instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the docking facility to a third party annually at the same time the Lessee submits the required Annual Wet Slip Revenue Report to the Lessor.

4. LATE FEE ASSESSMENTS: The Lessee shall pay a late payment assessment for lease fees or other charges due under this lease which are not paid within 30 days after the due date. This assessment shall be computed at the rate of twelve percent (12%) per annum, calculated on a daily basis for every day the payment is late.

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 and as conditioned by the State of Florida Department of Environmental Protection Consolidated Environmental Resource Permit. The Lessee shall not (i) 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.); (ii) change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit; or (iii) change the type of use of the riparian uplands or as permitted by the Lessee's interest in the riparian upland property that is more particularly described in Attachment B without first obtaining a regulatory permit/modified permit, if applicable, 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 satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code, in the riparian upland property that is more particularly described in Attachment B and by reference made a part hereof together with the riparian rights appurtenant thereto. If such interest is terminated or the Lessor determines that such interest did not exist on the effective date of this lease, this lease may be terminated at the option of the Lessor. If the Lessor terminates this lease, the Lessee agrees not to assert a claim or defense against the Lessor arising out of this lease. Prior to sale and/or termination of the Lessee's interest in the riparian upland property, the Lessee shall inform any potential buyer or transferee of the Lessee's interest in the riparian upland property and the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease, 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 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 this lease, current 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. 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 set forth, and the Lessee fails or refuses to comply with any of said provisions or conditions within twenty (20) days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to the Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Florida Power & Light  
6000 N. Cocoa Boulevard  
Cocoa, Florida 32927

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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. PERMISSION GRANTED: Upon expiration or cancellation of this lease renewal all permission granted hereunder shall cease and terminate.

19. 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 the Lessee is in full compliance with the terms of this lease, the Lessor will begin the renewal process. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. 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 Lessee's interest in the riparian upland property more particularly described in Attachment B, which shall run with the title to the Lessee's interest in said riparian upland property and shall be binding upon the Lessee and the Lessee's successors in title or successors in interest.

20. 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 12 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.

21. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Subject to the noticing provisions of Paragraph 20 of this lease, any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the Lessee's interest in the riparian upland property that is more particularly described in Attachment B. This lien on the Lessee's interest in the riparian upland property shall be enforceable in summary proceedings as provided by law.

22. 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.

23. 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 docking facility.

24. 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.

25. 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.

26. 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.

27. 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.

28. FINANCIAL CAPABILITY: To assure the Lessor that the Lessee has the financial capability to undertake and operate the project authorized by this lease, the Lessee certifies to the Lessor as follows: (i) the Lessee is not the subject of a pending bankruptcy proceeding; (ii) the Lessee has no unsatisfied judgments entered against it; (iii) the Lessee has satisfied all state and local taxes for which it is responsible; and (iv) no other matters are pending or threatened against or affecting the Lessee or the Lessee's interest in the riparian upland property that would impair the Lessee's financial capability to undertake and operate the project authorized by this lease. Any breach of this lease condition shall constitute a default under this lease.

WITNESSES:

Maeyk. Thurmond  
Original Signature

Maeyk. 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 (SEAL)

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 18<sup>th</sup> day of April, 2013, 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 SUBJECT TO PROPER EXECUTION:

Jeffery M. Gentry 3/21/13  
DEP Attorney

Kathy C Griffin  
Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires 11/27/2015  
Notary Public State of Florida  
Kathy C Griffin  
My Commission EE148787  
Expires 11/27/2015  
Commission/Serial No. EE148787

WITNESSES:

Michelle M. Kahmann  
Original Signature

Michelle M. Kahmann

Typed/Printed Name of Witness

Marta Huff  
Original Signature

Marta Huff

Typed/Printed Name of Witness

STATE OF FL

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 1st day of April, 2013, by  
Dean J. Girard as 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:

Notary Public State of Florida  
Michelle M Kahmann  
My Commission EE105168  
Expires 09/18/2015

Commission/Serial No. EE105168

Florida Power & Light Company, a Florida corporation (SEAL)

BY: Dean J. Girard  
Original Signature of Executing Authority

Dean J. Girard

Typed/Printed Name of Executing Authority

Director Corporate Real Estate

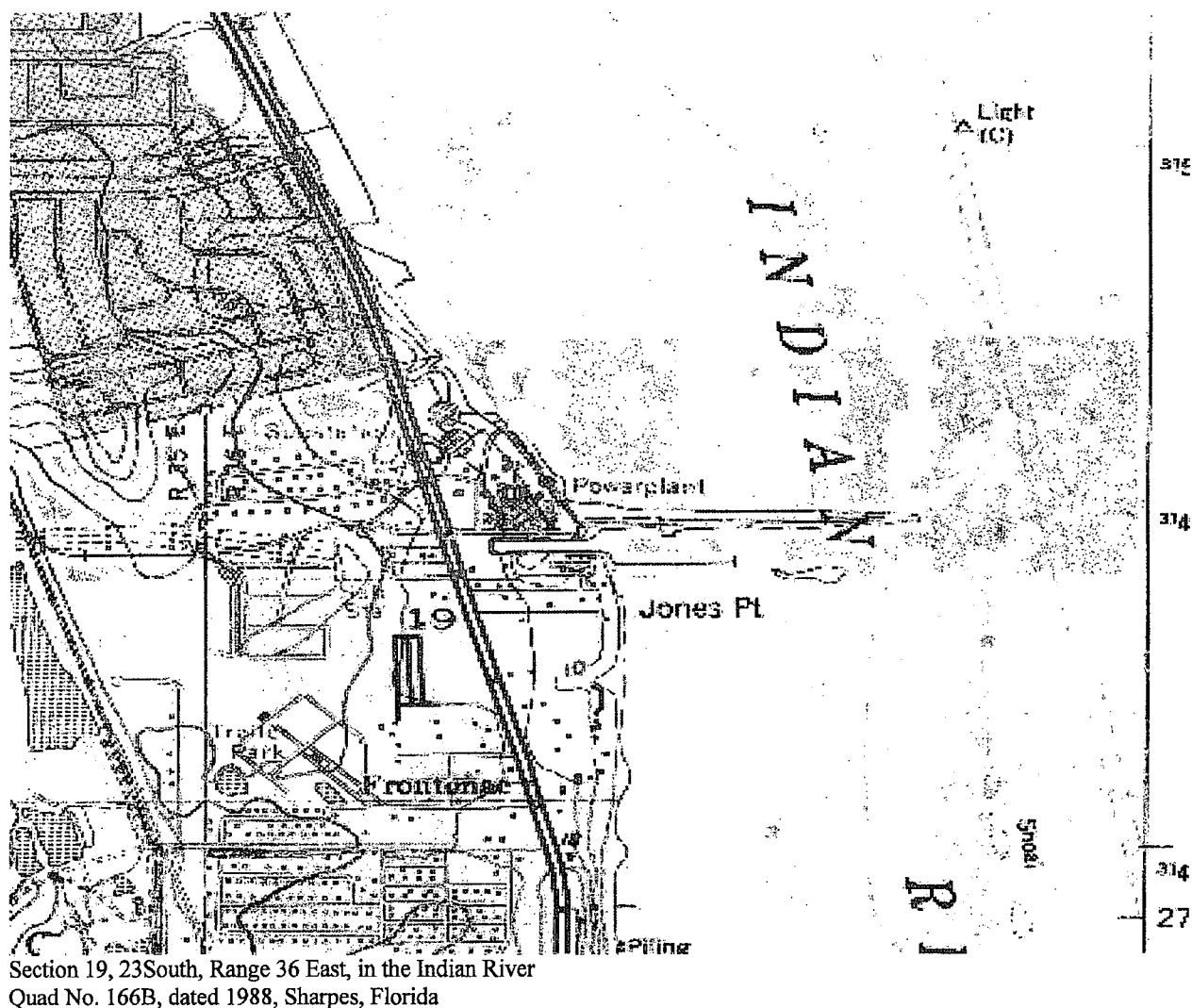
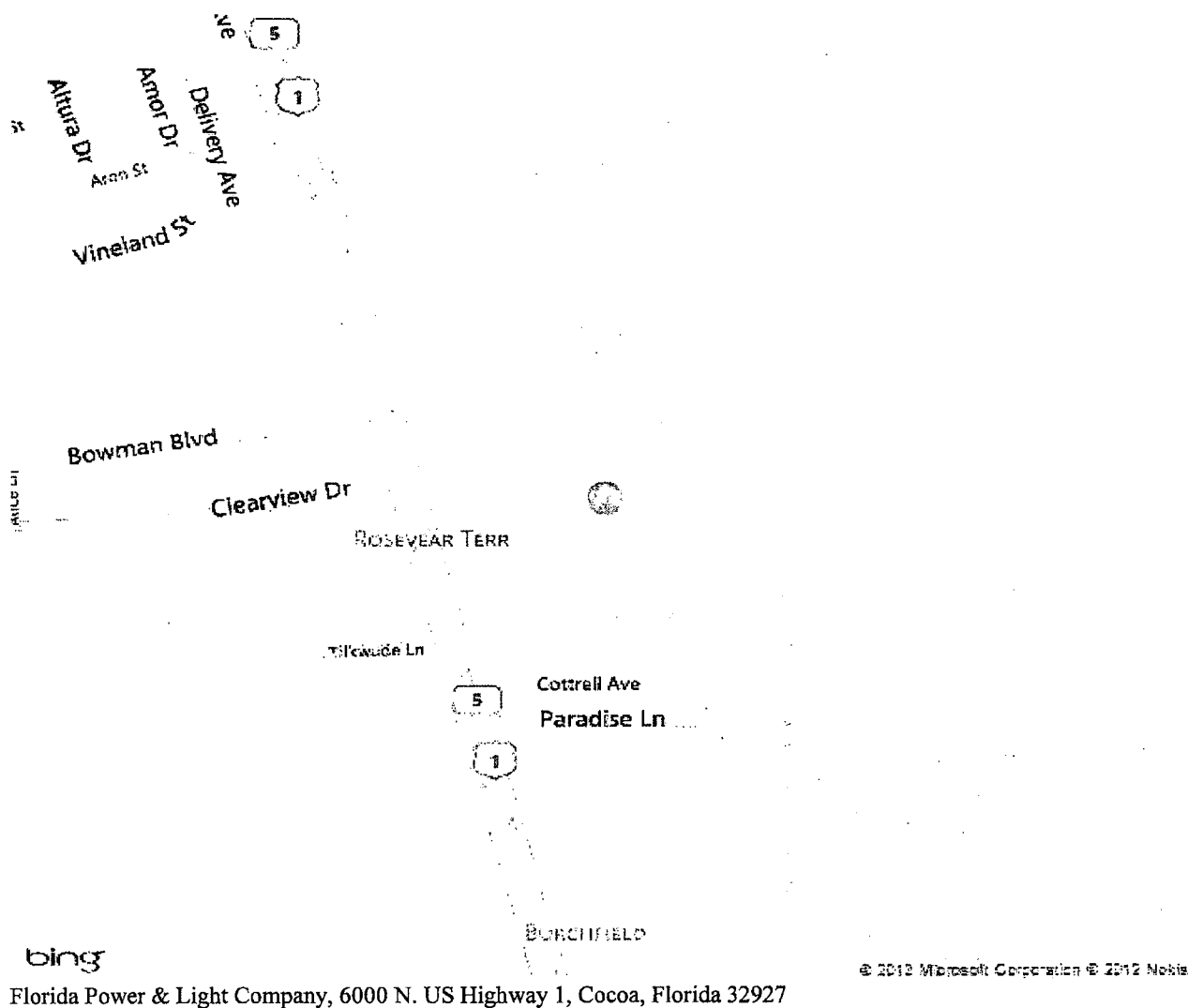
Title of Executing Authority

"LESSEE"

Michelle M. Kahmann  
Signature of Notary Public

Notary Public, State of FL

Michelle M. Kahmann  
Printed, Typed or Stamped Name



SUBMERGED LAND LEASE

**SPECIFIC PURPOSE SURVEY**

**LEGAL DESCRIPTION**

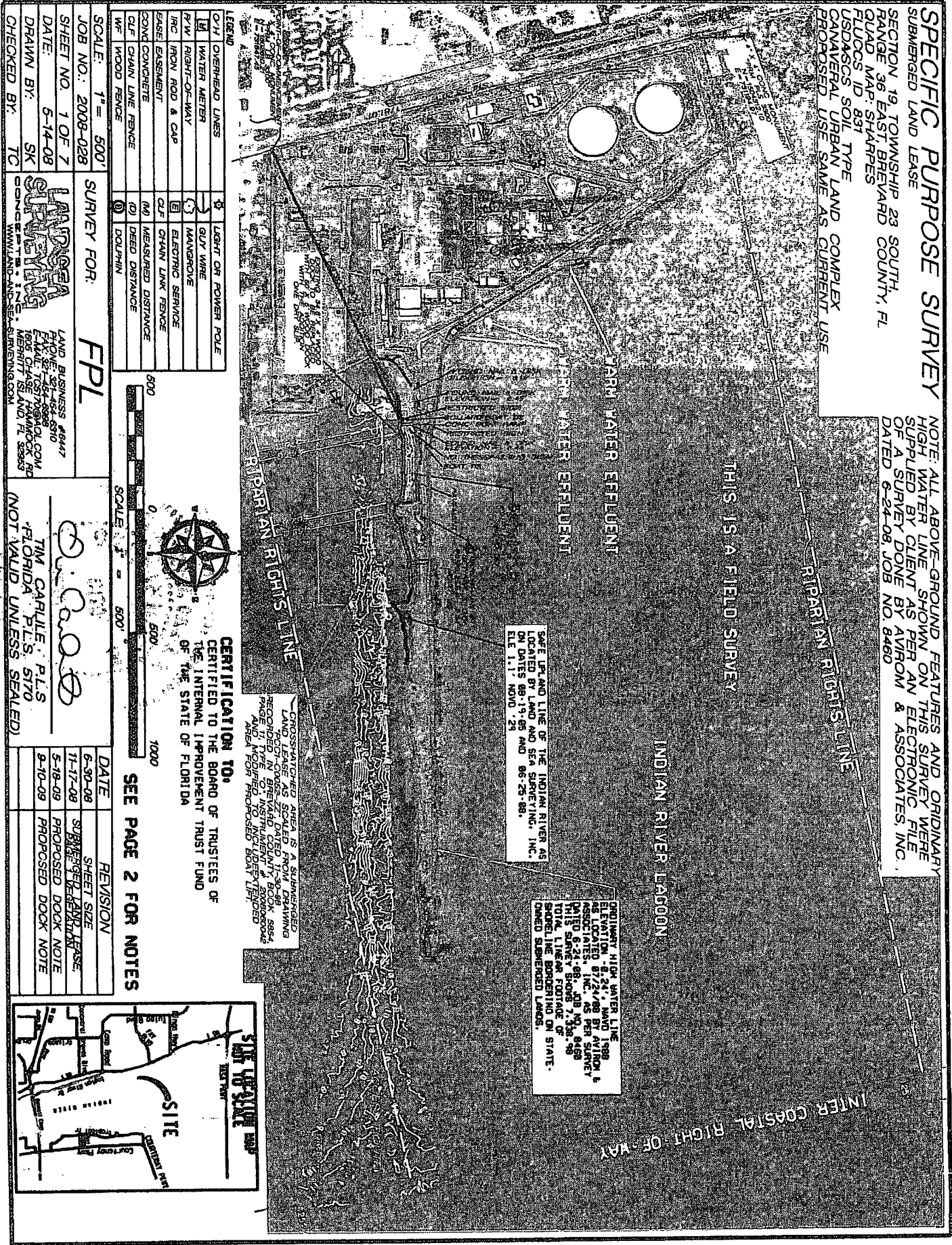
|                   |                      |
|-------------------|----------------------|
| DATE              | REVISION             |
| 6-30-08           | SHEET SIZE           |
| 7-17-08           | SUBMERGED LAND LEASE |
|                   |                      |
|                   |                      |
|                   |                      |
|                   |                      |
| SCALE: 1" = 80'   | SURVEY FOR: FPL      |
| JOB NO.: 2008-028 |                      |
| SHEET NO. 7 OF 7  |                      |
| DATE: 5-14-08     |                      |
| DRAWN BY: SK      |                      |
| CHECKED BY: TC    |                      |

**LAND REGEA SURVEYING**

LAND BUSINESS #8447  
P.O. BOX 100  
FAYETTEVILLE, AR 72704  
PHONE: 479-484-8880  
FAX: 479-484-8880  
E-MAIL: TJS@LANDREGEA.COM  
WWW.LANDREGEA.COM

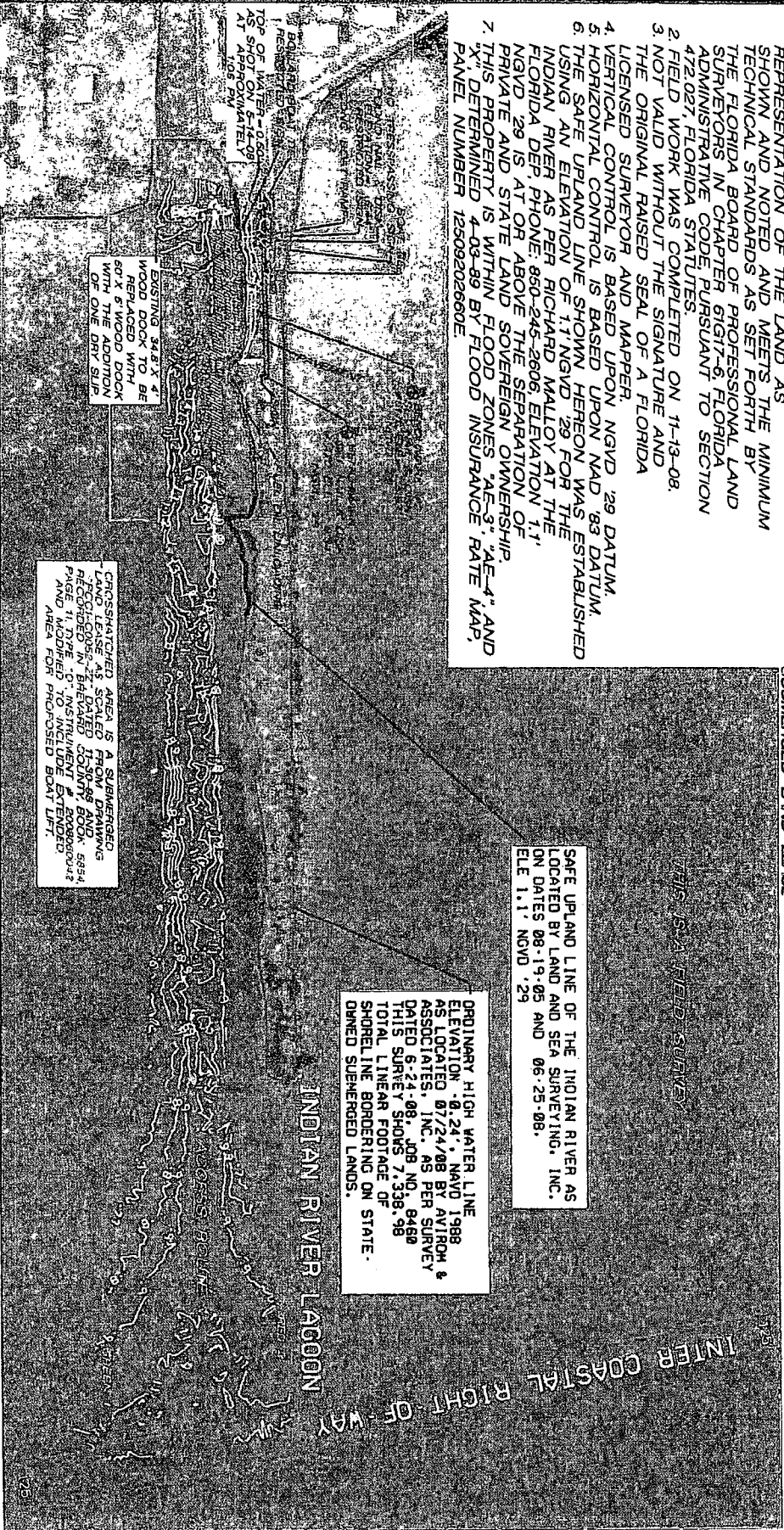
A PORTION OF SECTION 19, TOWNSHIP 23 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT A 4" X 4" CONCRETE MONUMENT STAMPED "PRM LB 3300" ON THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, (STATE ROAD NO. 5), WHICH IS THE SOUTHWEST CORNER OF FLORIDA POWER AND LIGHT CAPE CANAVERAL PLANT BOUNDARY AS PER SURVEY BY AYIROM & ASSOCIATES, INC., JOB NO. 8460, DATED 06-24-08, HAVING COORDINATES OF NORTH. 1502610.21, EAST. 731647.45, BASED UPON NAD '83, FLORIDA STATE PLANE COORDINATES, EAST ZONE, SAID POINT LOCATED 1761.01 FEET, S14°53'19"E. (SOUTHEAST) OF A 4" X 4" CONCRETE MONUMENT STAMPED "PRM PLS 3300", REPRESENTING THE NORTHWEST CORNER OF SAID BOUNDARY, HAVING COORDINATES OF NORTH. 1504312.10, EAST. 731194.97, FROM THE POINT OF COMMENCEMENT RUN N64°58'30"E, A DISTANCE OF 1200.79 FEET TO A POINT ON THE SAFE UPLAND LINE OF THE INDIAN RIVER, ALSO BEING THE POINT-OF-BEGINNING HAVING AN ELEVATION OF 1.1 FOOT NGVD '29, AS LOCATED BY LAND AND SEA SURVEYING CONCEPTS, INC., THENCE FROM THE POINT-OF-BEGINNING, MEANDER ALONG THE SAFE UPLAND LINE THE FOLLOWING BEARINGS AND DISTANCES: S89°32'11"E, A DISTANCE OF 9.91 FEET, THENCE S56°00'24"E, A DISTANCE OF 2.43 FEET, THENCE N86°34'37"E, A DISTANCE OF 11.46 FEET, THENCE S38°30'33"E, A DISTANCE OF 3.65 FEET, THENCE N88°22'50"E, A DISTANCE OF 16.00 FEET, THENCE N63°28'59"E, A DISTANCE OF 28.53 FEET, THENCE N78°15'16"E, A DISTANCE OF 8.64 FEET, THENCE N86°02'19"E, A DISTANCE OF 17.32 FEET, THENCE S80°38'40"E, A DISTANCE OF 15.75 FEET, THENCE N85°38'09"E, A DISTANCE OF 22.69 FEET, THENCE S89°49'29"E, A DISTANCE OF 22.13 FEET, THENCE N75°43'05"E, A DISTANCE OF 8.44 FEET, THENCE S87°47'11"E, A DISTANCE OF 30.89 FEET, THENCE S80°47'27"E, A DISTANCE OF 17.92 FEET, THENCE N81°19'10"E, A DISTANCE OF 18.98 FEET, THENCE S81°31'46"E, A DISTANCE OF 8.54 FEET, THENCE N76°53'55"E, A DISTANCE OF 18.17 FEET, THENCE S57°43'15"E, A DISTANCE OF 6.40 FEET, THENCE S86°05'02"E, A DISTANCE OF 17.96 FEET, THENCE S74°54'39"E, A DISTANCE OF 5.14 FEET, THENCE S86°10'13"E, A DISTANCE OF 21.22 FEET, THENCE S63°58'52"E, A DISTANCE OF 21.84 FEET, THENCE S51°53'08"E, A DISTANCE OF 13.80 FEET, THENCE S00°02'14"E, A DISTANCE OF 7.97 FEET, THENCE N89°06'44"E, A DISTANCE OF 43.38 FEET, THENCE S00°54'53"E, A DISTANCE OF 8.04 FEET, THENCE S77°54'37"E, A DISTANCE OF 1.75 FEET, THENCE N61°32'44"E, A DISTANCE OF 4.31 FEET, THENCE N87°23'31"E, A DISTANCE OF 3.95 FEET, THENCE N45°47'41"E, A DISTANCE OF 14.65 FEET, THENCE S89°53'46"E, A DISTANCE OF 3.60 FEET, THENCE N52°32'38"E, A DISTANCE OF 26.77 FEET, THENCE N78°01'23"E, A DISTANCE OF 10.58 FEET, THENCE S68°29'07"E, A DISTANCE OF 8.13 FEET, THENCE N61°02'35"E, A DISTANCE OF 11.90 FEET, THENCE S81°49'49"E, A DISTANCE OF 10.42 FEET, THENCE N69°13'30"E, A DISTANCE OF 24.85 FEET, THENCE N86°31'18"E, A DISTANCE OF 19.15 FEET, THENCE N50°19'57"E, A DISTANCE OF 9.02 FEET, THENCE N80°40'02"E, A DISTANCE OF 19.35 FEET, THENCE N63°44'30"E, A DISTANCE OF 9.35 FEET, THENCE N79°18'00"E, A DISTANCE OF 20.40 FEET, THENCE S80°30'12"E, A DISTANCE OF 2.50 FEET, THENCE N81°54'00"E, A DISTANCE OF 12.91 FEET, THENCE S77°37'45"E, A DISTANCE OF 14.17 FEET, THENCE S89°29'00"E, A DISTANCE OF 4.86 FEET, THENCE N65°19'23"E, A DISTANCE OF 12.10 FEET, THENCE N88°30'13"E, A DISTANCE OF 39.06 FEET, THENCE N80°19'57"E, A DISTANCE OF 9.46 FEET, THENCE S89°34'15"E, A DISTANCE OF 3.27 FEET, THENCE S65°13'30"E, A DISTANCE OF 4.19 FEET, THENCE S86°40'08"E, A DISTANCE OF 4.51 FEET, THENCE N72°55'42"E, A DISTANCE OF 16.32 FEET, THENCE N81°54'06"E, A DISTANCE OF 2.80 FEET, THENCE LEAVING THE SAFE UPLAND LINE, S00°04'01"W, A DISTANCE OF 97.54 FEET, THENCE S89°00'29"W, A DISTANCE OF 110.22 FEET, THENCE S00°59'31"E, A DISTANCE OF 39.00 FEET, THENCE S89°00'29"W, A DISTANCE OF 72.74 FEET, THENCE S00°59'31"E, A DISTANCE OF 11.00 FEET, THENCE S89°00'29"W, A DISTANCE OF 281.33 FEET, THENCE N00°59'31"W, A DISTANCE OF 50.00 FEET, THENCE S89°00'29"W, A DISTANCE OF 217.52 FEET, THENCE N00°00'00"W, A DISTANCE OF 67.02 FEET TO THE POINT OF BEGINNING. CONTAINING 66,619.77 SQUARE FEET OR 1.53 ACRES, MORE OR LESS.



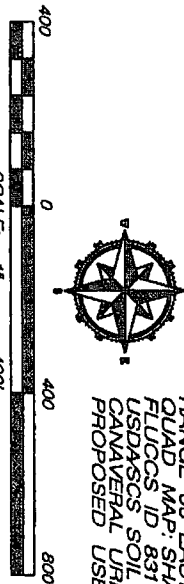
SPECIFIC PURPOSE SURVEY  
SUBMERGED LAND LEASE

- NOTES
1. THIS SURVEY IS A TRUE AND CORRECT REPRESENTATION OF THE LAND AS SHOWN AND NOTED AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 817-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.
  2. FIELD WORK WAS COMPLETED ON 11-13-08.
  3. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
  4. VERTICAL CONTROL IS BASED UPON NGVD '29 DATUM.
  5. HORIZONTAL CONTROL IS BASED UPON NAD 83 DATUM.
  6. THE SAFE UPLAND LINE SHOWN HEREON WAS ESTABLISHED USING AN ELEVATION OF 1.1' NGVD '29 FOR THE INDIAN RIVER AS PER RICHARD MALLOY AT THE FLORIDA DEP. PHONE: 850-245-2606. ELEVATION 1.1' NGVD '29 IS AT OR ABOVE THE SEPARATION OF PRIVATE AND STATE LAND SOVEREIGN OWNERSHIP.
  7. THIS PROPERTY IS WITHIN FLOOD ZONES "AE-3" AND "AE-4" AND "X" DETERMINED 4-03-89 BY FLOOD INSURANCE RATE MAP, PANEL NUMBER 12509202660E.



LEGEND

|                  |                     |
|------------------|---------------------|
| OVERHEAD LINES   | LIGHT OR POWER POLE |
| WATER METER      | GY WIRE             |
| RIGHT-OF-WAY     | MAINTENANCE         |
| IRON ROD & CAP   | ELECTRIC SERVICE    |
| EASE EASEMENT    | CHAIN LINK FENCE    |
| CONCRETE         | MEASURED DISTANCE   |
| CHAIN LINE FENCE | DEED DISTANCE       |
| WOOD FENCE       | DOLPHIN             |



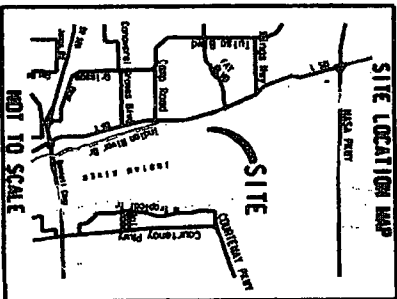
SECTION 19, TOWNSHIP 23 SOUTH,  
RANGE 36 EAST, BREVARD COUNTY, FL  
QUAD MAP: SHAPES  
FLUCS ID 831  
USDA/SCS SOIL TYPE  
CANAVARAL URBAN LAND COMPLEX  
PROPOSED USE SAME AS CURRENT USE

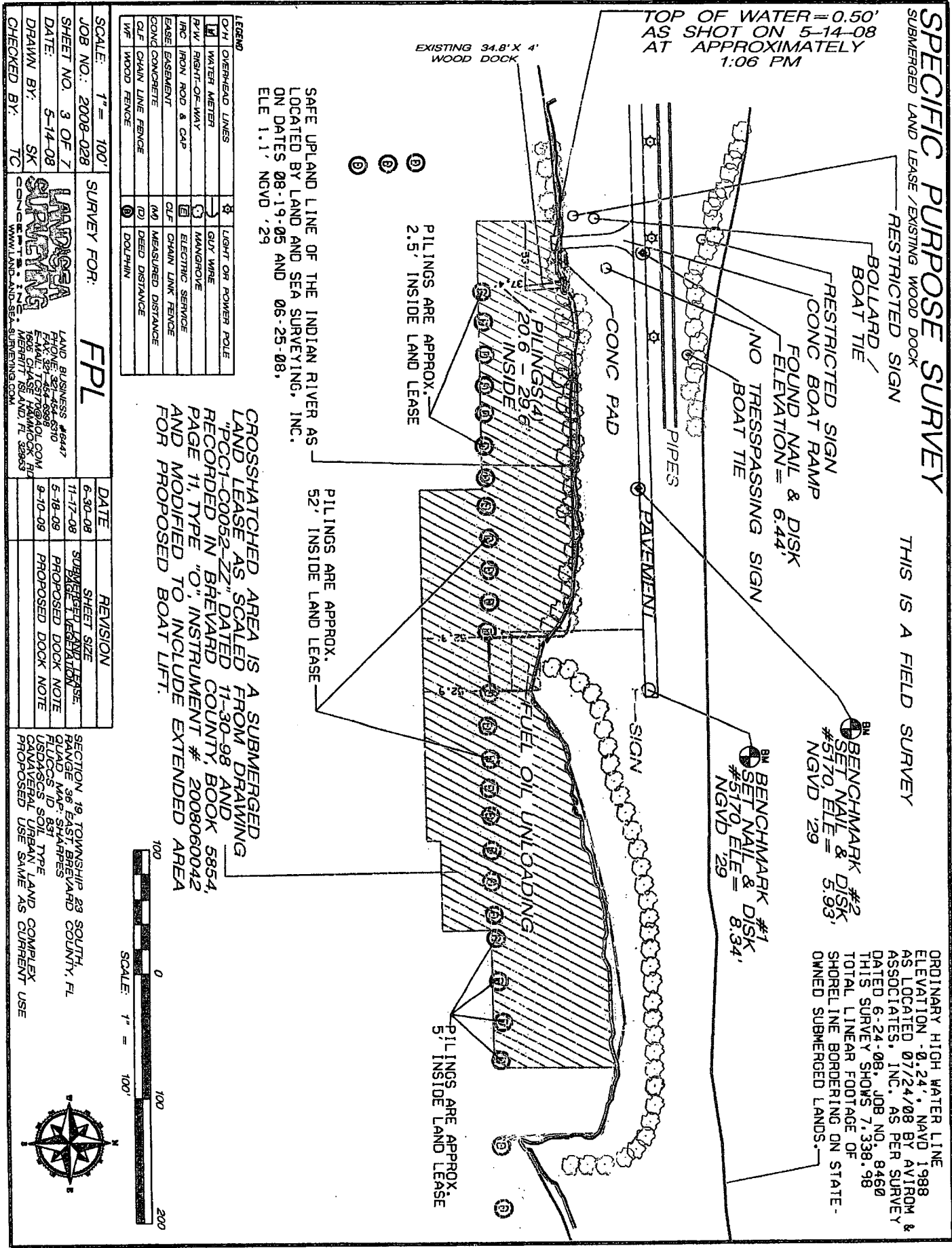
JOB NO.: 2008-028  
SHEET NO. 2 OF 7  
DATE: 5-14-08  
DRAWN BY: SK  
CHECKED BY: TC

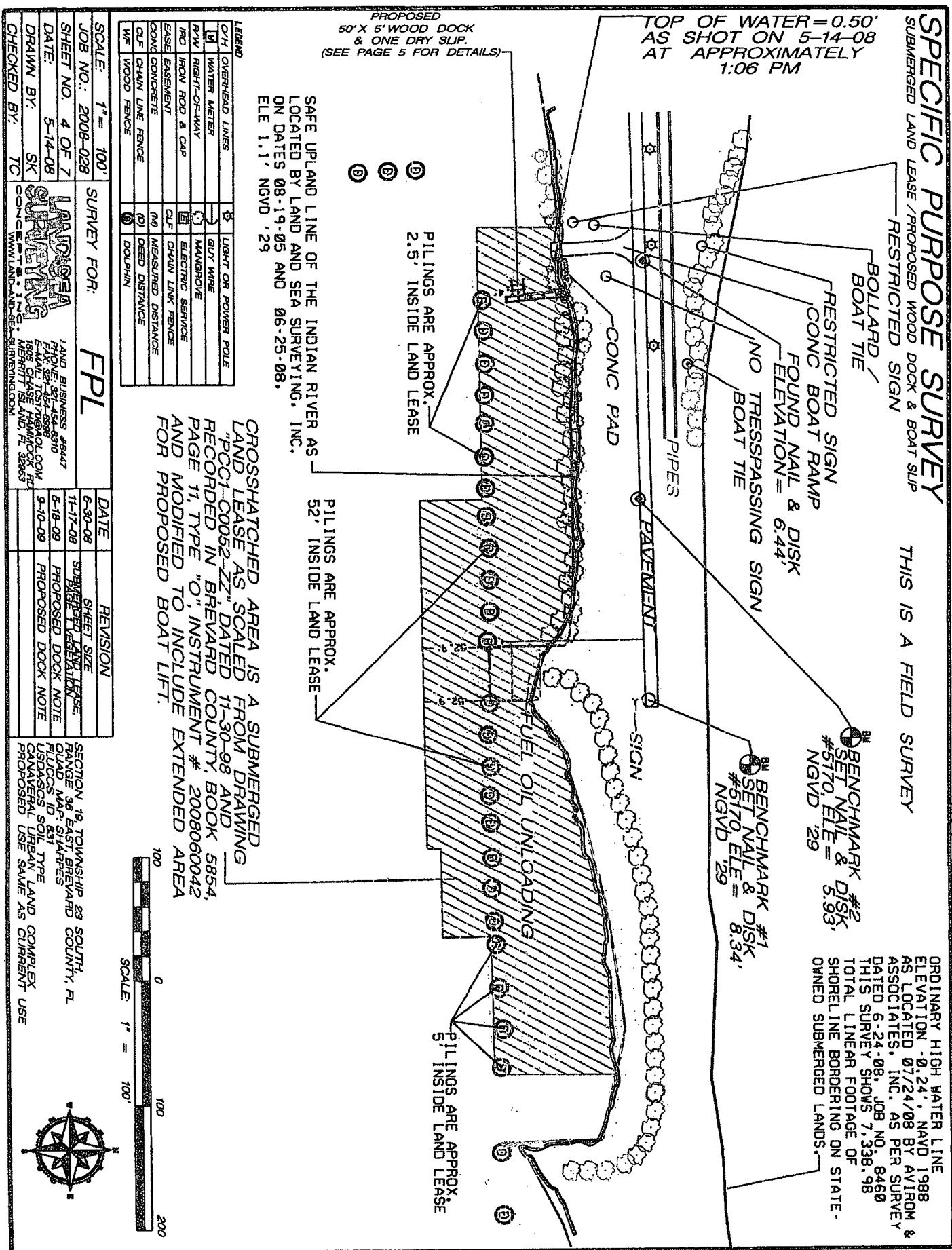
SURVEY FOR: **FPL**

LAND BUSINESS #6447  
PHONE: 321-454-6310  
FAX: 321-454-6308  
5002 CLASSETT PARKWAY  
MERITT ISLAND, FL 32953  
WWW.LAND-AND-SEA-SURVEYING.COM

| DATE     | REVISION             |
|----------|----------------------|
| 6-30-08  | SUBMERGED LAND LEASE |
| 11-17-08 | BASE 1 VEGETATION    |
| 5-18-08  | PROPOSED DOCK NOTE   |
| 9-10-08  | PROPOSED DOCK NOTE   |

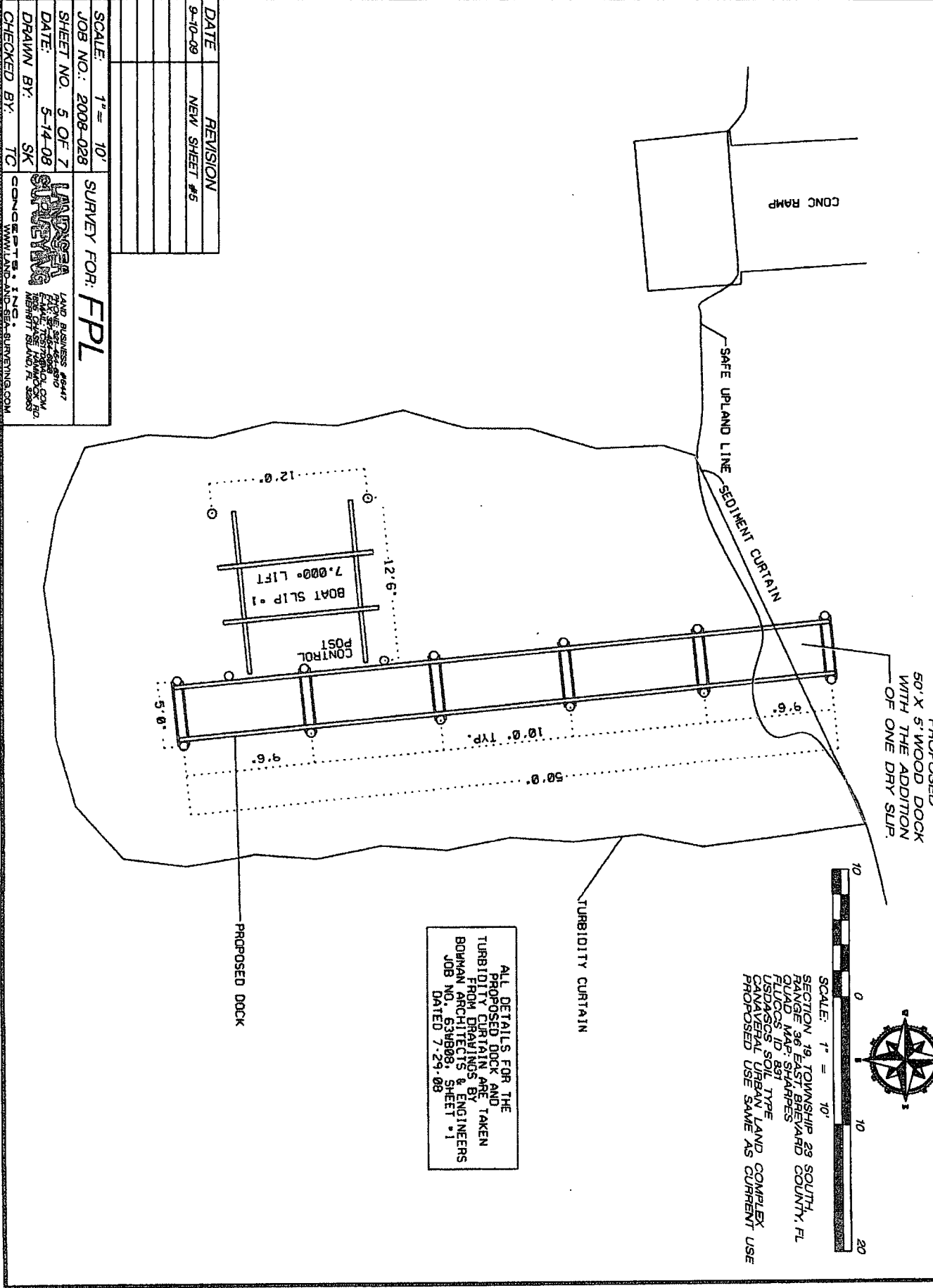






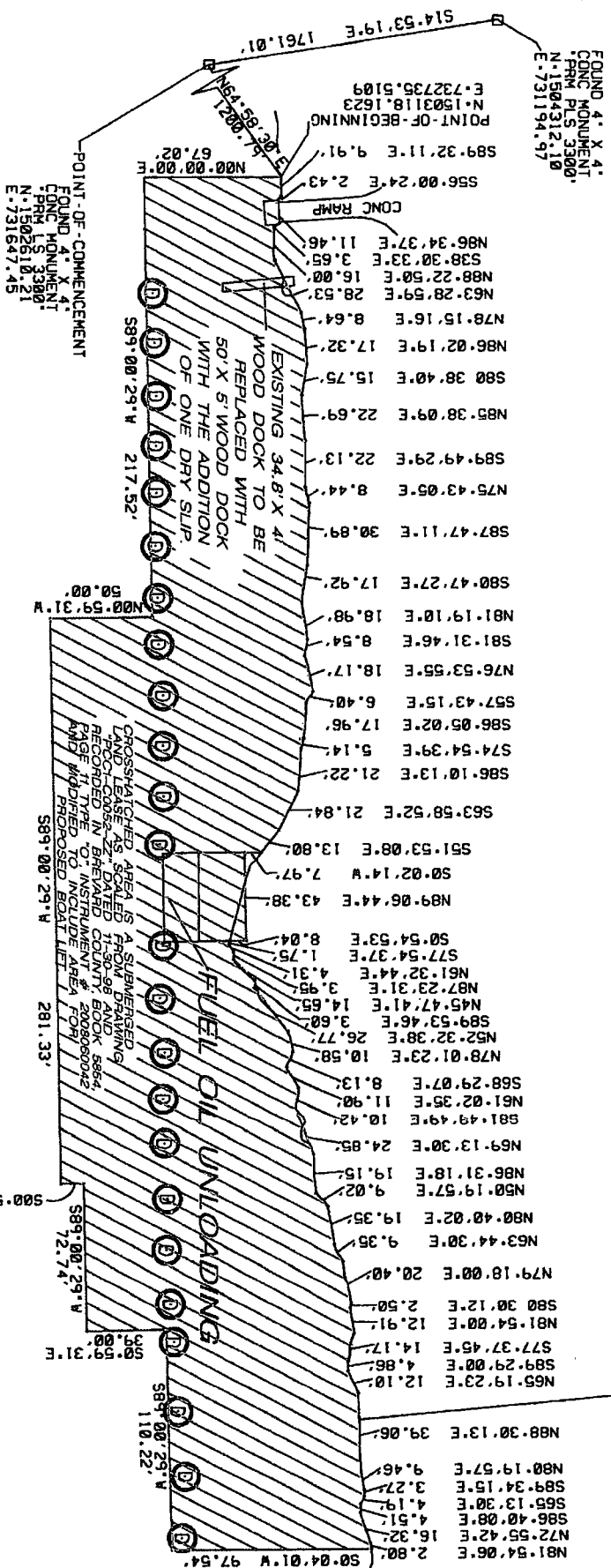
SPECIFIC PURPOSE SURVEY

PROPOSED DOCK DETAILS

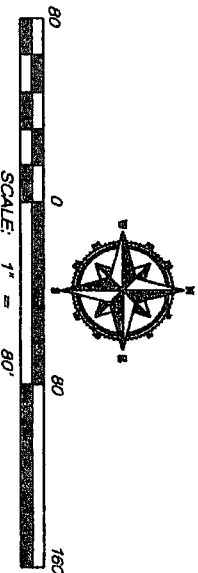


SUBMERGED LAND LEASE

UN LINES 88-19-05 AND 88-23-88,  
ELE 1.1' NGVD '29



| LEGEND |                         |
|--------|-------------------------|
|        | O/H OVERHEAD LINES      |
|        | W WATER METER           |
|        | R/W RIGHT-OF-WAY        |
|        | IRC IRON ROD & CAP      |
|        | E/E EASEMENT            |
|        | C/C CONCRETE            |
|        | CLF CHAIN LINK FENCE    |
|        | WF WOOD FENCE           |
|        | L/P LIGHT OR POWER POLE |
|        | G/W GUT WIRE            |
|        | M/M MANGROVE            |
|        | E/S ELECTRIC SERVICE    |
|        | CLF CHAIN LINK FENCE    |
|        | M/D MEASURED DISTANCE   |
|        | D/D DEED DISTANCE       |
|        | D/D DOLPHIN             |



|                                                                                                                                                                                        |                                                                                   |          |                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|----------|--------------------|
| SCALE: 1" = 80'                                                                                                                                                                        | SURVEY FOR:                                                                       | DATE     | REVISION           |
| JOB NO.: 2008-028                                                                                                                                                                      |  | 6-30-08  | SHEET SIZE         |
| SHEET NO. 6 OF 7                                                                                                                                                                       |                                                                                   | 11-17-08 | SUBJECT            |
| DATE: 5-14-08                                                                                                                                                                          |                                                                                   | 5-18-09  | PROPOSED DOCK NOTE |
| DRAWN BY: SK                                                                                                                                                                           |                                                                                   | 9-10-09  | PROPOSED DOCK NOTE |
| CHECKED BY: TC                                                                                                                                                                         |                                                                                   |          |                    |
| LAND BUSINESS #66447<br>PHONE: 261-454-6370<br>FAX: 827-454-6368<br>E-MAIL: JASON@FPLSURVEYING.COM<br>10000 N. W. 10TH AVE. SUITE 1000<br>BOCA RATON, FL 33433<br>WWW.FPLSURVEYING.COM |                                                                                   |          |                    |

SECTION 19 TOWNSHIP 23 SOUTH,  
RANGE 38 EAST, BREVARD COUNTY, FL  
QUAD MAP: 5447PFS  
FLUDCS ID 851  
USDA/SCS SOIL TYPE  
CANAVELAH URBAN LAND COMPLEX  
PROPOSED USE SAME AS CURRENT USE

# 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 deed 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 72.90 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 CCMB 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

(40) 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 (608.78) 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

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and Marie 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 Marie 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 Brevard County, Florida.

PARCEL NO. 11:

(Title vested by virtue of Judgment recorded in CCMB 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, Brevard 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 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, 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 CCMB 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, Brevard 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. Overseker and Maud I. Overseker; thence run westerly on the north line of the lands of Worth A. Overseker and Maud I. Overseker 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 525/667).

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

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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 75 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

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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

Continued on next page

**ATTACHMENT E: PUBLIC EASEMENT**

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

This Instrument Prepared By:  
Pattie J. Scott  
Recurring Revenue Section  
Bureau of Public Land Administration  
3900 Commonwealth Boulevard  
Mail Station No. 125  
Tallahassee, Florida 32399

CFN 2010116582, OR BK 6188 PAGE 2699,  
Recorded 06/18/2010 at 04:28 PM, Scott Ellis, Clerk of  
Courts, Brevard County  
Doc D: \$0.70 # Pgs:13

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS EASEMENT

EASEMENT NO.: 41218  
BOT FILE NO.: 050234533  
DEP OGC CASE NO.: 08-2971

THIS EASEMENT is hereby granted by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Grantor.

WITNESSETH: That for the faithful and timely performance of and compliance with the terms and conditions stated herein, the Grantor does hereby grant to Florida Power & Light Company, a Florida corporation, hereinafter referred to as the Grantee, a nonexclusive easement on, under and across the sovereignty lands, if any, contained in the following legal description:

A parcel of sovereignty submerged land in Section 19,  
Township 23 South, Range 36 East, in the Indian River,  
Brevard County, as is more particularly described  
and shown on Attachment A, dated October 28, 2009.

TO HAVE THE USE OF the hereinabove described premises for a period of 50 years from October 12, 2009, the effective date of this easement. The terms and conditions on and for which this easement is granted are as follows:

1. USE OF PROPERTY: The above described parcel of land shall be used solely for an upland protrusion of land constructed on Sovereignty Submerged Land for use with the daily operations of the associated riparian upland power plant and Grantee shall not engage in any activity except as described in the Site Certification DEP OGC Case No. 08-2971, dated October 12, 2009, incorporated herein and made a part of this easement by reference. All of the foregoing subject to the remaining conditions of this easement.

2. EASEMENT CONSIDERATION: In the event the Grantor amends its rules related to fees and the amended rules provide the Grantee will be charged a fee or an increased fee for this activity, the Grantee agrees to pay all charges required by such amended rules within 90 days of the date the amended rules become effective or by a date provided by an invoice from the Department, whichever is later. All fees charged under this provision shall be prospective in nature; i.e. they shall begin to accrue on the date that the amended rules become effective.

3. WARRANTY OF TITLE/GUARANTEE OF SUITABILITY OF USE OF LAND: Grantor neither warrants title to the lands described herein nor guarantees the suitability of any of the lands for any particular use.

4. RIGHTS GRANTED: The rights hereby granted shall be subject to any and all prior rights of the United States and any and all prior grants by the Grantor in and to the submerged lands situated within the limits of this easement.

5. DAMAGE TO EASEMENT PROPERTY AND INTERFERENCE WITH PUBLIC AND PRIVATE RIGHTS: Grantee shall not damage the easement lands or unduly interfere with public or private rights therein.

6. GRANTOR'S RIGHT TO GRANT COMPATIBLE USES OF THE EASEMENT PROPERTY: This easement is nonexclusive, and the Grantor, or its duly authorized agent, shall retain the right to enter the property or to engage in management activities not inconsistent with the use herein provided for and shall retain the right to grant compatible uses of the property to third parties during the term of this easement.

7. RIGHT TO INSPECT: Grantor, or its duly authorized agent, shall have the right at any time to inspect the works and operations of the Grantee in any matter pertaining to this easement.

8. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Grantee shall investigate all claims of every nature at its expense, and shall indemnify, defend and save and hold harmless the Grantor and the State of Florida from all claims, actions, lawsuits and demands arising out of this easement, which do not arise out of or result from the negligent acts of omissions of Grantor.

HC - Joseph O'Hagan

9. VENUE: Grantee waives venue as to any litigation arising from matters relating to this easement and any such litigation between Grantor and Grantee shall be initiated and maintained only in Leon County, Florida.

10. ASSIGNMENT OF EASEMENT: This easement shall not be assigned or otherwise transferred without prior written consent of the Grantor or its duly authorized agent and which consent shall not be unreasonably withheld. Any assignment or other transfer without prior written consent of the Grantor shall be null and void and without legal effect.

11. TERMINATION: The Grantee, by acceptance of this easement, 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 Grantee, its successors and assigns. In the event the Grantee fails or refuses to comply with the provisions and conditions herein set forth or in the event the Grantee violates any of the provisions and conditions herein, this easement may be terminated by the Grantor upon 30 days written notice to Grantee. If terminated, all of the above-described parcel of land shall revert to the Grantor. All costs, including attorneys' fees, incurred by the Grantor to enforce the provisions of this easement shall be paid by the Grantee. All notices required to be given to Grantee by this easement or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408

The Grantee agrees to notify the Grantor by certified mail of any changes to this address at least ten (10) days before the change is effective.

12. TAXES AND ASSESSMENTS: The Grantee 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 easement which result from the grant of this easement or the activities of Grantee hereunder.

13. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Grantee does not remove said structures and equipment occupying and erected upon the premises after expiration or cancellation of this easement, such structures and equipment will be deemed forfeited to the Grantor, and the Grantor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Grantee at the address specified in Item 11 or at such address on record as provided to the Grantor by the Grantee. However, such remedy shall be in addition to all other remedies available to Grantor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

14. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Grantor 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 Grantor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

15. RECORDATION OF EASEMENT: The Grantee, at its own expense, shall record this fully executed easement in its entirety in the public records of the county within which the easement site is located within fourteen (14) days after receipt, and shall provide to the Grantor within ten (10) days following the recordation a copy of the recorded easement in its entirety which contains the O.R. Book and pages at which the easement is recorded.

16. AMENDMENT/MODIFICATIONS: This easement is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this easement must be in writing and must be accepted, acknowledged and executed by the Grantee and Grantor.

17. ACOE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Grantee shall obtain the U.S. Army Corps of Engineers (COE) permit if it is required by the COE. Any modifications to the construction and/or activities authorized herein that may be required by the COE shall require consideration by and the prior written approval of the Grantor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

18. ADDITIONAL STRUCTURES OR ACTIVITIES/EMERGENCY STRUCTURAL REPAIRS: No additional structures shall be erected and/or activities undertaken, including but not limited to, dredging, relocation/realignment or major repairs or renovations made to authorized structures, on, in or over sovereignty, submerged lands without the prior written consent from the Grantor, with the exception of emergency repairs. Unless specifically authorized in writing by the Grantor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Grantee to administrative fines under Chapter 18-14, Florida Administrative Code. If emergency repairs are required to be undertaken in the interests of public health, safety or welfare, the Grantee shall notify the Grantor of such repairs as quickly as is practicable; provided, however, that such emergency activities shall not exceed the activities authorized by this easement.

19. UPLAND RIPARIAN PROPERTY INTEREST: During the term of this easement, Grantee must have satisfactory evidence of sufficient upland interest as defined in subsection 18-21.003(60), Florida Administrative Code, to the extent required by paragraph 18-21.004(3)(b), Florida Administrative Code, in order to conduct the activity described in this easement. If at any time during the term of this easement, Grantee fails to comply with this requirement, use of sovereignty, submerged lands described in this easement shall immediately cease and this easement shall terminate and title to this easement shall revert to and vest in the Grantor immediately and automatically.

WITNESSES:

Theresa M. Brady  
Original Signature

Theresa M. Brady  
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 (SEAL)  
Jeffery M. Gentry, Operations and Management Consultant  
Manager, Bureau of Public Land Administration, Division  
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

"GRANTOR"

STATE OF FLORIDA  
COUNTY OF LEON

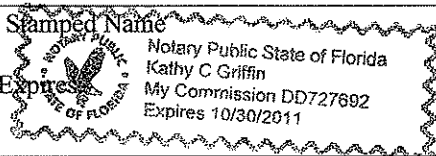
The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of May, 2010, by  
Jeffery M. Gentry, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State  
Lands, State of Florida Department of Environmental Protection, as agent for and on 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

Printed, Typed or Stamped Name

My Commission Expires



Commission/Serial No.

WITNESSES:

Michelle M. Kahmann  
Original Signature

Michelle M. Kahmann

Typed/Printed Name of Witness

Original Signature

Deborah C. Patterson

Typed/Printed Name of Witness

STATE OF FL

COUNTY OF Palm Beach

Florida Power & Light Company, a Florida corporation (SEAL)

BY: [Signature]  
Original Signature of Executing Authority

Dina L. Guenther

Typed/Printed Name of Executing Authority

Director Corporate Real Estate

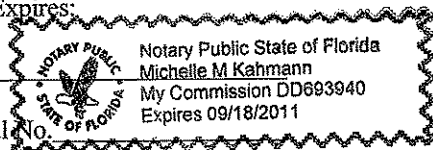
Title of Executing Authority

"GRANTEE"

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2010, by  
Dina L. Guenther as 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.



Notary Public, State of FL  
Michelle M. Kahmann

Printed, Typed or Stamped Name

# EXHIBIT "A"

## SKETCH AND DESCRIPTION

### CAPE CANAVERAL POWER PLANT

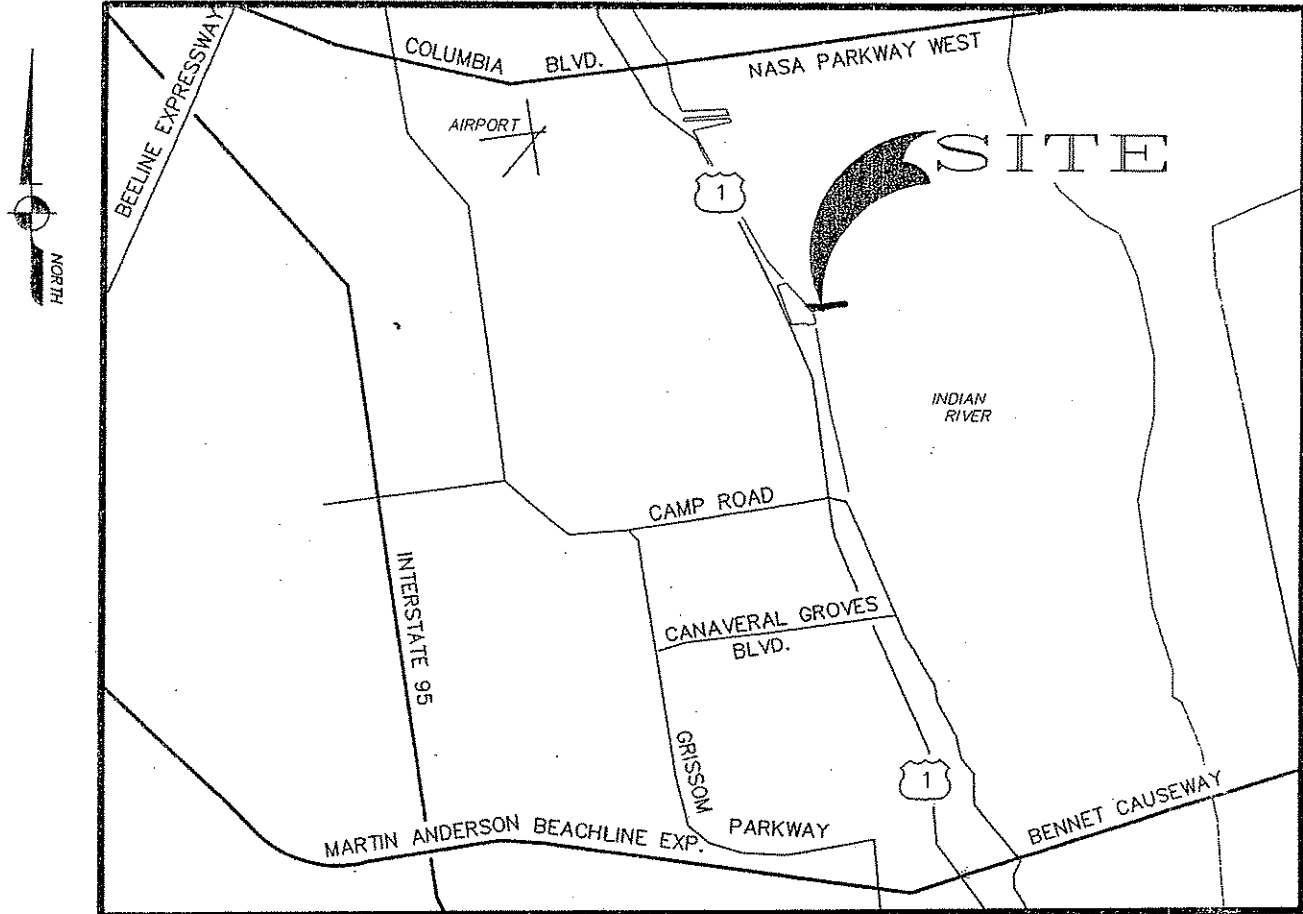
#### UPLAND FILLED AREA

RECEIVED

NOV 05 2009

DEP Central Dist.

SECTIONS 19, TOWNSHIP 23 S., RANGE 36 E. BREVARD COUNTY, FLORIDA



LOCATION SKETCH  
(NOT TO SCALE)

PAGE 1 OF 10

| REVISIONS                |                 |  <b>AVIROM &amp; ASSOCIATES, INC.</b><br><b>SURVEYING &amp; MAPPING</b><br>50 S.W. 2ND AVENUE, SUITE 102<br>BOCA RATON, FLORIDA 33432<br>TEL. (561) 392-2594, FAX (561) 394-7125<br><a href="http://www.AVIROM-SURVEY.com">www.AVIROM-SURVEY.com</a><br>© 2009 AVIROM & ASSOCIATES, INC. ALL RIGHTS RESERVED. | SCALE - |          |
|--------------------------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------|
| REVISE LEGAL             | 06/03/09 A.M.R. |                                                                                                                                                                                                                                                                                                                                                                                                  | DATE    | 05/20/09 |
| REVISE PER DEP CHECKLIST | 10/28/09 A.M.R. |                                                                                                                                                                                                                                                                                                                                                                                                  | BY      | A.M.R.   |
|                          |                 |                                                                                                                                                                                                                                                                                                                                                                                                  | CK'D.   | M.D.A.   |
|                          |                 |                                                                                                                                                                                                                                                                                                                                                                                                  | F.B.    | PG.      |
|                          |                 |                                                                                                                                                                                                                                                                                                                                                                                                  | JOB NO. | 8460-8   |

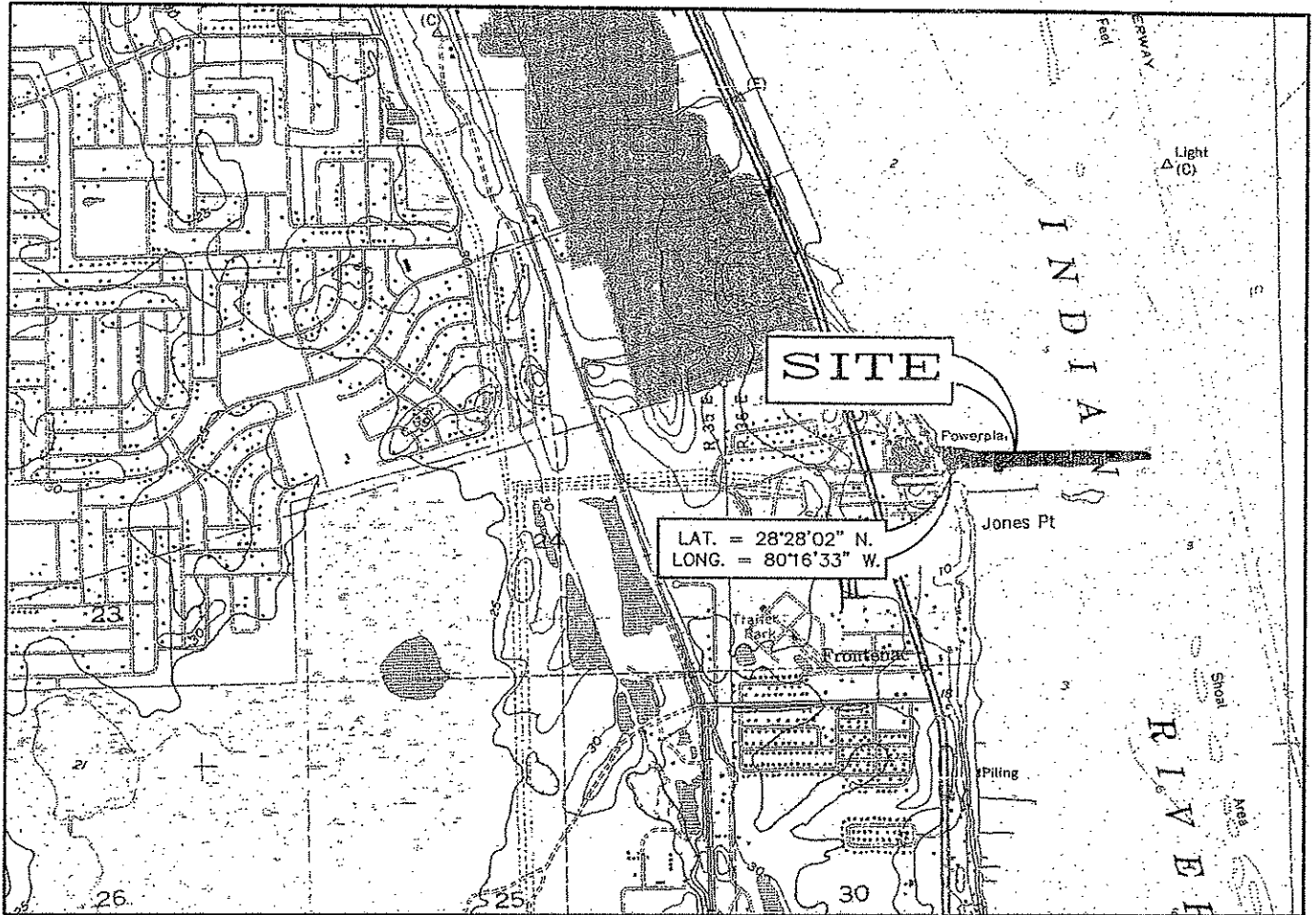
# EXHIBIT "A"

## SKETCH AND DESCRIPTION

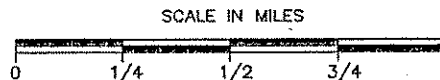
### CAPE CANAVERAL POWER PLANT

### UPLAND FILLED AREA

SECTIONS 19, TOWNSHIP 23 S., RANGE 36 E. BREVARD COUNTY, FLORIDA



**SHARPES QUADRANGLE**  
FLORIDA – BREVARD CO.  
7.5 MINUTE SERIES (TOPOGRAPHIC)



**NOTES:**

LATITUDE AND LONGITUDE SHOWN ARE BASED ON THE 1990 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83/90).

LAT. = LATITUDE  
LONG.= LONGITUDE

PAGE 2 OF 10

| REVISIONS                |                 |  | <b>AVIROM &amp; ASSOCIATES, INC.</b><br><b>SURVEYING &amp; MAPPING</b><br>50 S.W. 2ND AVENUE, SUITE 102<br>BOCA RATON, FLORIDA 33432<br>TEL. (561) 392-2594, FAX (561) 394-7125<br>www.AVIROM-SURVEY.com<br>© 2009 AVIROM & ASSOCIATES, INC. ALL RIGHTS RESERVED. |  | <b>SCALE</b> -<br><b>DATE</b> 05/20/09<br><b>BY</b> A.M.R.<br><b>CK'D.</b> M.D.A.<br><b>F.B.</b> - <b>PG.</b> -<br><b>JOB NO.</b> 8460-8 |  |
|--------------------------|-----------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------------------------------------|--|
| REVISE LEGAL             | 06/03/09 A.M.R. |                                                                                     |                                                                                                                                                                                                                                                                   |  |                                                                                                                                          |  |
| REVISE PER DEP CHECKLIST | 10/28/09 A.M.R. |                                                                                     |                                                                                                                                                                                                                                                                   |  |                                                                                                                                          |  |
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   |  |                                                                                                                                          |  |
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   |  |                                                                                                                                          |  |
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|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   |  |                                                                                                                                          |  |

**EXHIBIT "A"**  
**SKETCH AND DESCRIPTION**  
**CAPE CANAVERAL POWER PLANT**  
**UPLAND FILLED AREA**

**LEGAL DESCRIPTION:**

*A portion of Section 19, Township 23 South, Range 36 East described as follows:*

*COMMENCING at the Southwest corner of the RE-SUBDIVISION OF ROSEVEAR TERRACE, Plat Book 8, Page 40b according to the Public Records of Brevard County, Florida; thence S 89°47'27" E, 549.42 feet to the easterly right-of-way line of U.S. Highway No. 1 (State Road No. 5); thence N14°53'20"W along said easterly right-of-way line 209.02 feet; thence N 72°20'22" E, 898.86 feet to the Ordinary High Water Line of the Indian River and the POINT OF BEGINNING (the next 110 courses proceeding along said Ordinary High Water Line); thence N 52°23'52" E, 1.20 feet; thence S 48°20'57" E, 27.90 feet; thence S 35°12'29" W, 1.80 feet; thence S 66°11'51" E, 31.20 feet; thence S 37°59'01" E, 19.34 feet; thence S 67°43'53" E, 28.31 feet; thence S 79°43'04" E, 55.27 feet; thence S 84°28'52" E, 56.13 feet; S 81°19'03" E, 49.44 feet; thence S 83°53'23" E, 52.45 feet; thence S 79°16'44" E, 46.12 feet; thence S 78°14'16" E, 60.38 feet; thence S 81°04'29" E, 62.40 feet; thence S 85°19'43" E, 52.85 feet; thence N 89°05'19" E, 163.90 feet; thence N 89°13'22" E, 110.21 feet; thence N 89°22'24" E, 50.85 feet; thence S 89°03'48" E, 50.48 feet; thence N 81°01'52" E, 40.04 feet; thence S 87°22'00" E, 109.67 feet; thence N 82°07'27" E, 58.69 feet; thence N 87°29'40" E, 53.08 feet; thence N 82°16'19" E, 61.08 feet; thence S 87°09'16" E, 111.65 feet; thence N 81°31'06" E, 50.32 feet; thence S 83°26'17" E, 48.14 feet; thence N 88°28'43" E, 35.82 feet; thence S 89°36'28" E, 64.95 feet; thence S 89°47'43" E, 92.54 feet; thence S 88°00'04" E, 58.02 feet; thence N 85°21'47" E, 53.49 feet; thence N 78°33'49" E, 54.42 feet; thence S 86°06'38"E, 46.03 feet; thence N 89°04'29" E, 57.86 feet; thence S 88°16'08" E, 41.48 feet; thence S 85°38'13"E, 59.82 feet; thence S 87°13'39" E, 39.85 feet; thence N 86°51'41" E, 43.70 feet; thence N 86°23'12"E, 70.09 feet; thence S 80°21'26" E, 40.42 feet; thence S 88°57'04" E, 61.04 feet; thence N 86°45'45" E, 57.70 feet; thence N 85°45'54" E, 51.10 feet; thence N 89°02'51" E, 55.96 feet; thence N 85°13'57" E, 54.54 feet; thence S 76°00'09" E, 19.78 feet; thence S 83°23'43" E, 20.31 feet; thence S 39°08'49" E, 22.43 feet; thence S 72°39'54" E, 18.72 feet; thence S 42°51'23" E, 18.97 feet; thence S 27°38'51" W, 25.55 feet; thence S 52°25'12" W, 17.91 feet; thence N 88°20'29" W, 76.15 feet; thence S 84°39'28" W, 38.95 feet; thence N 88°32'42" W, 49.33 feet; thence S 82°43'06" W, 59.64 feet; thence S 77°07'52" W, 54.91 feet; thence S 88°53'09" W, 54.40 feet; thence N 80°30'49" W, 55.78 feet; thence N 83°01'58" W, 51.39 feet; thence S 84°54'13" W, 48.47 feet; thence N 78°04'10" W, 31.52 feet; thence N 87°44'28" W, 18.00 feet; thence S 88°51'22" W, 55.71 feet; thence S 81°50'12" W, 40.69 feet; thence S 80°34'20" W, 54.93 feet; thence S 79°55'08" W, 52.41 feet; thence S 83°13'24" W, 17.16 feet; thence N 58°07'20" W, 24.76 feet; thence N 79°22'48" W, 13.72 feet; thence*

(CONTINUE ON PAGE 4)

|                                          |  |                                                                                     |                                                                                                                                                                                                                                                                   |                |               |
|------------------------------------------|--|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------|
| <b>REVISIONS</b>                         |  |  | <b>AVIROM &amp; ASSOCIATES, INC.</b><br><b>SURVEYING &amp; MAPPING</b><br>50 S.W. 2ND AVENUE, SUITE 102<br>BOCA RATON, FLORIDA 33432<br>TEL. (561) 392-2594, FAX (561) 394-7125<br>www.AVIROM-SURVEY.com<br>© 2009 AVIROM & ASSOCIATES, INC. ALL RIGHTS RESERVED. | <b>SCALE</b> - |               |
| REVISE LEGAL 06/03/09 A.M.R.             |  |                                                                                     |                                                                                                                                                                                                                                                                   | <b>DATE</b>    | 05/20/09      |
| REVISE PER DEP CHECKLIST 10/28/09 A.M.R. |  |                                                                                     |                                                                                                                                                                                                                                                                   | <b>BY</b>      | A.M.R.        |
|                                          |  |                                                                                     |                                                                                                                                                                                                                                                                   | <b>CK'D.</b>   | M.D.A.        |
|                                          |  |                                                                                     |                                                                                                                                                                                                                                                                   | <b>F.B.</b> -  | <b>PG.</b> -  |
|                                          |  |                                                                                     |                                                                                                                                                                                                                                                                   | <b>JOB NO.</b> | <b>8460-8</b> |

# EXHIBIT "A"

## SKETCH AND DESCRIPTION

### CAPE CANAVERAL POWER PLANT

### UPLAND FILLED AREA

(CONTINUED)

S 81°05'52" W, 55.20 feet; thence S 72°58'47" W, 44.20 feet; thence S 65°04'09" W, 20.76 feet; thence S 76°23'17" W, 55.28 feet; thence S 66°03'38" W, 38.07 feet; thence N 81°25'43" W, 53.18 feet; thence N 81°13'33" W, 43.92 feet; thence N 84°24'34" W, 94.90 feet; thence N 69°24'18" W, 27.86 feet; thence S 77°34'39" W, 51.08 feet; thence S 84°05'40" W, 53.40 feet; thence S 70°40'21" W, 49.69 feet; thence S 62°21'00" W, 70.31 feet; thence S 01°35'50" E, 13.75 feet; thence S 88°24'10" W, 2.50 feet; thence N 01°35'50" W, 79.14 feet; thence N 78°06'54" W, 92.60 feet; thence S 82°02'31" W, 54.39 feet; thence S 80°47'08" W, 44.95 feet; thence S 76°23'04" W, 75.97 feet; thence S 72°42'52" W, 65.89 feet; thence S 51°25'25" W, 40.54 feet; thence S 00°39'45" E, 28.92 feet; thence S 89°08'12" W, 43.51 feet; thence N 00°55'40" W, 60.30 feet; thence N 66°03'09" W, 8.86 feet; thence N 84°07'49" W, 20.40 feet; thence N 87°33'01" W, 27.93 feet; thence S 89°59'16" W, 33.38 feet; thence S 89°08'33" W, 49.70 feet; thence S 88°32'59" W, 47.17 feet; thence N 85°51'37" W, 57.56 feet; thence S 79°44'00" W, 46.86 feet; thence S 68°12'45" W, 20.89 feet; thence N 76°43'25" W, 14.47 feet; thence S 84°48'07" W, 74.09 feet; thence S 81°14'09" W, 62.61 feet; thence S 70°47'13" W, 22.81 feet; thence S 57°34'21" W, 39.16 feet; thence S 41°15'23" W, 6.63 feet to said Ordinary High Water Line; thence N 31°14'04" W, 332.57 feet to the POINT OF BEGINNING.

Said lands situate in Brevard County, Florida and containing 262,636 square feet, 6.029 acres, more or less.

#### CERTIFICATION:

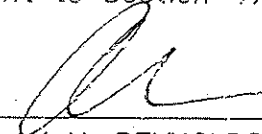
This Survey is Certified to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

I HEREBY CERTIFY that the attached Sketch and Description of the hereon described property is true and correct to the best of my knowledge and belief as prepared under my direction. I FURTHER CERTIFY that this Sketch and Description meets the Minimum Technical Standards set forth in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Date: 10/28/09

*Sordra*

*Loganwell*

  
ALAN M. REYNOLDS, P.S.M.  
Florida Registration No. 6346  
AVIROM & ASSOCIATES, INC.  
L.B. No. 3300

PAGE 4 OF 10

| REVISIONS                |                 |  <b>AVIROM &amp; ASSOCIATES, INC.</b><br><b>SURVEYING &amp; MAPPING</b><br>50 S.W. 2ND AVENUE, SUITE 102<br>BOCA RATON, FLORIDA 33432<br>TEL. (561) 392-2594, FAX (561) 394-7125<br>www.AVIROM-SURVEY.com<br><small>© 2009 AVIROM &amp; ASSOCIATES, INC. ALL RIGHTS RESERVED.</small> | SCALE   |          |
|--------------------------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------|
| REVISE LEGAL             | 06/03/09 A.M.R. |                                                                                                                                                                                                                                                                                                                                                                          | DATE    | 05/20/09 |
| REVISE PER DEP CHECKLIST | 10/28/09 A.M.R. |                                                                                                                                                                                                                                                                                                                                                                          | BY      | A.M.R.   |
|                          |                 |                                                                                                                                                                                                                                                                                                                                                                          | CK'D.   | M.D.A.   |
|                          |                 |                                                                                                                                                                                                                                                                                                                                                                          | F.B.    | PG.      |
|                          |                 |                                                                                                                                                                                                                                                                                                                                                                          | JOB NO. | 8460-8   |

# EXHIBIT "A"

## SKETCH AND DESCRIPTION

### CAPE CANAVERAL POWER PLANT

### UPLAND FILLED AREA

#### SURVEYOR'S REPORT:

1. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.
2. The Legal Description is in accord with the Ownership & Encumbrance Search provided by the client, prepared by Chicago Title Insurance Agency, Inc. and dated May 23, 2008. It is possible that there are Deeds, Easements, or other instruments (recorded or unrecorded) which may affect the subject property. No search of the Public Records has been made by the Surveyor.
3. The undersigned surveyor has no knowledge as to whether any of the hereon property is filled formerly submerged lands.  
\*(See exception on sheet No. 2)  
The approximate Ordinary High Water Line (before the creation of the peninsula) is shown using historical aerial photographs created by the US Department of Agriculture, dated 1951. The aerial photographs were found on the University of Florida website below.  
([Http://web.uflib.ufl.edu/digital/collections/flap](http://web.uflib.ufl.edu/digital/collections/flap))
4. No underground improvements were located.
5. Bearings and Coordinates shown hereon are referenced to Grid North, based on the 1990 adjustment of the North American Datum of 1983 (NAD 83/90) of the Florida State Plane Coordinate System (Transverse Mercator Projection), East Zone, with the east right-of-way line of U.S. Highway No. 1, having a bearing of N 14°53'20" W.
6. Elevations shown hereon are based on the North American Vertical Datum of 1988.
7. Benchmark Description: National Geodetic Survey Bench Mark 872 1574 Tidal #1 (PID AK6957) Elevation = 13.36 feet (NAVD 88)
8. Ordinary High Water Line information was provided by the Florida Bureau of Survey and Mapping. Ordinary High Water Line = 1.10' (N.G.V.D. 29) and converted to -0.24' (N.A.V.D. 88).
9. The Safe Upland Line (elevation 1.10 NGVD 29) is at or above the approximate Ordinary High Water Line.
10. Elevations were converted from N.G.V.D. 1929 to N.A.V.D. 1988 using Corpscon version 5.11.08 as found on Land Boundary Information System internet web site ([www.labins.org](http://www.labins.org)).
11. Abbreviation Legend: C= Centerline;  
F.P.L.= Florida Power & Light Company; L.B.= Licensed Business;  
N.G.V.D.=National Geodetic Vertical Datum; P.S.M.= Professional Surveyor and Mapper;  
N.A.V.D.= North American Vertical Datum.
12. This is a FIELD SURVEY.

PAGE 5 OF 10

| REVISIONS                                | AVIROM & ASSOCIATES, INC.<br>SURVEYING & MAPPING      | SCALE          |
|------------------------------------------|-------------------------------------------------------|----------------|
| REVISE LEGAL 06/03/09 A.M.R.             | 50 S.W. 2ND AVENUE, SUITE 102                         | DATE 05/20/09  |
| REVISE PER DEP CHECKLIST 10/28/09 A.M.R. | BOCA RATON, FLORIDA 33432                             | BY A.M.R.      |
|                                          | TEL. (561) 392-2594, FAX (561) 394-7125               | CK'D. M.D.A.   |
|                                          | www.AVIROM-SURVEY.com                                 | F.B. PG. -     |
|                                          | © 2009 AVIROM & ASSOCIATES, INC. ALL RIGHTS RESERVED. | JOB NO. 8460-8 |



# EXHIBIT "A"

## SKETCH AND DESCRIPTION

### CAPE CANAVERAL POWER PLANT

### UPLAND FILLED AREA

LINE TABLE

| No. | BEARING     | DISTANCE |
|-----|-------------|----------|
| L1  | N52°23'52"E | 1.20'    |
| L2  | S48°20'57"E | 27.90'   |
| L3  | S35°12'29"W | 1.80'    |
| L4  | S66°11'51"E | 31.20'   |
| L5  | S37°59'01"E | 19.34'   |
| L6  | S67°43'53"E | 28.31'   |
| L7  | S79°43'04"E | 55.27'   |
| L8  | S84°28'52"E | 56.13'   |
| L9  | S81°19'03"E | 49.44'   |
| L10 | S83°53'23"E | 52.45'   |
| L11 | S79°16'44"E | 46.12'   |
| L12 | S78°14'16"E | 60.38'   |
| L13 | S81°04'29"E | 62.40'   |
| L14 | S85°19'43"E | 52.85'   |
| L15 | N89°05'19"E | 163.90'  |
| L16 | N89°13'22"E | 110.21'  |
| L17 | N89°22'24"E | 50.85'   |
| L18 | S89°03'48"E | 50.48'   |
| L19 | N81°01'52"E | 40.04'   |
| L20 | S87°22'00"E | 109.67'  |
| L21 | N82°07'27"E | 58.69'   |
| L22 | N87°29'40"E | 53.08'   |
| L23 | N82°16'19"E | 61.08'   |
| L24 | S87°09'16"E | 111.65'  |
| L25 | N81°31'06"E | 50.32'   |
| L26 | S83°26'17"E | 48.14'   |
| L27 | N88°28'43"E | 35.82'   |
| L28 | S89°36'28"E | 64.95'   |
| L29 | S89°47'43"E | 92.54'   |
| L30 | S88°00'04"E | 58.02'   |
| L31 | N85°21'47"E | 53.49'   |
| L32 | N78°33'49"E | 54.42'   |
| L33 | S86°06'38"E | 46.03'   |
| L34 | N89°04'29"E | 57.86'   |
| L35 | S88°16'08"E | 41.48'   |
| L36 | S85°38'13"E | 59.82'   |
| L37 | S87°13'39"E | 39.85'   |
| L38 | N86°51'41"E | 43.70'   |
| L39 | N86°23'12"E | 70.09'   |
| L40 | S80°21'26"E | 40.42'   |

LINE TABLE

| No. | BEARING     | DISTANCE |
|-----|-------------|----------|
| L41 | S88°57'04"E | 61.04'   |
| L42 | N86°45'45"E | 57.70'   |
| L43 | N85°45'54"E | 51.10'   |
| L44 | N89°02'51"E | 55.96'   |
| L45 | N85°13'57"E | 54.54'   |
| L46 | S76°00'09"E | 19.78'   |
| L47 | S83°23'43"E | 20.31'   |
| L48 | S39°08'49"E | 22.43'   |
| L49 | S72°39'54"E | 18.72'   |
| L50 | S42°51'23"E | 18.97'   |
| L51 | S27°38'51"W | 25.55'   |
| L52 | S52°25'12"W | 17.91'   |
| L53 | N88°20'29"W | 76.15'   |
| L54 | S84°39'28"W | 38.95'   |
| L55 | N88°32'42"W | 49.33'   |
| L56 | S82°43'06"W | 59.64'   |
| L57 | S77°07'52"W | 54.91'   |
| L58 | S88°53'09"W | 54.40'   |
| L59 | N80°30'49"W | 55.78'   |
| L60 | N83°01'58"W | 51.39'   |
| L61 | S84°54'13"W | 48.47'   |
| L62 | N78°04'10"W | 31.52'   |
| L63 | N87°44'28"W | 18.00'   |
| L64 | S88°51'22"W | 55.71'   |
| L65 | S81°50'12"W | 40.69'   |
| L66 | S80°34'20"W | 54.93'   |
| L67 | S79°55'08"W | 52.41'   |
| L68 | S83°13'24"W | 17.16'   |
| L69 | N58°07'20"W | 24.76'   |
| L70 | N79°22'48"W | 13.72'   |
| L71 | S81°05'52"W | 55.20'   |
| L72 | S72°58'47"W | 44.20'   |
| L73 | S65°04'09"W | 20.76'   |
| L74 | S76°23'17"W | 55.28'   |
| L75 | S66°03'38"W | 38.07'   |
| L76 | N81°25'43"W | 53.18'   |
| L77 | N81°13'33"W | 43.92'   |
| L78 | N84°24'34"W | 94.90'   |
| L79 | N69°24'18"W | 27.86'   |
| L80 | S77°34'39"W | 51.08'   |

LINE TABLE

| No.  | BEARING     | DISTANCE |
|------|-------------|----------|
| L81  | S84°05'40"W | 53.40'   |
| L82  | S70°40'21"W | 49.69'   |
| L83  | S62°21'00"W | 70.31'   |
| L84  | S01°35'50"E | 13.75'   |
| L85  | S88°24'10"W | 2.50'    |
| L86  | N01°35'50"W | 79.14'   |
| L87  | N78°06'54"W | 92.60'   |
| L88  | S82°02'31"W | 54.39'   |
| L89  | S80°47'08"W | 44.95'   |
| L90  | S76°23'04"W | 75.97'   |
| L91  | S72°42'52"W | 65.89'   |
| L92  | S51°25'25"W | 40.54'   |
| L93  | S00°39'45"E | 28.92'   |
| L94  | S89°08'12"W | 43.51'   |
| L95  | N00°55'40"W | 60.30'   |
| L96  | N66°03'09"W | 8.86'    |
| L97  | N84°07'49"W | 20.40'   |
| L98  | N87°33'01"W | 27.93'   |
| L99  | S89°59'16"W | 33.38'   |
| L100 | S89°08'33"W | 49.70'   |
| L101 | S88°32'59"W | 47.17'   |
| L102 | N85°51'37"W | 57.56'   |
| L103 | S79°44'00"W | 46.86'   |
| L104 | S68°12'45"W | 20.89'   |
| L105 | N76°43'25"W | 14.47'   |
| L106 | S84°48'07"W | 74.09'   |
| L107 | S81°14'09"W | 62.61'   |
| L108 | S70°47'13"W | 22.81'   |
| L109 | S57°34'21"W | 39.16'   |
| L110 | S41°15'23"W | 6.63'    |

PAGE 6 OF 10

|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                       |         |          |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------|
| REVISIONS                                |  <div><b>AVIROM &amp; ASSOCIATES, INC.</b><br/><b>SURVEYING &amp; MAPPING</b><br/>50 S.W. 2ND AVENUE, SUITE 102<br/>BOCA RATON, FLORIDA 33432<br/>TEL. (561) 392-2594, FAX (561) 394-7125<br/><a href="http://www.AVIROM-SURVEY.com">www.AVIROM-SURVEY.com</a><br/>© 2009 AVIROM &amp; ASSOCIATES, INC. ALL RIGHTS RESERVED.</div> | SCALE   | -        |
| REVISE LEGAL 06/03/09 A.M.R.             |                                                                                                                                                                                                                                                                                                                                                                                                                       | DATE    | 05/20/09 |
| REVISE PER DEP CHECKLIST 10/28/09 A.M.R. |                                                                                                                                                                                                                                                                                                                                                                                                                       | BY      | A.M.R.   |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                       | CK'D.   | M.D.A.   |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                       | F.B.    | - PG. -  |
|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                       | JOB NO. | 8460-8   |

# EXHIBIT "A"

## SKETCH AND DESCRIPTION

### CAPE CANAVERAL POWER PLANT

### UPLAND FILLED AREA

SECTIONS 19, TOWNSHIP 23 S., RANGE 36 E. BREVARD COUNTY, FLORIDA

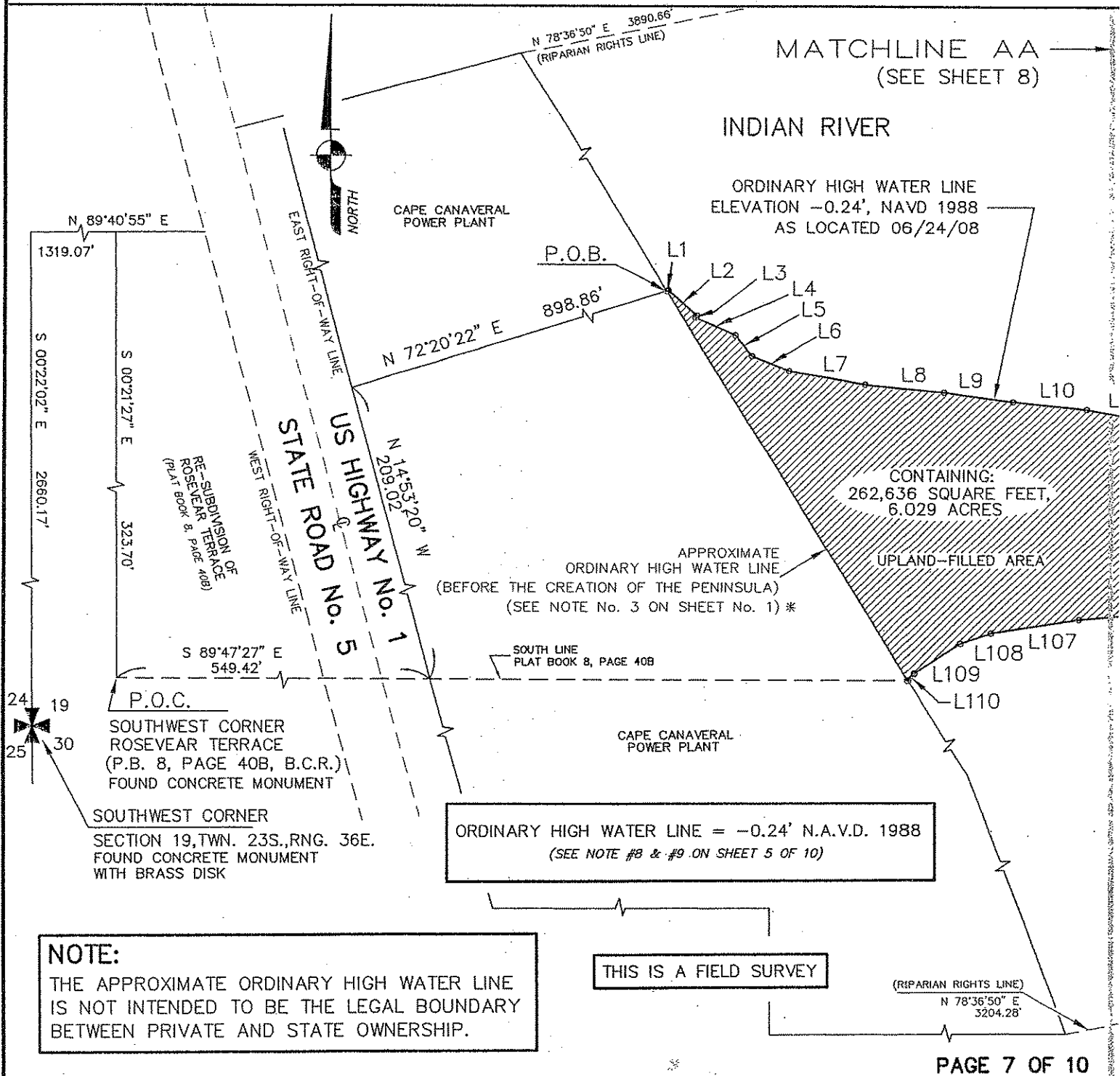
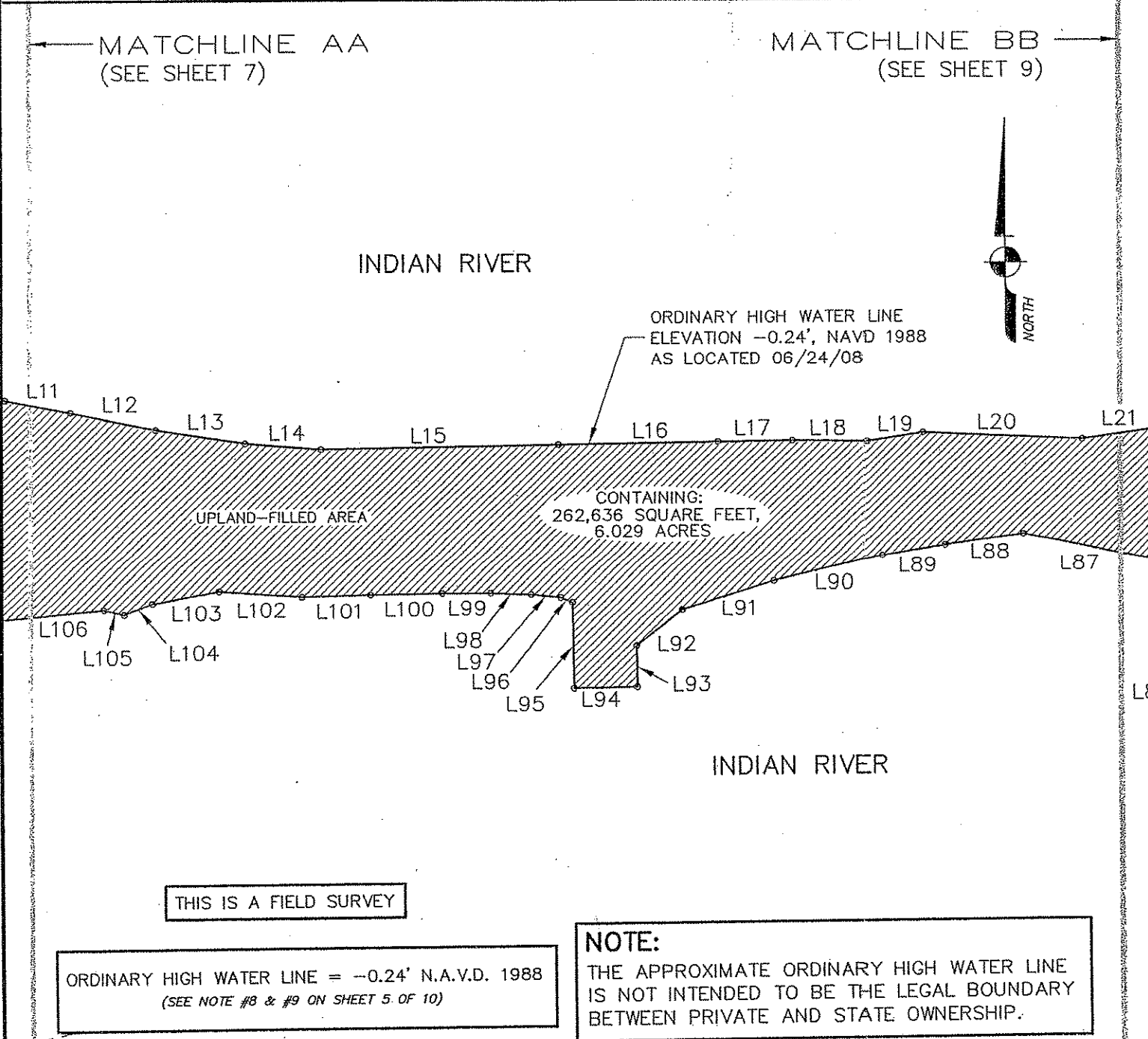


EXHIBIT "A"  
SKETCH AND DESCRIPTION  
CAPE CANAVERAL POWER PLANT  
UPLAND FILLED AREA

SECTIONS 19, TOWNSHIP 23 S., RANGE 36 E. BREVARD COUNTY, FLORIDA



PAGE 8 OF 10

|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   |         |           |
|--------------------------|-----------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-----------|
| REVISIONS                |                 |  | <b>AVIROM &amp; ASSOCIATES, INC.</b><br><b>SURVEYING &amp; MAPPING</b><br>50 S.W. 2ND AVENUE, SUITE 102<br>BOCA RATON, FLORIDA 33432<br>TEL. (561) 392-2594, FAX (561) 394-7125<br>www.AVIROM-SURVEY.com<br>© 2009 AVIROM & ASSOCIATES, INC. ALL RIGHTS RESERVED. | SCALE   | 1" = 100' |
| REVISE LEGAL             | 06/03/09 A.M.R. |                                                                                     |                                                                                                                                                                                                                                                                   | DATE    | 05/20/09  |
| REVISE PER DEP CHECKLIST | 10/28/09 A.M.R. |                                                                                     |                                                                                                                                                                                                                                                                   | BY      | A.M.R.    |
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   | CK'D.   | M.D.A.    |
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   | F.B.    | PG.       |
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   | JOB NO. | 8460-8    |

EXHIBIT "A"  
SKETCH AND DESCRIPTION  
CAPE CANAVERAL POWER PLANT  
UPLAND FILLED AREA

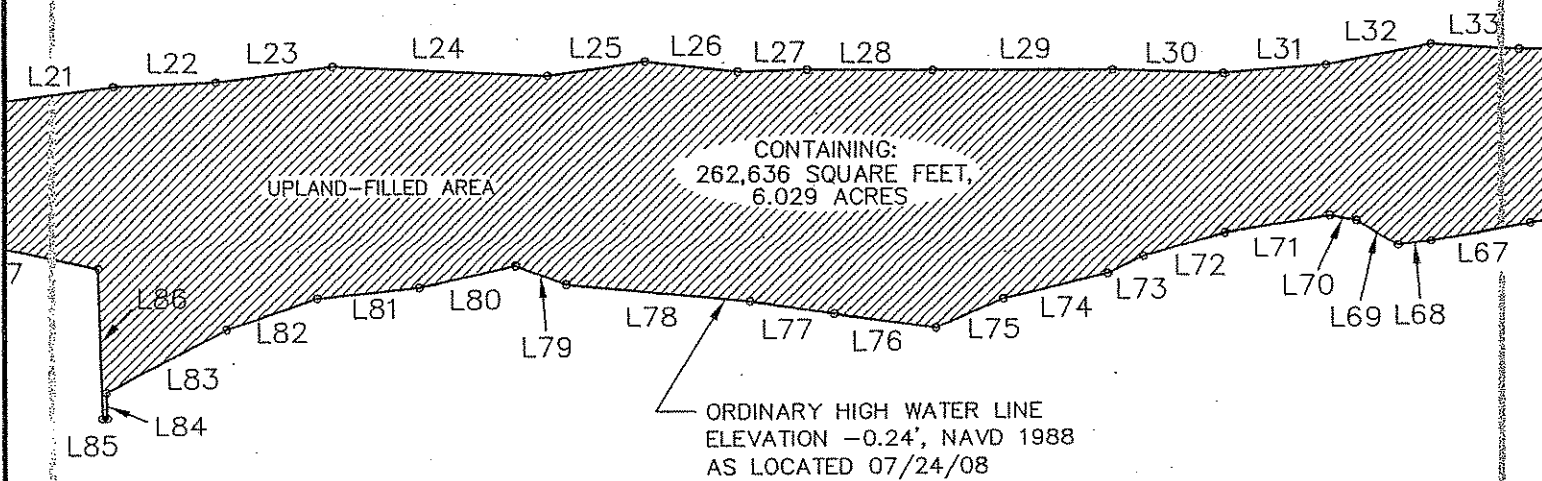
SECTIONS 19, TOWNSHIP 23 S., RANGE 36 E. BREVARD COUNTY, FLORIDA

MATCHLINE BB  
(SEE SHEET 8)

MATCHLINE CC  
(SEE SHEET 10)



INDIAN RIVER



INDIAN RIVER

THIS IS A FIELD SURVEY

ORDINARY HIGH WATER LINE = -0.24' N.A.V.D. 1988  
(SEE NOTE #8 & #9 ON SHEET 5 OF 10)

NOTE:

THE APPROXIMATE ORDINARY HIGH WATER LINE  
IS NOT INTENDED TO BE THE LEGAL BOUNDARY  
BETWEEN PRIVATE AND STATE OWNERSHIP.

PAGE 9 OF 10

REVISIONS

REVISE LEGAL 06/03/09 A.M.R.  
REVISE PER DEP CHECKLIST 10/28/09 A.M.R.



**AVIROM & ASSOCIATES, INC.**  
**SURVEYING & MAPPING**

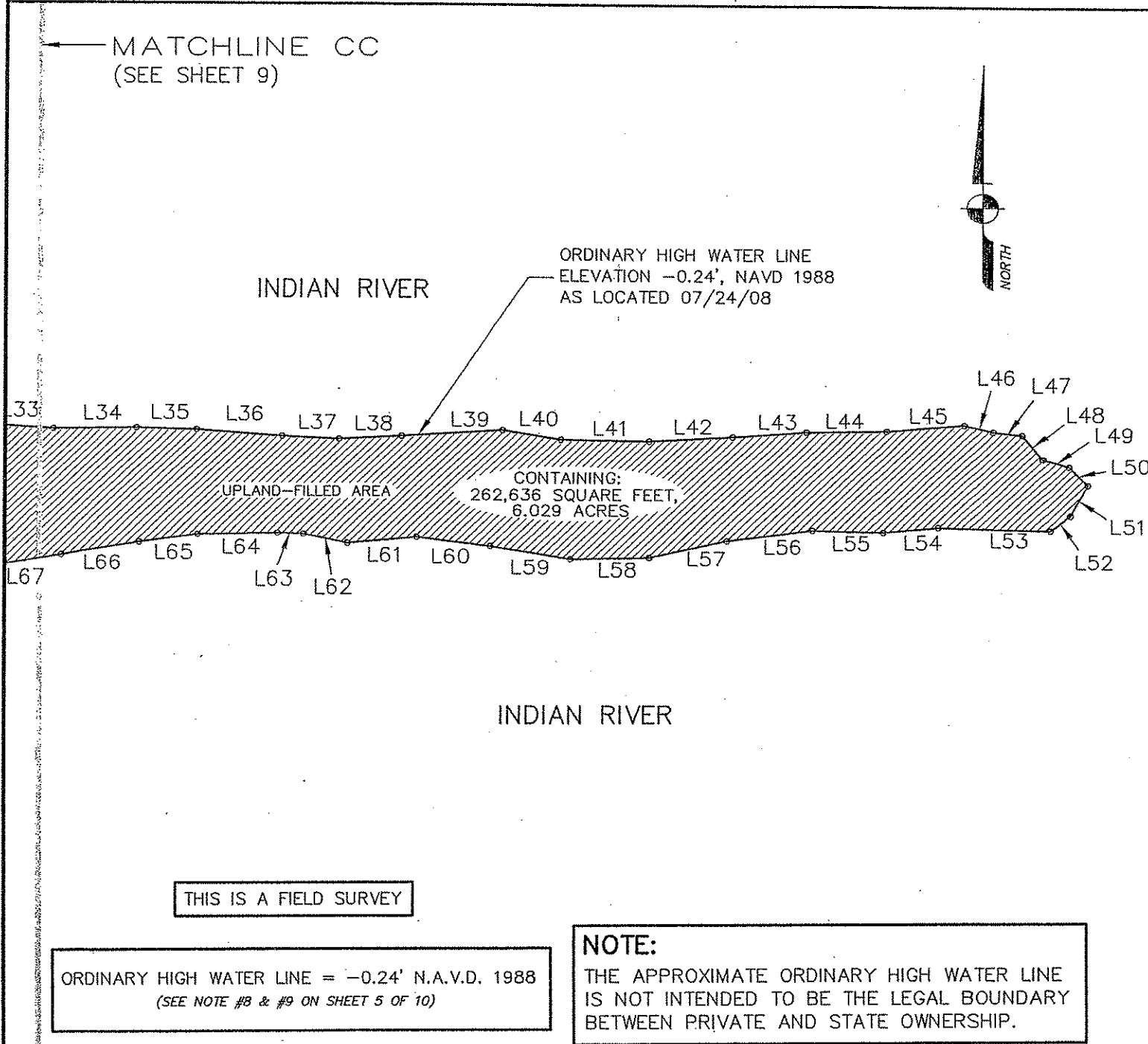
50 S.W. 2ND AVENUE, SUITE 102  
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SCALE 1" = 100'  
DATE 05/20/09  
BY A.M.R.  
CK'D. M.D.A.  
F.B. - PG. -  
JOB NO. 8460-8

EXHIBIT "A"  
SKETCH AND DESCRIPTION  
CAPE CANAVERAL POWER PLANT  
UPLAND FILLED AREA

SECTIONS 19, TOWNSHIP 23 S., RANGE 36 E. BREVARD COUNTY, FLORIDA



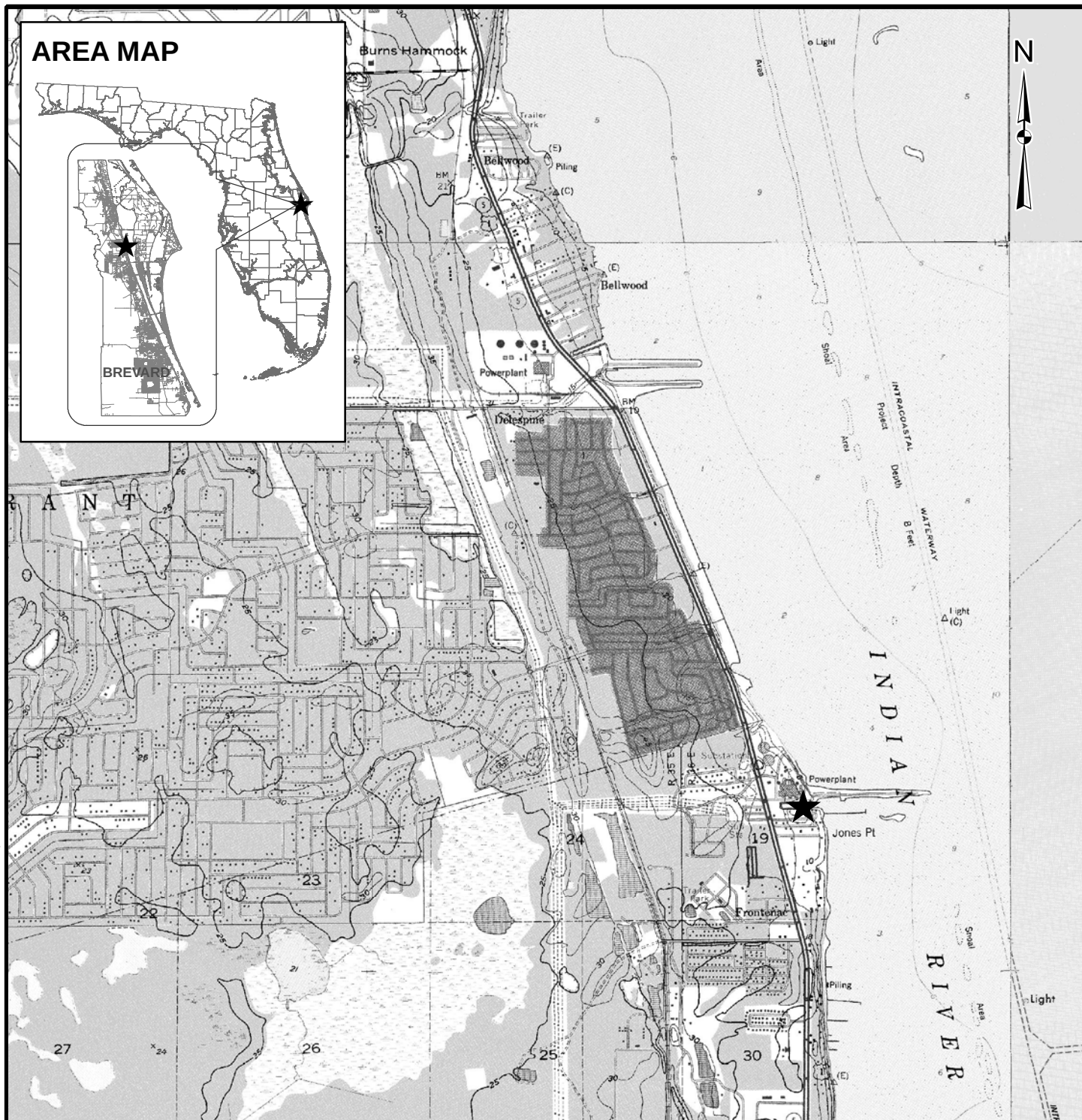
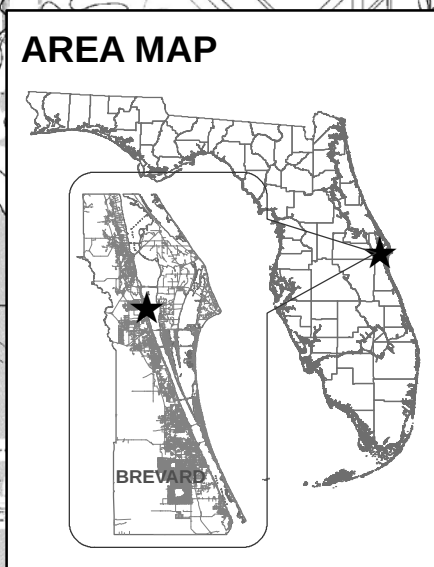
PAGE 10 OF 10

| REVISIONS                |                 |  | <b>AVIROM &amp; ASSOCIATES, INC.</b><br><b>SURVEYING &amp; MAPPING</b><br>50 S.W. 2ND AVENUE, SUITE 102<br>BOCA RATON, FLORIDA 33432<br>TEL. (561) 392-2594, FAX (561) 394-7125<br>www.AVIROM-SURVEY.com<br>© 2009 AVIROM & ASSOCIATES, INC. ALL RIGHTS RESERVED. |  | SCALE 1" = 100' |          |
|--------------------------|-----------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------|----------|
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   |  | DATE            | 05/20/09 |
| REVISE LEGAL             | 06/03/09 A.M.R. |                                                                                     |                                                                                                                                                                                                                                                                   |  | BY              | A.M.R.   |
| REVISE PER DEP CHECKLIST | 10/28/09 A.M.R. |                                                                                     |                                                                                                                                                                                                                                                                   |  | CK'D.           | M.D.A.   |
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   |  | F.B.            | PG.      |
|                          |                 |                                                                                     |                                                                                                                                                                                                                                                                   |  | JOB NO.         | 8460-8   |

**ATTACHMENT F: MAP 1 – PLANT INTAKE CANAL**

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

## AREA MAP



## LEGEND

★ Project Location

## REFERENCES

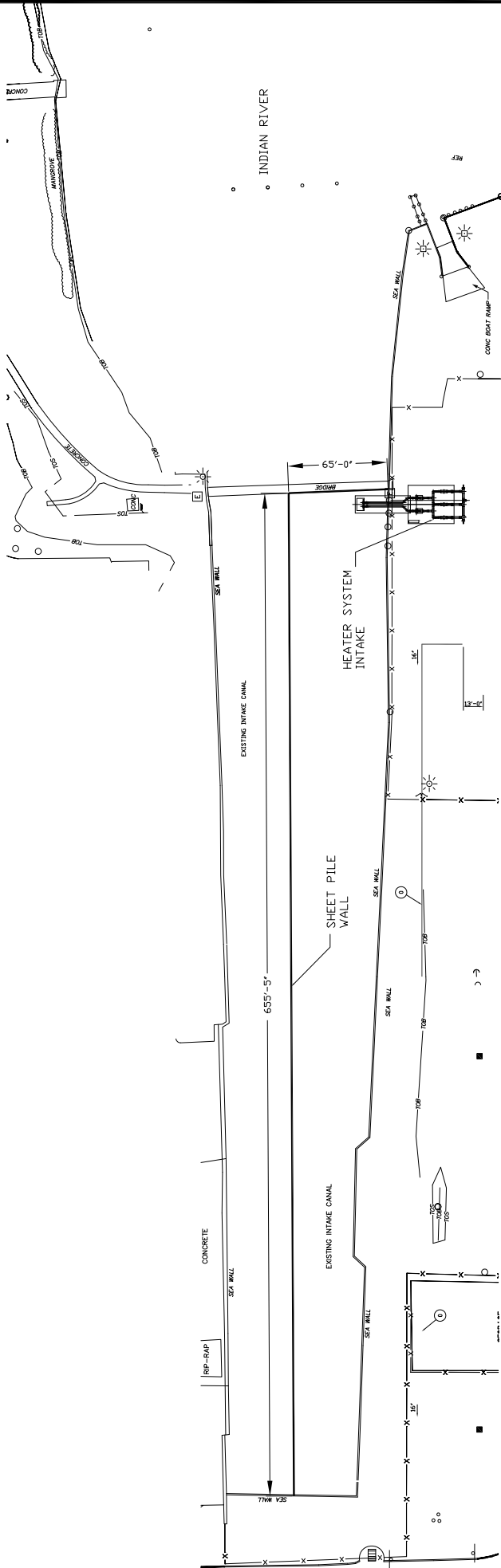
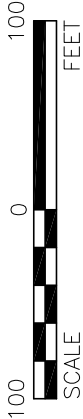
1. Project Location, FPL, 2009.

| REV.                                      | DATE | DES | REVISION DESCRIPTION | GIS       | CHK             | RVW |
|-------------------------------------------|------|-----|----------------------|-----------|-----------------|-----|
| PROJECT                                   |      |     |                      |           |                 |     |
| FPL<br>CAPE CANAVERAL ENERGY CENTER       |      |     |                      |           |                 |     |
| TITLE                                     |      |     |                      |           |                 |     |
| INTAKE CANAL DIVIDER<br>USGS LOCATION MAP |      |     |                      |           |                 |     |
| PROJECT No.                               |      |     | 093-87573            | FILE No.  |                 |     |
| DESIGN                                    |      |     | CMC                  | 1/4/2010  | SCALE: AS SHOWN |     |
| GIS                                       |      |     | NRL                  | 1/5/2010  | REV. 0          |     |
| CHECK                                     |      |     | CMC                  | 1/12/2010 | <b>FIGURE 1</b> |     |
| REVIEW                                    |      |     | MH                   | 1/12/2010 |                 |     |



**ATTACHMENT G: MAP 2 – PLANT INTAKE CANAL**

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



REFERENCES

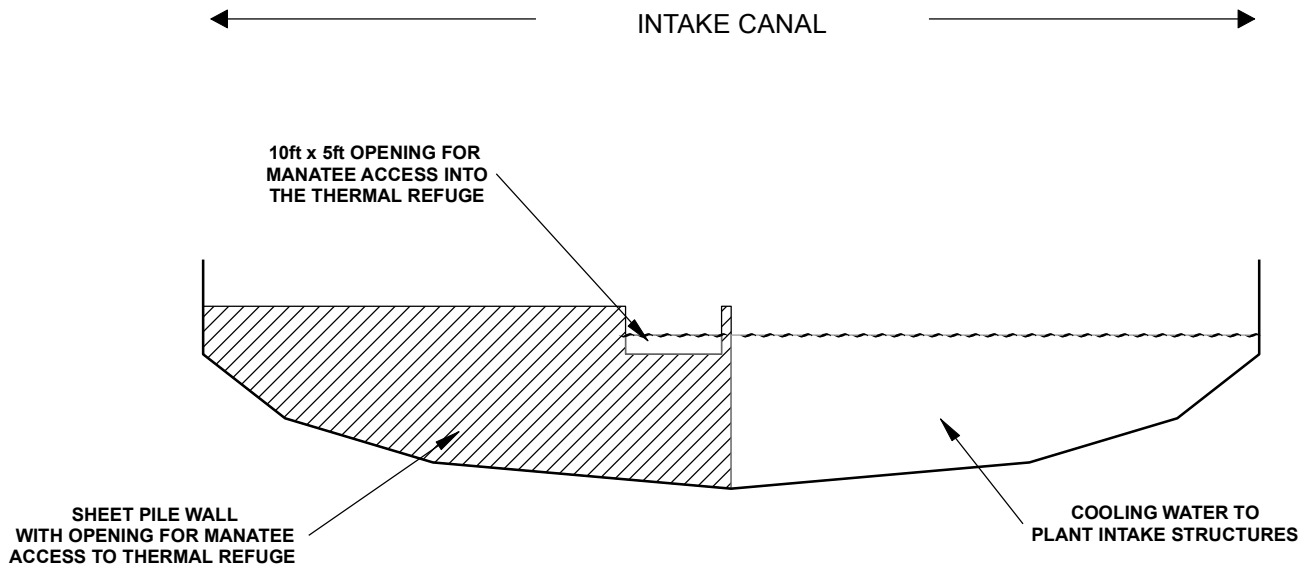
WORLEY PARSONS DRAWING FLORIDA POWER & LIGHT  
COMPANY CIRCULATING WATER HEATING SYSTEM CAPE  
CANAVERAL DRAWING Nos. PCAP-0-DW-017-002-001,  
PCAP-0-DW-017-002-002, Rev. F, DATED 3/16/2010,  
USED AS BASE MAP.

|                        |                |          |
|------------------------|----------------|----------|
| TITLE                  |                |          |
| PROJECT No. 093-87573  |                |          |
| FILE No. 09387573_D001 |                |          |
| REV. 0                 | SCALE AS SHOWN |          |
| DESIGN                 | MH             | 02/17/11 |
| CADD                   | NRL            | 02/23/11 |
| CHECK                  | MH             | 03/07/11 |
| REVIEW                 | MH             | 03/07/11 |

FIGURE 2

PROJECT

FPL  
CAPE CANAVERAL ENERGY CENTER



VIEW LOOKING WEST

#### NOTES

The above illustration is an elevation view of the east end of the cooling water intake canal at the pedestrian bridge showing the 10ft x 5ft opening for manatee access into the thermal refuge.

#### REFERENCES

1. Proposed Modification Cross Section, FPL, 2011.

| REV.                                  | DATE | DES | REVISION DESCRIPTION | GIS                 | CHK | RVW |
|---------------------------------------|------|-----|----------------------|---------------------|-----|-----|
| PROJECT                               |      |     |                      |                     |     |     |
| FPL<br>CAPE CANAVERAL ENERGY CENTER   |      |     |                      |                     |     |     |
| TITLE                                 |      |     |                      |                     |     |     |
| INTAKE CANAL DIVIDER<br>CROSS SECTION |      |     |                      |                     |     |     |
| PROJECT No.                           |      |     | 093-87573            | FILE No.            |     |     |
| DESIGN                                |      |     | MH 02/17/2011        | SCALE: Not to Scale |     |     |
| GIS                                   |      |     | NRL 02/17/2011       | REV. 0              |     |     |
| CHECK                                 |      |     | MH 03/07/2011        | FIGURE 3            |     |     |
| REVIEW                                |      |     | MH 03/07/2011        |                     |     |     |

