State of Florida Department of Environmental Protection
TECO Power Services/Seminole Electric Cooperative, Inc./FPL
Hardee Power Station
PA 89-25I Modified 12/6/18

CONDITIONS OF CERTIFICATION

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ATTACHMENTS & EXHIBITS

Attachment A — Charlotte-Lee Transmission Line
Attachment B — Pebbledale Transmission Line
Attachment C — Vandolah-Charlotte Transmission Line

Exhibit A — ROW in Webb Wildlife Management Area *(placeholder)*
Exhibit B — Hall Acquisition - Webb Wildlife Management Area *(placeholder)*
Exhibit C — Zones A and B Floodplain Peace River *(placeholder)*
Exhibit D — Peace River Eagle Nest Location *(placeholder)*

I. GENERAL

A. Definitions

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

1. "Application" shall mean the Site Certification Application for the Hardee Power Station, as supplemented.

2. "CFRPC" shall mean the Central Florida Regional Planning Council.

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

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

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

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

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

8. "Lee transmission line" shall mean the right-of-way depicted in Attachment A.

9. "Linear facility" shall mean any one of the three transmission lines or the natural gas pipeline associated with the Hardee Power Station.

10. "M/C" shall mean mitigation/compensation.

11. "Pebbledale transmission line" shall mean the right-of-way depicted in Attachment B.

12. "Permittees" shall mean Hardee Power Partners Limited (HPPL), Tampa Electric Company (TEC), Seminole Electric Cooperative, Inc. (SECI), and Florida Power & Light Company (FPL).

13. "Power plant" shall mean the electric power generating equipment and appurtenances to be constructed on a site in Hardee County and Polk County, as generally depicted in the Application.

14. "Project" shall mean the Hardee Power Station and all associated facilities, including: the power plant and related facilities; the cooling reservoir and related facilities; any off-site mitigation/compensation areas; and all of the linear facilities.

15. "ROW" shall mean the transmission line and natural gas pipeline rights-of-way to be selected by the Permittees within the certified corridors in accordance with the conditions of certification.

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

17. "SWFRPC" shall mean the Southwest Florida Regional Planning Council.

18. "SWFWMD" shall mean the Southwest Florida Water Management District.

19. "USFWS" shall mean the United States Fish and Wildlife Service.

20. "Vandolah transmission line" shall mean the right-of-way depicted in Attachment C.

21. "WMD" shall mean Water Management District.

22. "ISO" shall mean International Organization for Standardization, ISO 3977-1978(E) standard conditions for gas turbines = 14.7 psia, 15 C, relative humidity 60%.

B. Identification of Permittees Responsible for Compliance

In general, where a specific condition is intended to apply solely to one of the Permittees, this shall be indicated in the title for that specific condition by the following abbreviations:

HPPL - Hardee Power Partners Limited
TEC - Tampa Electric Company
SECI - Seminole Electric Cooperative, Inc.
FPL – Florida Power & Light Company

Similarly, where a specific condition is intended to apply to any two of the

Permittees, this shall be indicated by listing in the title the respective abbreviations. Where a specific condition is intended to apply to HPPL, TEC, SECI, and FPL, the designation "HPS" (for "Hardee Power Station") shall appear.

C. Applicable Rules

The construction and operation of the HPS shall be in accordance with all applicable provisions of at least the following regulations of the Department: Chapters 62-4, 62-17, 62-25, 62-256, 62-296, 62-297, 62-301, 62-302, 62-531, 62-532, 62-550, 62-555, 62-560, 62-600, 62-601, 62-604, 62-610, 62-620, 62-621, 62-650, 62-660, 62-699, 62-701, 62-762, 62-769, 62-770, and 62-814, Florida Administrative Code (F.A.C.) or their successors as they are renumbered.

II. AIR (HPPL)

The construction and operation of HPS shall be in accordance with all applicable provisions of Chapters 62-204, 62-210, 62-256, 62-296, 62-701, and 62-704, F.A.C., Permit PSD-FL-140 and approved Title V permit program where applicable and as those provisions may be modified, amended, or renewed in the future by the Department. The current Title V Air Operation Permit (049001-005-AV) is incorporated by reference herein as part of this Certification and is attached as Appendix II. The provisions of the Title V Air Operation Permit shall be conditions of this certification and shall be fully enforceable. Any violation of such provisions shall be a violation of these Conditions of Certification.

III. SURFACE WATER DISCHARGES (HPPL)

A. Industrial Wastewater Permit Number FL0041751 which is attached as Appendix I, is incorporated by reference herein as part of this certification. The provisions of Industrial Wastewater Permit Number FL0041751 shall be conditions of this certification. The licensee shall comply with the substantive provisions and limitations set forth in Industrial Wastewater Permit Number FL0041751 as part of these Conditions of Certification, and as those provisions may be modified in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification. Any violation of such provisions shall be a violation of these Conditions of Certification.

B. The outfall from the cooling reservoir to waters of the state (OSN 001) shall be used in common by all power generating facilities certified under certification Order No. 89-25SA and this certification. Discharges from OSN 001 are regulated by these certifications and by separate NPDES Permits issued to HPPL (NPDES Permit No. FL0041571 or as subsequently revised) and to SECI for Unit 3 (NPDES Permit No. FL0044229 or as subsequently revised). Both permittees (HPPL and SECI) are authorized to discharge from the cooling reservoir to Payne Creek via OSN 001. Both permittees are joint operators of the cooling reservoir with respect to discharges from OSN 001. In any civil action (judicial or administrative), EPA or

DEP may allege that the joint operators are jointly and severally liable for penalties, damages, costs and expenses, or corrective actions for violations at OSN 001, and neither permittee shall assert as an affirmative defense any violations at OSN 001 were caused by the conduct of the other permittee. This provision shall not limit or affect the rights, liability, claims, or defenses that the separate permittees may have in actions between themselves or with other parties, or in any criminal action arising out of the separate permits.

IV. GROUND WATER (HPPL)

A. Water Well Construction Permit

Prior to the construction, modification, or abandonment of a production well for the HPS, the permittee must notify the SWFWMD pursuant to Chapter 40D-4, Florida Administrative Code. Construction, modification, or abandonment of a production well will require modification of the HPS consumptive use conditions when such construction, modification or abandonment is other than that specified and described on HPS consumptive use information as addressed in the application. The construction, modification, or abandonment of a monitor well specified in Condition IV.F. will require the prior approval of the Department.

B. Well Criteria, Tagging and Wellfield Operating Plan

Leaking or inoperative well casings, valves, or controls must be repaired or replaced as required to put the system back in an operative condition acceptable to the SWFWMD. Failure to make such repairs will be cause for deeming the well abandoned in accordance with Chapter 62-232, Florida Administrative Code, Chapter 373.309, Florida Statutes. Wells deemed abandoned will require plugging according to applicable regulations.

A SWFWMD-issued identification tag must 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 40D-2, Florida Administrative Code. The HPS must notify the SWFWMD in the event that a replacement tag is needed.

C. Maximum Annual Withdrawals

The use of groundwater from the proposed wellfield shall not exceed 3.8 million gallons per day ("mgd") on an average daily basis (averaged over a 12 month period) or a maximum 8.64 mgd on any day.

The use of the Floridan aquifer potable water for control of fugitive dust emissions is prohibited when alternatives are available, such as treated discharges, shallow aquifer wells, or stormwater. The use of Floridan aquifer potable water for the sole purpose of waste stream dilution is prohibited.

D. Water Use Transfer

The SWFWMD must be notified, in writing, within 90 days of the transfer of this certification. All transfers are subject to the provisions of Chapter 40D-2, Florida Administrative Code, which state that all terms and conditions of the permit shall be binding of the transferee.

E. Emergency Shortages

Nothing in this certification is to be construed to limit the authority of the SWFWMD to declare a water shortage and issue orders pursuant to Section 373.175, Florida Statutes, or to formulate a plan for implementation during periods of water shortage, pursuant to Section 373.246, Florida Statutes. In the event of a water shortage, as declared by the District Governing Board, the HPS shall adhere to reductions in water withdrawals as specified by the SWFWMD.

In the event SWFWMD declares that a water shortage exists pursuant to Chapter 40D-21, FAC, SWFWMD may alter, modify, or declare inactive all or parts of this certification as necessary to address the water shortage, after notice and a reasonable opportunity for compliance.

F. Monitoring and Reporting

1. Report Submission

All required reports of data shall be submitted to SWFWMD on or before the tenth day of each month and shall be addressed to

Permits Data Group
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Florida 33469-6988

2. Flow Meters

HPS wells identified with District withdrawal Nos. 1, 2, and 3 shall be equipped with totalizing flow meters or other flow measuring devices as approved in writing by the Director, Bartow Permitting Department, Resource Regulation. Such devices shall have and maintain an accuracy within 5 percent of actual flow. Those designated withdrawal points not equipped with such devices on the date the site certification is granted must be equipped within 120 days of the site certification date or upon completion of construction of the withdrawal facility, unless an extension is approved in writing by the Director, Bartow Permitting Department, Resource Regulation.

3. Total withdrawal from each monitored source shall be recorded on a monthly basis and reported to SWFWMD (using District forms) on or before the tenth day of the

following month.

G. Sampling and Analysis Report

1. The Permittee shall submit a report describing the sampling and analytical methodologies employed. The report shall address all parameters for which analyses are performed. The report shall be included with the first data submitted after the date the site certification is granted and upon any change in sampling and/or analytical method.

2. Reports of the analyses shall be submitted to SWFWMD (using District forms) on or before the tenth day of the following month. The parameters and frequency of sampling and analysis may be modified by SWFWMD staff as necessary to ensure the protection of the resource. Water quality samples shall be collected and analyzed for the specified withdrawal point, parameter, and frequency.

District I.D. No.	Parameter	Sampling Frequency
1	Chlorides, Sulfates, Total Dissolved Solids	Quarterly

Analyses shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association - American Water Works Association - Water Pollution Control Federation (APHA - AWWA - WPCF) or Methods for Chemical Analyses of Water and Wastes by the U. S. Environmental Protection Agency (EPA).

H. Ground Water Monitoring Requirements

After consultation with the DEP and SWFWMD, the permittee shall install a monitoring well network to monitor ground water quality horizontally and vertically through the aquifer above the Hawthorn Formation. Ground water quantity and flow directions will be determined seasonally at the site through the preparation of seasonal water table contour maps, based upon water level data obtained during the applicant's preoperational monitoring program. From these maps and the results of the detailed subsurface investigation of site stratigraphy, the water quality monitoring well network will be located. A ground water monitoring plan that meets the requirements of Section 62-522, F.A.C., shall be submitted to the Department's Southwest District Office for review. Approval or disapproval of the ground water monitoring plan shall be given within 60 days of receipt. Ground water monitoring shall be required at HPS's sedimentation pond. Insofar as possible, the monitoring wells may be selected from the existing wells and piezometers used in the Permittee's preoperational monitoring program, provided that the wells' construction will not preclude their use. Existing wells will be properly sealed in accordance with Chapter 62-532, F.A.C., whenever they are abandoned due to construction of facilities. The water samples collected from each of the monitor wells shall be collected immediately after removal by pumping of a quantity of water equal to at least three casing volumes. The water quality analyses shall be performed monthly during the year prior to commercial operation and quarterly thereafter. No sampling or analysis is to be initiated until

receipt of written approval of a site-specific quality assurance project plan (QAPP) by the Department. Results shall be submitted to the DER by the fifteenth (15th) day of the month following the month during which such analyses were performed. Testing for the following constituents is required around unlined ponds or storage areas:

TDS	Cadmium
Conductance	Zinc
pH	Copper
Redox	Nickel
Sulfate	Selenium
Sulfite	Chromium
Color	Arsenic
Chloride	Beryllium
Iron	Mercury
Aluminum	Lead
Radium 226	Gross Alpha

I. Zone of Discharge

The HPS shall meet the groundwater criteria of Chapter 62-520, F.A.C. at the boundary of a mixing zone extending 100 feet from the outside toe of the cooling reservoir. A ground water monitoring program as described in Condition IV.H. shall be implemented to verify compliance with these requirements. Such sampling program shall commence at least 12 months prior to start of commercial operation of the HPS.

J. Water Samples

SWFWMD may collect water samples from any withdrawal point listed in the certificate or may require the Permittee to submit water samples when SWFWMD determines there is a potential for adverse impacts to water quality.

K. SWFWMD Access

The Permittee shall provide access to an authorized SWFWMD representative to enter the property at any reasonable time to inspect the facility and make environmental or hydrologic assessments. The Permittee shall either accompany SWFWMD staff onto the property or make provision for access onto the property.

L. Surface Water Reduction

The Permittee shall cease or reduce surface water withdrawal as directed by SWFWMD if water levels in lakes, other than the cooling reservoir, fall below applicable minimum water level established in Chapter 40D-8, F.A.C., or rates of flow in streams fall below the minimum levels established in Chapter 40D-8, F.A.C.

M. Conservation

The Permittee shall cease or reduce withdrawal as directed by SWFWMD if water levels in aquifers fall below the minimum levels established by the SWFWMD Governing Board.

The Permittee shall practice water conservation to increase the efficiency of transport, application, and use, as well as to decrease waste and to minimize runoff from the property. At such time as the SWFWMD Governing Board adopts specific conservation requirements for the Permittee's water use classification, the Permittee shall be subject to those requirements upon notice and after a reasonable period for compliance.

N. Special Regulations

SWFWMD may establish special regulations for Water-Use Caution Areas. At such time as the SWFWMD Governing Board adopts such provisions, the Permittee shall be subject to them upon notice and after a reasonable period for compliance.

O. Legal Use Impacts Mitigation

The Permittee shall mitigate, to the satisfaction of SWFWMD, any adverse impact to existing legal uses caused by withdrawals. When adverse impacts occur or are imminent, SWFWMD may require the Permittee to mitigate the impacts. Adverse impacts include:

1. A reduction in water levels which impairs the ability of a well to produce water;

2. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams or other watercourses; or

3. Significant inducement of natural or manmade contaminants into a water supply or into a usable portion of an aquifer or water body.

P. Environmental Impact Mitigation

The Permittee shall mitigate to the satisfaction of SWFWMD any adverse impact to environmental features or offsite land uses as a result of withdrawals. When adverse impacts occur or are imminent, SWFWMD may require the Permittee to mitigate the impacts. Adverse impacts include the following:

1. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams, or other watercourses;

2. Sinkholes or subsidence caused by reduction in water levels;

3. Damage to crops and other vegetation causing financial harm to the owner; and

4. Damage to the habitat of endangered or threatened species.

Q. Alternative Source Investigation

The Permittee shall investigate alternate sources of water supply on an on-going basis in an effort to reduce groundwater withdrawals. SWFWMD may direct the Permittee to report on the investigation through a written request, and allow the Permittee adequate time to prepare such a report.

V. CONTROL MEASURES DURING CONSTRUCTION (HPPL)

A. Sanitary Wastes

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

B. Environmental Control Program

Each permittee shall establish an environmental control program under the supervision of a qualified person to assure that all construction activities conform to good environmental practices and the applicable conditions of certification. A written plan for controlling pollution during construction shall be submitted to DEP within sixty days of issuance of the Certification. The plan shall identify and describe all pollutants and waste generated during construction and the methods for control, treatment and disposal. Each permittee shall notify the Department's Southwest District Office by telephone within 24 hours if possible if unexpected harmful effects or evidence of irreversible environmental damage are detected by it during construction, shall immediately report in writing to the Department, and shall within two weeks provide an analysis of the problem and a plan to eliminate or significantly reduce the harmful effects or damage and a plan to prevent reoccurrence.

C. Construction Dewatering Effluent

Should the permittee's dewatering operation create shoaling in adjacent water bodies, the permittee is responsible for removing such shoaling.

All offsite discharges resulting from dewatering activities must be in compliance with water quality standards required by DER Chapters 62-4, and 62-302, F.A.C., or such standards as issued through a variance by DER.

VI. SAFETY (HPPL)

The overall design, layout, and operation of the facilities shall be such as to minimize hazards to humans and the environment. Security control measures shall be utilized to prevent exposure of the public to hazardous conditions. The Federal Occupational Safety and Health Standards will be complied with during construction and operation. The Safety Standards specified under Section 440.56, F.S., by the Industrial Safety Section of the Florida Department of Commerce will also be complied with.

VII. SCREENING (HPPL)

The permittee shall provide screening of the site to the extent feasible through the use of aesthetically acceptable structures, vegetated earthen walls and/or existing or planted vegetation.

VIII. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS (HPPL)

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

IX. SOLID WASTE STORAGE AND DISPOSAL (HPPL)

Solid waste produced by the operation of the HPS shall be removed from site and disposed of in a permitted disposal facility.

X. CHANGE IN DISCHARGE (HPPL)

All discharges or emissions authorized herein to HPS shall be consistent with the terms and conditions of this certification. The discharge of any pollutant not identified in the application or any discharge more frequent than, or at a level in excess of, that authorized herein shall constitute a violation of this certification. Any anticipated facility expansions, production increases, or process modification which will result in new, different or increased discharges or expansion in steam generating capacity will require a submission of new or supplemental application to DEP's Siting Coordination Office pursuant to Chapter 403, F.S.

XI. NONCOMPLIANCE NOTIFICATION (HPPL)

If, for any reason, either permittee does not comply with or will be unable to comply with

any limitation specified in this certification, the permittee shall notify the Director of District Management of DEP's Southwest District office by telephone as soon as possible but not later than the first DEP working day after the permittee becomes aware of said noncompliance, and shall confirm the reported situation in writing within seventy-two (72) hours supplying the following information:

A. A description and cause of noncompliance; and

B. The period of noncompliance, including exact 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 noncomplying event.

XII. FACILITIES OPERATION (HPPL)

Unless granted an exception by a specific condition herein, each Permittee shall at all times maintain good working order and operate as efficiently as possible all of its treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this certification. Such systems are not to be bypassed without prior notice to the Department (Southwest District) and approval, except where otherwise authorized by applicable regulations.

XIII. ADVERSE IMPACT (HPS)

The permittees shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this certification, including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.

XIV. RIGHT OF ENTRY (HPPL)

The Permittees shall allow DEP authorized representatives, upon the presentation of credentials:

A. To enter upon the Permittees' premises where an effluent source is located or, during business hours, in which records are required to be kept under the terms and conditions of this permit;

B. To have access to and to make copies of all records required to be kept under the conditions of this certification;

C. To inspect any monitoring equipment or monitoring method required in this certification and to sample any discharge or pollutants; and

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

E. SWFWMD authorized staff, upon proper identification, will have permission to enter, inspect, and observe surface water management facilities in order to determine compliance with the approved plans, specifications, and conditions of this certification.

F. SFWMD authorized staff, upon proper identification, will have permission to enter, inspect, and observe permitted and related transmission line facilities in order to determine compliance with the approved plans, specifications, and conditions of this certification.

G. Moreover, the Permittee shall allow authorized representatives of DEP and other appropriate agencies, acting within the scope of their jurisdiction and authority, upon the presentation of credentials:

1. To enter upon the project site or mitigation area, or during business hours to enter the Permittee' premises in which records are required to be kept under the terms and conditions of this certification; and

2. To have access to and copy all records required to be kept under the conditions of this certification.

XV. REVOCATION OR SUSPENSION (HPS)

This certification may be suspended, or revoked pursuant to Section 403.512, Florida Statutes, or for violations of any Condition of Certification.

XVI. CIVIL AND CRIMINAL LIABILITY

This certification does not relieve either permittee from civil or criminal responsibility or liability for noncompliance with any conditions of this certification, applicable rules or regulations of the Department, or Chapter 403, Florida Statutes, or regulations thereunder.

Subject to Section 403.511, Florida Statutes, this certification shall not preclude the institution of any legal action or relieve either permittee from any responsibilities or penalties established pursuant to any other applicable State Statutes or regulations.

XVII. PROPERTY RIGHTS (HPS)

The issuance of this certification does not convey any property rights in either real or personal property, tangible or intangible, nor any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of

Federal, State or local laws or regulations. The Permittee shall obtain title, lease or right of use to any sovereign submerged lands occupied by the plant, transmission line structures, or appurtenant facilities from the State of Florida.

XVIII. SEVERABILITY (HPS)

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

XIX. CERTIFIED SITE (HPS)

The site of the certified power plant is generally depicted in the application. The sites of directly associated transmission line and natural gas pipeline corridors for which certification is granted are generally depicted in the application. Except where noted otherwise, ROWs of linear facilities will be established in the post-certification information submittal and review process in accordance with the conditions of certification.

XX. REVIEW OF SITE CERTIFICATION (HPS)

The certification shall be final unless revised, revoked, or suspended pursuant to law. At least every five years from the date of issuance of this certification or any National Pollutant Discharge Elimination Control Act Amendments of 1972 for the plant units, the Department shall review all monitoring data, including groundwater quality monitoring data, that has been submitted to it or its agent(s) during the preceding five-year period for the purpose of determining the extent of the Permittee's compliance with the conditions of this certification of the environmental impact of this facility. The Department shall submit the results of its review and recommendations to the Permittee. Such review will be repeated at least every five years thereafter.

XXI. MODIFICATION OF CONDITIONS (HPS)

The conditions of this certification may be modified in the following manner:

A. The Siting Board pursuant to 403.516(1), Florida Statutes, hereby delegates to the Secretary of DEP the authority to modify, upon application by the Permittee and after notice and opportunity for hearing, any conditions pertaining to monitoring; sampling; mixing zone; zone of discharge; surface water, groundwater, and air effluent or emission limitations; variances or exemptions to water quality standards; and transmission lines.

B. All other modifications shall be made in accordance with Sections 403.516, Florida Statutes.

Replacement of any portion of the gas pipeline, transmission lines, or access roads constructed under this certification necessitated by emergency conditions shall not be considered a modification. A verbal report of any such emergency shall be made to DEP as soon as possible. Within 14 calendar days after correction of an emergency which would require the Permittee to perform an activity not in accordance with the conditions of certification, a report to the DEP shall be made outlining the details of the emergency and the steps taken for its temporary relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas, or alteration of archaeological or historical resources.

XXII. FLOOD CONTROL PROTECTION (HPS)

The plant and associated facilities shall be constructed in such a manner as to comply with the Hardee County flood protection requirements.

XXIII. EFFECT OF CERTIFICATION (HPS)

Certification and conditions of certification are predicated upon design and performance criteria indicated in the application and explained at the certification hearing. Thus, conformance to those criteria, unless specifically amended, modified, or as the Department and parties are otherwise notified, is binding upon the applicants in the preparation, construction, and maintenance of the certified project. In those instances where a conflict occurs between the application's design criteria and the conditions of certification, the conditions shall prevail.

XXIV. NOISE (HPPL)

To mitigate the effects of noise produced by the steam blowout of steam boiler tubes, the Permittee shall conduct public awareness campaigns prior to such activities to forewarn the public of the estimated time and duration of the noise.

XXV. ENFORCEMENT (HPS)

A. The Secretary may take any and all lawful actions as he or she deems appropriate to enforce any condition of this certification.

B. Any participating agency (federal, state, local) may take any and all lawful actions to enforce any condition of this certification that is based on the rules of that agency. Prior to initiating such action the agency head shall notify the Secretary of that agency's proposed action.

XXVI. ENDANGERED AND THREATENED SPECIES (HPS)

Prior to start of construction, the permittee shall survey the site for endangered and threatened species of animal and plant life. Plant species on the endangered or threatened list shall be transplanted to an appropriate area if practicable. Gopher Tortoises and any commensals on the rare or endangered species list shall be relocated after consultation with the FWCC. A relocation program, as approved by the FWCC, shall be followed.

XXVII. DESIGN AND PERFORMANCE CRITERIA (HPS)

The power plant may be operated at up to 115% of the maximum electrical output at ISO conditions projected from design information without the need for modifying these conditions. Treatment or control facilities or systems installed or used to achieve compliance with the terms and conditions of this certification are not to be bypassed without prior DEP approval. Moreover, the Permittee shall take all reasonable steps to minimize any adverse impacts resulting from noncompliance with any limitation specified in this certification, including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.

XXVIII. COMPLIANCE (HPS)

Except as otherwise provided herein and in the certification order, and subject to Section 403.511(5), Florida Statutes, construction, maintenance, and operation of the permitted facility shall comply with the applicable nonprocedural rules of all agencies, unless a variance or waiver was obtained as part of the certification process.

XXIX. ROW DELINEATION AND COMPLIANCE VERIFICATION (HPS)

TPS is responsible for compliance with this General Condition with respect to the natural gas pipeline. TEC is responsible for compliance with this condition with respect to the Pebbledale transmission line. SECI is responsible for complying with this condition with respect to the Vandolah, Lee and CL transmission lines.

At least 90 days prior to commencement of construction, three copies of blue-line reproductions of aerial photographs of at least 1:400 scale shall be submitted to DEP and one copy to each water management district (insofar as an area within its jurisdiction is involved)

delineating the ROW routes selected, boundaries, preliminary pole and pad locations, and access roads. The Permittee shall notify all parties of such filing. These photographs shall be submitted prior to commencement of construction on the various segments of the linear facility; it is recommended that this information be submitted in segments rather than waiting until the entire ROW is acquired. DEP, the water management districts, and any other party who requests to do so shall have 30 days from receipt of notice to review the photographs and to call any apparent conflicts with the requirements of the conditions of certification to the Permittee' attention. However, this paragraph shall not operate to avoid the need for post-certification submittals and compliance reviews otherwise required by the conditions of certification.

If DEP or any substantially affected party has reason to believe that the construction of the linear facility and access roads within the Permittee' designated ROW cannot be accomplished in compliance with the conditions of certification, the Permittee shall be so notified in writing. Failure of such a notice to be served on Permittee within 30 days from the notice of filing of the various segments in the aerial photographs with DEP constitutes acknowledgment that construction of the linear facility and access roads can be accomplished in compliance with the conditions of certification within the designated ROW or the various segments of ROW submitted for review.

The acquisition of a particular ROW or the expenditure of funds toward acquisition of a particular ROW prior to post-certification review pursuant to this condition will be at the Permittee' risk, and no party will be estopped by such acquisition to seek disapproval of the construction of the linear facility or access roads within the ROW in accordance with these conditions of certification.

XXX. DISPUTE RESOLUTION (HPS)

If a situation arises in which mutual agreement cannot be reached between the Permittee and an agency exercising its regulatory jurisdiction, then the matter shall be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, Florida Statutes. A hearing under Section 120.57, Florida Statutes, shall be held within 30 days after its referral to DOAH. The hearing officer shall issue the decision 30 days after the termination of such hearing. All exceptions to the hearing officer's order shall be filed with the Governor and Cabinet within 10 days of the issuance of such order. The Governor and Cabinet shall issue a decision within 30 days of the filing of the exceptions.

XXXI. POST-CERTIFICATION SUBMITTALS (HPS)

Conditions of certification which provide for the post-certification submittal of information to agencies by the Permittee are intended to allow the agencies to monitor the effects arising from the location of the natural gas pipeline and transmission line rights-of-way and the construction and maintenance of the permitted activities to thereby assure continued compliance with state water quality requirements, other agency nonprocedural rules and standards, and the

conditions of certification, without any further government action.

XXXII. TRANSMISSION (TEC, SECI and FPL) AND PIPELINE (HPPL) ROWs

A. Construction

1. The Permittee shall avoid impacting wetlands within all certified corridors wherever practicable. When necessary and feasible, the location of the span between power poles shall be maximized or varied to eliminate or reduce wetland impacts.

2. The Permittee shall, wherever practicable, utilize adjacent existing public roads for access to the ROW for construction, operation and/or maintenance purposes.

3. The Permittee shall consult with the Bureau of Wetland Resource Management prior to final determination of the access road locations, (including those not located on the ROW), tower locations, and construction techniques which are to be reflected on any post-certification review information submittals. At DEP's request, the Permittee shall conduct field inspection with staff of this agency.

4. Prior to clearing activities within any of the ROW associated with the various linear facilities, an ecological survey shall be conducted to identify the presence of threatened or endangered species (plant and animals) as defined in the application, likely to occur in the ROW based on range and habitat. This survey shall also identify the location of any wading bird colonies. Results of this survey shall be submitted to the DEP and the FWCC and the United States Fish and Wildlife Service (USFWS). If any clearing activity will take place in or otherwise adversely affect jurisdictional wetlands, survey results will also be submitted to the appropriate water management district. If it is determined that any of these species will be affected by the construction of any of the linear facilities, the Permittee shall consult with DEP and FWCC to determine the appropriate steps to be take to avoid, minimize, mitigate or otherwise appropriately deal with, any adverse impacts within each agency's respective jurisdiction.

5. After all ROWs have been selected, the Permittee shall conduct a survey of archaeological sensitive areas, as determined in consultation with the Department of State, Division of Historical Resources, where they are crossed by the ROW. This report shall be submitted to DHR. If practicable, sites considered to be eligible for the National Register shall be avoided during construction of the linear facilities, and subsequently during maintenance of the ROWs. For any other significant site, Permittee shall consult with DHR to determine appropriate action. If avoidance is not practicable, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR.

6. All materials used for any purpose related to the construction of the transmission lines or other linear facilities shall come from fill sources in compliance with applicable local ordinances. No fill materials shall be obtained from excavated wetlands within

the ROW unless authorized by DEP and appropriate water management district in accordance with a mitigation plan submitted in compliance with certification.

7. The Permittee shall provide mitigation/compensation (M/C) for any wetland or open water habitat within the jurisdiction of DEP or WMD which is degraded or destroyed as a result of the construction of any portion of the transmission lines, natural gas pipelines or power plant facilities. M/C may include the creation of new wetland or open water habitat, the restoration of degraded habitat, the enhancement of functions and values provided by existing wetland or open water habitats, removal of exotics, or other activities found by the relevant agencies and appropriate local government to be in compliance with their applicable regulations. Prior to the elimination or degradation of any such wetland or open water habitat, the Permittee shall concurrently submit mitigation plans to DEP, Bureau of Submerged Lands and Environmental Resources and the appropriate water management district and receive approval of such plans. These mitigation plans shall, at a minimum, include the following:

(a) Specific acreage figures, descriptions and locations of all jurisdictional wetlands, both within the ROW as well as adjacent to it which would be impacted by the construction or ROW maintenance activities, including an explanation of why no feasible alternative exists which would avoid impact to these wetlands;

(b) A discussion and a detailed set of plan-view and cross-sectional drawings of the proposed M/C activities to be undertaken, including the location of all M/C areas and a description of the manner in which these areas will be created, restored or otherwise enhanced. Success standards will be determined based on the functional values of wetlands impacted and created. The Permittee will work with the appropriate agency staff to establish success criteria. The M/C plans proposed by Permittee shall be submitted concurrently to DEP and the appropriate water management district for review and compliance monitoring.

(c) A timetable for accomplishing the proposed M/C activities (i.e., the time for commencement and completion of activities for each mitigation area) concurrently with the construction of the various aspects of proposed facilities and any associated wetland impacts.

(d) A monitoring and maintenance program including success criteria, to ensure the survival and success of any created, restored, or enhanced wetlands.

8. M/C plans must be found to fully compensate for the functions and values provided by wetlands that will be degraded or eliminated. DEP and WMDs will work with the Permittee in the development of acceptable mitigation plans. The mitigation plans proposed by the Permittee shall be submitted for review and compliance monitoring to DEP and the appropriate water management district and such review shall be subject to the time constraints set forth in specific conditions XXXII.9., and XXXV. C. below, as appropriate.

9. For all construction activities in waters of the State where DEP has wetland resource protection jurisdiction pursuant to Chapter 402, Florida Statutes, the Permittee

shall file with DEP, Office of Siting Coordination and Bureau of Wetland Resource Management the information described in Florida Administrative Code Rule 62-17.665.

a. DEP shall promptly review the submittal for completeness and sufficiency. If the submittal is found to be incomplete or insufficient, Permittee shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness and sufficiency.

b. Within 90 days filing complete and sufficient information, DEP shall determine whether there is reasonable assurance of compliance with applicable substantive agency regulations as required by the conditions of certification if the plans are executed as filed. If it is determined that reasonable assurance has not been provided, the Permittee shall be notified with particularity and possible corrective measures suggested. Failure to notify Permittee in writing within 90 days of receipt of a complete information submittal shall constitute a compliance verification.

c. If DEP does not object within the time period specified, Permittee may begin construction pursuant to the terms of the conditions of certification and the subsequently submitted construction details and DEP shall provide to the Corps of Engineers a letter indicating that the full requirements of this condition have been met and the water quality certification for the purposes of 33 USC Section 1341 is thereby conveyed.

d. Permittee, at its option, may submit information for different wetlands modification activities at different time intervals. Each submittal shall be processed by DEP separately.

10. Semi-annual narrative reports shall be submitted to DEP's Bureau of Wetlands Resource Management in Tallahassee and DEP's Southwest District Office, indicating the status of all construction activities within waters of the State. These reports shall be submitted until all construction in that respective area is complete. The reports include the following information:

(a) Date the activity (dredge and fill) began; if work has not begun on-site, please so indicate.

(b) Brief description and extent of work completed since the previous report.

(c) Brief description and extent of work anticipated in the next six months.

11. Upon completion of construction, the Permittee shall provide DEP with detailed engineering drawings which depict the pre and post construction contours in all areas in which construction occurred in waters of the State.

12. During construction all Brazilian Pepper, Australian Pine, and melaleuca in each ROW shall be removed or the trees cut and the stumps treated with an approved herbicide consistent with these conditions. A plan for removal and disposal of such exotic species which minimizes seed dispersal shall be developed by the Permittee in consultation with DEP. The Permittee shall abide by the plan.

13. Following construction, a plan for maintenance and control of Brazilian Pepper, Australian pine, and melaleuca within the ROWs shall be developed by the Permittee in consultation with DEP. The Permittee shall abide by the plan.

14. The Permittee shall perform the work authorized under the certification in a manner so as to minimize any adverse impacts on fish, wildlife, native vegetation, natural environmental values, water resources, and water quality.

15. The Permittee shall develop a water quality monitoring program to measure the turbidity generated by construction in all open waters to be crossed by the proposed natural and liquid gas pipelines. This program shall be developed in coordination with the Bureau of Wetland Resource Management and approved by the Department prior to the commencement of construction.

16. The Permittee shall be responsible for the correction of any water quality problems that result from the construction, operation and/or maintenance of works authorized under this certification. The Permittee will work with DEP to determine additional methods necessary to ensure that State Water Quality Standards are not violated as a result of construction.

17. Where necessary to prevent secondary impacts to adjacent wetlands during construction, adjacent wetland areas outside of the limits of construction shall be isolated from the construction area by silt fences. These silt containment devices shall be maintained and remain in place until all construction is complete and all associated side slopes or areas denuded of vegetation have been adequately stabilized. The Permittee shall be responsible for explaining the significance of these barriers to all construction personnel prior to construction. The Permittee shall use turbidity control as necessary so that turbidity levels in adjacent areas do not exceed 29 N.T.U.'s above natural background. Any placement of fill or encroachment into jurisdictional wetlands or water bodies outside the limits of construction shall be immediately reported to DEP, Southwest District Office in Tampa, and the Bureau of Submerged Lands and Environmental Resources in Tallahassee. Appropriate remedial action to restore the affected area shall be immediately undertaken.

18. In addition to the erosion and turbidity control measures specified above, best management practices, including but not limited to the use of floating silt screens in flowing waters, as well as the use of staked hay bales and silt curtains shall be used wherever necessary at all times during project construction. These erosion and turbidity control devices shall be regularly inspected and maintained when necessary. These devices shall remain in place until all construction is complete and all fill side slopes or denuded areas have been stabilized with

suitable vegetation.

19. No dewatering operation shall be allowed unless the Permittee can provide reasonable assurances to DEP that no adverse, off-site water resource impacts will occur as a result of the construction, operation, and/or maintenance of the project.

B. Operation

1. Ground vehicles to be used in wetlands for maintenance access shall be low ground pressure vehicles unless limited to the access roads and structure pads.

2. Only EPA approved herbicides may be used in waters of the State, or the use of other herbicides in any areas of the ROW shall only be allowed with the concurrence of DEP.

XXXIII. MINE RECLAMATION (SECI)

A. General Conditions to Approval of the AGR-CPC Conceptual Plan Modification and AGR-PC-PC1 LRU Applications

1. Approval of these applications shall not constitute a statement, admission or waiver by the State of Florida concerning the ownership of any interest in lands within the conceptual plans.

2. In restoring drainage patterns, the DEP and Agrico and its successors reserve the right to reexamine, in each stage of reclamation and restoration program application, the placement and configuration of the lakes, streams, wetlands, and watersheds which have been proposed in the conceptual plan, to assure that the natural functions of the lakes, streams, and wetlands are restored in accordance with the provisions of the then-existing standards and criteria of Chapter 16C-16, F.A.C.

B. Specific Conditions to Approval of the AGR-PC-CPC Conceptual Plan Modification and AGR-PC-PC1 LRU Applications

1. SECI and its successors shall assure that vegetation adversely affected by cooling water, prior to release of the wetlands, within the reservoir's zone of fluctuation shall be replaced in accordance with subparagraph 16C-16.0051(9)(d)1., F.A.C. A monoculture of nuisance species will not be an acceptable form of herbaceous vegetation in reclamation. Exotic species will be controlled within the cooling reservoir until the water body and its associated herbaceous wetlands are completely released of the reclamation obligation.

2. Agrico and its successors shall perform the proposed compensation in compliance with reclamation standards detailed in Chapter 16C-16, F.A.C. Should the operator propose a reduction in wetland or upland forest to be vegetated within the AGR-PC-PC1, AGR-

PC-PC2, and AGR-PC-SP(2) LRUs, the bureaus will review the reduction considering the impacts to the intent of the waiver of paragraphs 16C-16.0051(5)(a and b), F.A.C., and the approved mitigation.

3. SECI and its successors shall insure that the water quality conditions of AGR-PC-PC1 meet the water quality requirements of the Hardee Power Plant Site Certification Order.

XXXIV. DIVISION OF FORESTRY (SECI)

SECI shall consult with the Division of Forestry (DOF) to locate the proposed HPS - Lee Substation 230 kV transmission line as far from the DOF's Punta Gorda Work Station as practicable or maintain at least a 500 foot separation between the line and DOF facilities.

XXXV. PROJECT SURFACE WATER AND STORMWATER MANAGEMENT FACILITIES (HPS)

Permittee shall be responsible for the construction, operation, and maintenance of the surface water management systems and stormwater facilities installed for the project. TPS is responsible for compliance with this specific condition in regard to the power plant and natural gas pipeline. TEC is responsible in regard to the Pebbledale transmission line. SECI and FPL are each responsible for their applicable portions of the Lee and Charlotte transmission lines.

A. General

1. Permittee - Confirmation

The operational phases of the surface water management systems authorized under this certification shall not become effective until the Permittee confirm in writing, upon completion of each phase, that these facilities have been constructed consistent with the conditions of certification. Such confirmation shall include a certification by an engineer (practicing in the State of Florida, having the appropriate experience in surface water management design and construction, and in compliance with Chapter 471, Florida Statutes, unless exempt thereunder) that the facilities have been constructed in accordance with the approved project design. Within 30 days after completion of construction of each phase of the surface water management system, the Permittee shall submit the confirmation, including “as-built” construction drawings with the engineer’s certification and a description of any deviations, and notify the water management district that the facilities are ready for inspection for consistency with the conditions of certification and information submitted hereunder.

2. Minimum Standards

This certification is predicated on Permittee submitted information to SWFWMD and SFWMD which reasonably demonstrates that adverse off-site water resources related impacts will not be caused by the authorized activities. The plans, drawings, and design specifications submitted shall be considered minimum standards for compliance.

3. Post-Certification Information Submittals

Information submitted to the water management districts subsequent to certification, in compliance with the conditions of this certification, shall be for the purpose of water management district monitoring and confirming compliance with the conditions of certification and the criteria contained in 40D-4 and 40E-4)Surface Water Management), Florida Administrative Code, as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder.

4. Liability

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

5. Enforcement

Authorized representatives of the SWFWMD and SFWMD shall be allowed reasonable escorted access to the project site and any authorized off-site mitigation/compensation areas to inspect and observe any activities associated with the project construction and/or the operation and/or maintenance of the surface water management system(s) and stormwater facilities in order to determine compliance with the conditions of this certification.

6. Monitoring

Post-certification monitoring requirements may be determined and specified as a result of technical review of construction information, where necessary, to demonstrate compliance with water management district regulations. If monitoring data is required by SWFWMD or SFWMD in conjunction with post-certification review, it shall be submitted to the respective water management district and the DEP. Parameters to be monitored may include those listed in Chapter 62-302, Florida Administrative Code. Permittee also shall, if

required, provide data to SWFWMD or SFWMD regarding: construction, operation, and maintenance of surface water management systems; NGVD levels; volumes and timing of water discharged, including total volume discharged during period of sampling and total discharges from the property. Environmental monitoring may also be required in conjunction with wetlands compensation/mitigation.

B. Construction Conditions

This project must be constructed in compliance with and meet all applicable requirements set forth in Chapter 373, Florida Statutes, and Chapters 40D-4 and 40E-4, Florida Administrative Code, as applicable.

C. Project Informational Requirements

1. General

a. At least 90 days prior to the commencement of construction of any portion of the project for which additional information is required under Condition XXV.C.2. below, for that portion proposed for construction, the Permittee shall submit such information to SWFWMD or SFWMD staff, as applicable, for a completeness and sufficiency review. If the water management district staff does not issue a written request for additional information within 30 days of receipt of the information, the information will be deemed to be complete and sufficient.

b. Within 60 days of the determination by SWFWMD or SFWMD staff that the additional information is complete and sufficient, the management district shall determine and notify the Permittee in writing whether the proposed activities conform to applicable criteria in Chapters 40D-4 and 40E-4, Florida Administrative Code, and the conditions of certification. If necessary, the water management district shall identify what items are in need of clarification. Construction activities which impact works of the water management district or have surface water management impacts shall not begin until the water management district has an opportunity to assure that the activities are in compliance with the applicable water management district rule criteria and conditions of site certification, either in writing or by failure to notify the Permittee in writing.

c. Subsequent modifications to the drawings and supporting calculations submitted to SWFWMD or SFWMD which may significantly alter the quantity and/or quality of waters discharged off site shall also be submitted to the respective water management district for a determination that the modifications are in compliance with Chapters 40D-4 or 40E-4, Florida Administrative Code, as appropriate, prior to the commencement of construction. However, minor deviations from construction plans deemed necessary in the field, including, but not necessarily limited to changes in the number, size, and location of culverts and other structures, shall be allowed.

d. The respective water management districts and the Permittee may mutually agree to vary the information requirements.

2. Surface Water Management

Prior to the commencement of construction of any portion or phase of the project which may obstruct, divert, control, or impound waters of the State, such construction must be reviewed by the water management district with jurisdiction for a determination of compliance with Chapters 40D-4 or 40E-4, Florida Administrative Code, and the conditions of certification, as appropriate. Construction activities for which such review is required includes but is not limited to installation of all surface water and stormwater management facilities, the placement of structure pads, dredging and filling, the installation of access/maintenance roads and culverts and fill materials, wetlands mitigation/compensation and related activities in circumstances where a permit from the water management district would ordinarily be required under applicable rules. For all construction activities, the applicable information requirements of Chapters 40D-4 and 40E-4, Florida Administrative Code, shall be submitted as may be appropriate. The Permittee shall submit to SWFWMD erosion control plans for the HPS construction project (or discrete phases of the project) detailing measures to be taken to prevent the offsite discharge of turbid waters during construction. These plans must also be provided to the construction contractor prior to the initiation of construction. For all construction activities related to linear facilities, the following information shall be provided at a minimum:

a. A centerline profile of existing topographic features along the proposed access/maintenance road(s) sufficient to show contours and drainage patterns;

b. Construction plans and designs of the proposed access/maintenance and finger road(s) with elevations and dimensions shown;

c. Typical cross-sections of the proposed access/maintenance and finger road(s);

d. Cross-section(s) of each wetland, stream or creek at the points to be crossed by the access/maintenance and finger road(s) or other construction;

e. Specifications showing the location of each linear facility structure, finger and maintenance/access road, and culvert to be constructed, including all areas to be filled or excavated;

f. Specifications, including supporting assumptions and calculations, showing the type and size of water control structures (ditch, culvert, equalizer, etc.) To be used, with proposed flowline elevations marked, drainage areas identified and design capacity verified;

g. A cross-section of all proposed fill/excavation areas, with the exception of fill/excavation directly associated with transmission line support poles, showing the

proposed depth;

h. Identification of wet season water table elevations for each basin affected by construction.

3. In addition to the requirements of Section 2 above, specific detailed information shall be provided by the Permittee before, during and after construction which will be required to be submitted to the appropriate water management district to demonstrate compliance with recognized standards for reservoir and dam design, safety, construction, operation, and maintenance. The Permittee shall develop technical criteria and requirements which represent commonly recognized and accepted engineering and technical standards for reservoir and earthen dam design, safety, construction, operation, and maintenance. The criteria or standards shall be submitted to the District prior to final design of the dam and reservoir for consideration in accordance with the information submittal and review process outlined in the conditions of certification.

4. The Permittee shall employ culverts or other appropriate techniques and implement suitable maintenance practices where necessary to comply with the applicable regulation of the applicable WMD or DEP and to maintain existing drainage patterns, hydroperiods, and sheetflow along the ROWs. The exact number, spacing, diameter, orientation, and length of culvert necessary to maintain existing hydrologic conditions and to maintain surface water flow conditions in the area shall be determined by the Permittee in consultation with applicable WMD or DEP based on site-specific information. This information shall be submitted to SFWMD or SWFWMD as applicable for approval prior to construction to ensure that the culverting or other appropriate techniques meets applicable standards within all affected wetlands areas.

XXXVI. WEBB WILDLIFE MANAGEMENT AREA (SECI)

A. Parties to Agreement

Florida Fish and Wildlife Conservation Commission (Commission) and Seminole Electric Cooperative, Inc. (Seminole) are parties to the following agreement relating to the location of a ROW in the Cecil M. Webb Wildlife Management Area as generally depicted in Exhibit A.

B. Conditions of Agreement

This Agreement shall bind the parties hereto and their assigns and successors in interest, provided however, that this Agreement is contingent upon the following:

1. Issuance of a Site Certification Order by the Siting Board in accordance with the terms of this Agreement.

2. Approval of this Agreement by the Board of Trustees of the Internal Improvement Trust Fund, in accordance with section 372.023, Florida Statutes.

3. Approval of this Agreement by the United States Department of the Interior, Fish and Wildlife Service, in accordance with the provision of the Federal Aid in Wildlife Restoration Act and regulations promulgated thereunder.

4. Approval of the Hardee Power Station Project by the United States Rural Electrification Administration.

C. Actions by Seminole

Upon issuance of the approvals listed in paragraph XXXVI.B. hereof, Seminole shall allocate the sum of $1,025,000.00 (one million twenty-five thousand dollars) to be expended for the purchase of the 427 acres, more or less, adjacent to the Webb WMA (Hall Acquisition), as shown in Exhibit B. Fee simple title to the Hall Acquisition shall be conveyed to the Commission, by warranty deed, no later than one hundred and twenty (120) days following the granting of an easement of the Commission for the transmission line ROW, or following receipt of all of the approvals listed in paragraph 5, below, whichever is later. Cost of closing, including title insurance and survey, shall be borne by Seminole.

D. Actions by Commission

Contingent upon paragraph XXXVI.B. hereof, the Commission shall, no later than thirty (30) days following issuance of site certification by the Siting Board, execute and deliver to Seminole a ROW easement for the area described and depicted in Exhibit A, which easement shall convey to Seminole the right and privilege to construct, operate, and maintain the proposed 230 kV transmission line for such period of time as Seminole may use the line or until use thereof is abandoned; this right shall include the right to construct, operate and maintain necessary communication and other wires, poles, guys, anchors, ground connections, attachments, fixtures, equipment, and accessories in connection with the Lee, and/or applicable CL Transmission Line(s) over, up and across the ROW in the Webb WMA. The Commission and Seminole reserve the right to mutually agree to minor adjustments in the final ROW location depicted in Exhibit A. Said easement shall also grant Seminole the right to patrol, inspect, alter, improve, repair, rebuild, or remove the Lee line equipment and accessories, including the right to trim, cut and clear such trees, limbs, and undergrowth along the line and trees adjacent thereto as may endanger the proper operation thereof, including the reasonable right to enter upon lands of the Commission for the purpose of exercising the rights therein granted. The Commission covenants that it has the right to convey said easement and that Seminole, its successors and assigns, shall have quiet and peaceful possession, use and enjoyment of the easement for the consideration set forth in paragraph C. above.

E. Joint Conditions (SECI)

1. The transmission line right of way (ROW) in Cecil M. Webb Wildlife

Management Area (Webb WMA) shall generally follow the route described and depicted in Exhibit A, and shall, except where specifically agreed to by the Commission, directly adjoin the property boundary of the Webb WMA.

2. Yellow aviation marker balls or their equivalent shall be placed on each of the two ground wires at 100 foot intervals in a staggered fashion in any area, identified by the Commission, and as shown generally on the transmission line location map contained in Exhibit A, where bird collisions are reasonably possible. Final locations of marker balls may be adjusted depending upon field surveys.

3. Single pole transmission structures shall be utilized in the area of the I-75/Tucker's Grade Interchange as generally depicted in Exhibit A, the ROW in this area shall not, absent Commission approval, exceed 75 (seventy-five) feet in width.

4. Seminole shall install and, in conjunction with the Commission's prescribed burning plans for the Webb WMA, annually (by November 1 of each year) maintain fire lanes, (which may include the access road) no less than 15 feet in width, along and within the ROW boundary.

5. Seminole shall control vegetation in the ROW as dictated by fire safety considerations; provided, however, that no herbicides shall be used in the Webb WMA without written approval of the Commission.

6. Seminole shall coordinate with Commission personnel during any prescribed burns so as to minimize the possibility of interference between use of the ROW by Seminole and the prescribed burning activities of the Commission.

7. Seminole shall control exotic vegetation species such as Melaleuca and Australian Pine within the ROW during the construction process in coordination with the Commission personnel.

8. Seminole shall install gates with high security locks at the entrance and exit of the ROW through the Webb WMA, and at all interior fences crossed by the ROW, in order to prevent unauthorized user access.

9. Seminole shall protect all affected Commission boundary and interior fences during construction and utilization of the ROW, and shall be responsible for all fence repairs necessitated by utilization of the ROW.

10. To the extent necessary to maintain the natural flow of water through the ROW, Seminole shall, in consultation with the Commission, install culverts or such other water control structures as may be required.

11. Seminole shall coordinate with the FWCC to assure that construction and maintenance of the transmission line and its right-of-way on the Webb Wildlife Management

Area shall, to the extent practicable, be conducted in a manner which does not interfere with public hunting or other recreational use of the area. Activities occurring during established hunting seasons for construction and maintenance shall be coordinated in order to avoid interference with public use or hazards to area users or Seminole employees or agents.

12. H-frame transmission line structures emplaced within the Webb Wildlife Management Area may be constructed of steel.

XXXVII. PEACE RIVER (SECI) AND EAGLES NEST (TEC) RESTRICTIONS

A. In the area of the Peace River floodplain west of the City of Arcadia, the Lee transmission line ROW shall be located in a manner which avoids those areas designated as Zone "A" on Exhibit C, attached hereto. In addition, to the extent practicable the ROW shall avoid those areas designated as Zone "B" on the attached Exhibit C. To the extent avoidance of areas designated as Zone "B" is impracticable, SECI shall take all reasonable measures to avoid or minimize the loss or modification of wildlife habitat in such areas.

B. Within the proposed corridor for the Hardee Power Station to Pebbledale substation transmission line, adjacent to Polk County Road 663, in Township 32 South, Range 23 East, Section 1, the 150 foot ROW shall be located a minimum of 750 feet from the eagle's nest as shown on the attached Exhibit D.

XXXVIII. CHARLOTTE COUNTY CONDITIONS (SECI and FPL where applicable)

A. The Lee transmission line shall span Shell Creek without employing transmission line structures within the minimum buffer zone required by Section 5.A. of Ordinance No. 89-53. Moreover, the Lee transmission line shall comply with the upland buffer zone requirements set forth at Section 7.B. of Ordinance No. 89-54. The natural vegetative buffer adjacent to Shell Creek shall be managed in accordance with environmentally acceptable techniques given in the site-specific conditions of the transmission line ROW.

B. The Permittee shall perform the work authorized under the certification in a manner so as to minimize any adverse impact of the work on fish, wildlife, and water quality. The Permittee shall institute necessary measures during the construction period, including necessary compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.

C. The Permittee shall be responsible for the correction of any sedimentation, turbidity, erosions, and/or shoaling problems that result from the construction, operation and/or maintenance of the project.

D. It is the responsibility of the permittee to provide reasonable measures to assure that unauthorized adverse off-site water resource related impacts do not occur during

construction, operation and/or maintenance of the project.

E. The Permittee shall, where practicable, utilize adjacent existing roads for access to the linear facility ROWs for construction, operation and/or maintenance purposes.

F. Access road construction in Charlotte County shall include culverts as necessary and feasible to preserve preconstruction hydric flows.

XXXIX. DESOTO COUNTY CONDITIONS (HPS)

A. Seminole Electric Cooperative, Inc. and FPL shall comply with DeSoto County Ordinance No. 87-19, Sec. 2-6.

B. Consistent with sound transmission line design and ROW location practices, the Lee and Vandolah transmission lines shall be located and constructed in a manner that minimizes impacts on adjacent land uses. To the extent feasible, Permittee shall locate the ROWs so as to avoid the taking of homes.

XL. HARDEE COUNTY CONDITIONS (SECI)

A. The Hardee Power Station and all associated facilities shall be operated in conformance with the substantive performance standards set forth in Section 2.13 of Hardee County Ordinance No. 82-2.

B. Consistent with sound transmission line design and ROW location practices, the Lee and Vandolah transmission lines shall be located and constructed in a manner that minimizes impacts on adjacent land uses. To the extent feasible, Permittee shall locate the ROWs so as to avoid the taking of homes.

XLI. LEE COUNTY CONDITIONS (SECI and FPL where applicable)

A. After Lee County portions of the Lee transmission line ROW have been selected, following certification of the corridor and prior to any project related land clearing or ground disturbing activities, any level two archeological areas crossed by the ROW, as identified in An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida (1987), will be subjected to a professional archaeological survey. Prior to conduction this survey, SECI's or FPL's, as applicable, project archaeologist will consult with Lee County staff and coordinate regarding appropriate field methodology. The survey report shall be forwarded to the Lee County Department of Community Development. If avoidance is not feasible, SECI or FPL's, as applicable, shall mitigate impacts through archaeological salvage excavation or by other methods acceptable to Lee County.

B. New access roads providing entry into previously inaccessible areas of Lee

County north of Cape Coral shall be gated, if the owner of the subject property consents.

C. Access road construction within wetlands regulated under the Lee County Wetlands Protection Ordinance shall be at grade where feasible; culverts shall be included as necessary and feasible to preserve preconstruction hydric flows.

D. Where not inconsistent with restraints imposed under the Lee County Protected Species Ordinance, as many shrubs as practicable shall be retained within the Lee County portion of the Lee or CL, as applicable transmission line ROW.

E. The Lee transmission line ROW shall be sited, to the extent feasible, so as to avoid scrub inhabited by Florida scrub jays near the Lee substation.

F. After portions of the Lee transmission line ROW in Lee County, north and east of Cape Coral, have been selected, following certification of the corridor and prior to any project related land clearing or ground disturbing activities, the ROW will be surveyed for plant and animal species of special concern, and threatened or endangered species as identified in the Protected Species Ordinance (No. 89-29). Prior to conducting this survey, SECI's or FPL's, as applicable, project biologist will consult with Lee County staff and coordinate regarding proper survey areas and methodology. The resulting survey report shall include aerial depictions of appropriate FLUCCS registers, transects walked and applicable visibility limits, and locations of sitings within the ROW. The survey report shall also include tables indicating the percentage of the area surveyed, calculated densities and abundance, dates and times the survey was conducted, and the name(s) of the surveyor(s). The survey report shall be submitted to Lee County's Department of Community Development. If listed species are determined to be present within the Lee and/or CL transmission line ROW, SECI or FPL, as applicable shall consult with the Lee County Department of Community Development to determine whether appropriate steps need to be taken to minimize and/or mitigate for any adverse impacts.

XLII. ROAD CROSSINGS CONDITIONS (HPPL)

A. All crossings of highways, streets, and roads shall be as nearly perpendicular to, and all transmission line structures shall be as far from state, county, and city road ROWs as practicable, while still maintaining proper road clearance, in order to allow future widening of those roads.

B. In accordance with Section 403.509(3), Florida Statutes, within 30 days of entry of certification, DOT and cities and counties that are parties to this proceeding shall issue any required permits or other approvals required for use, connection to, or crossing of highways, streets, and roads.

C. For all locations where permits or other approvals to use, cross, or connect to county or city highways, streets, or roads are required generally for transmission lines and access roads, the applicant shall submit the applicable and required information to the county or city

engineer 30 days prior to construction so that the county or city may monitor compliance with applicable requirements. The Permittee shall comply with all applicable nonprocedural county or city regulations pertaining to roadway crossings or connections by transmission lines and access roads.

D. For all locations where the transmission line will cross state highways, the applicant shall submit the data requested pursuant to the Department of Transportation's (DOT) "Utility Accommodation Guide" to DOT within 30 days prior to starting construction for a particular crossing. The Permittee shall comply with the criteria in the Utility Accommodation Guide and with all applicable regulations pertaining to roadway crossings by transmission lines, including these conditions of certification, unless the DOT and the Permittee agree to change those requirements for good cause shown.

XLIII. History

Certification Issued 11/27/90; signed by Governor Martinez
Modified 08/12/91; signed by Secretary Browner
Modified 10/28/91; signed by Secretary Browner
Modified 08/21/00; signed by Deputy Secretary Green
Modified 07/08/03; signed by Program Administrator Oven
Modified 08/09/06; signed by Siting Administrator Oven
Modified 11/1/13: signed by Siting Administrator Mulkey
Modified 1/21/14; signed by Siting Administrator Mulkey
Modified 1/23/15; signed by Siting Administrator Mulkey
Modified XX/XX/XX; signed by Siting Administrator Mulkey

ATTACHMENT A

Charlotte-Lee Transmission Line

Attachment A – Charlotte-Lee Transmission Line

A. Scope

1. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501-518, Florida Statutes (F.S.), and Chapter 62-17, Florida Administrative Code (F.A.C)., this certification is issued to Florida Power and Light Company (FPL) as owner/operator and Licensee of the Charlotte-Lee Transmission Line (CLTL), a subset of the Lee Transmission Line ROW, which was originally certified as an associated facility with the Hardee Power Station, owned and operated by Seminole Electric Cooperative, Inc (SECI). Subject to the requirements contained in these Conditions of Certification (Conditions), FPL will operate the CLTL, which is 22 miles in length. The CLTL includes all insulators, conductors, overhead shield wire, jumpers, bonds, grounds, hardware and related accessories, material and equipment that allow energy to flow from a point (shown in Figure 1) east of the Florida Power & Light Substation in Charlotte County, Florida to the LCEC Substation in Lee County, Florida, including 79 structures in Charlotte County, Florida and 58 structures in Lee County, Florida. The specific coordinates of the CLTL are as follows:

At the point just south of STR. 346B where easement ownership is conveyed to FPL:
Lat: 26°56'43.53"N
Long: 81°57'22.30"W
UTM: 17R 405.082 kmE 2980.749 kmN

At the fence line of Lee Sub:
Lat: 26°41'56.86"N
Long: 81°55'0.95"W
UTM: 17R 408.783 kmE 2953.439 kmN

2. These Conditions unless specifically amended or modified, are binding upon FPL and shall apply to the operation and maintenance of the CLTL as authorized under the Power Plant Siting Act (PPSA) and PPSA post-certification approvals issued by the Department of Environmental Protection. If a conflict should occur between the design criteria of this line and the Conditions, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions, the more specific condition governs.

B. Definitions

1. “Charlotte-Lee Transmission Line” or “CLTL” shall mean the transmission line and associated ROW described in Condition A.1. and shown in Figure 1.
2. “Lee Transmission Line” shall have the same meaning as in Certification Order 89-25.
3. “Right of Way or ROW” shall mean land necessary for the construction and maintenance of a connected associated linear facility, such as a railroad line, pipeline, or transmission line as owned by or proposed to be certified by the applicant. The typical width of the right-of-way shall be identified in the application. The right-of-way shall be located within the certified corridor and shall be identified by the applicant subsequent to certification in documents filed with the department prior to construction.

C. Compliance

Maintenance and operation of the CLTL shall comply with the applicable non-procedural requirements of all state and local agencies.

D. Transmission ROW

1. Ground vehicles to be used in wetlands for maintenance access shall be low ground pressure vehicles unless limited to the access roads and structure pads.
2. Only EPA approved herbicides may be used in waters of the State, or the use of other herbicides in any areas of the ROW shall only be allowed with the concurrence of DEP.
3. Prior to clearing activities within the CLTL, an ecological survey shall be conducted to identify the presence of threatened or endangered species (plant and animals) as defined in the application, likely to occur in the ROW based on range and habitat. This survey shall also identify the location of any wading bird colonies. Results of this survey shall be submitted to the DEP and the FWCC and the United States Fish and Wildlife Service (USFWS). FPL will consult with DEP and FWCC to determine appropriate process to avoid minimize, mitigate, or otherwise appropriately manage any adverse impacts.
4. Prior to any clearing activity that will take place in or otherwise adversely affect jurisdictional wetlands, FPL shall submit for review, all information necessary for a complete Joint Application for Environmental Resource Permit (ERP), DEP Forms 62-343.900(1), concurrent with this submittal FPL 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.

E. Surface Water Management

FPL will be responsible for the maintenance of the surface water management systems associated with the CLTL.

F. Webb Wildlife Management Area (WWMA)

FPL will be responsible for the maintenance of the CLTL across the WWMA, including the right to trim, cut and clear such trees, limbs, and undergrowth along the line and trees adjacent thereto as may endanger the proper operation of the CLTL. FPL has the reasonable right to enter upon Commission Land impacted by the CLTL in order to properly maintain the line.

G. Charlotte County

1. FPL shall be responsible for the correction of any sedimentation, turbidity, erosions, and/or shoaling problems that result from the operation and/or maintenance of the project.

2. It is the responsibility of FPL to provide reasonable measures to assure that unauthorized adverse off-site water resource related impacts do not occur during operation and/or maintenance of the project.

3. FPL shall, where practicable, utilize adjacent existing roads for access to the linear facility ROWs for operation and/or maintenance purposes.

4. Access road construction in Charlotte County shall include culverts as necessary and feasible to preserve preconstruction hydric flows.

H. Lee County

1. Prior to any project related land clearing or ground disturbing activities, any level two archeological areas crossed by the ROW, as identified in An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida (1987), will be subjected to a professional archaeological survey. Prior to conduction this survey, FPL's project archaeologist will consult with Lee County staff and coordinate regarding appropriate field methodology. The survey report shall be forwarded to the Lee County Department of Community Development. If avoidance is not feasible, FPL shall mitigate impacts through archaeological salvage excavation or by other methods acceptable to Lee County.

2. If any additional access roads providing entry into previously inaccessible areas of Lee County north of Cape Coral are required, they shall be gated, if the owner of the subject property consents.

3. If any access road construction is necessary for the operation and/or maintenance of the line within wetlands regulated under the Lee County Wetlands Protection Ordinance shall be at grade where feasible; culverts shall be included as necessary and feasible to preserve preconstruction hydric flows.

4. Where not inconsistent with restraints imposed under the Lee County Protected Species Ordinance, as many shrubs as practicable shall be retained within the Lee County portion of the CLTL.

5. The CLTL shall be sited, to the extent feasible, so as to avoid scrub inhabited by Florida scrub jays near the Lee substation.

6. Prior to any project related land clearing or ground disturbing activities, the ROW will be surveyed for plant and animal species of special concern and threatened, or endangered species as identified in the Protected Species Ordinance (No. 89-29). Prior to conducting this survey, FPL's project biologist will consult with Lee County staff and coordinate regarding proper survey areas and methodology. The resulting survey report shall include aerial depictions of appropriate FLUCCS registers, transects walked and applicable visibility limits, and locations of sitings within the ROW. The survey report shall also include tables indicating the percentage of the area surveyed, calculated densities and abundance, dates and times the survey was conducted, and the name(s) of the surveyor(s). The survey report shall be submitted to Lee County's Department of Community Development. If listed species are determined to be present within the CLTL, the FPL shall consult with the Lee County Department of Community Development and FWCC to determine appropriate procedure to minimize and/or mitigate for any adverse impacts.

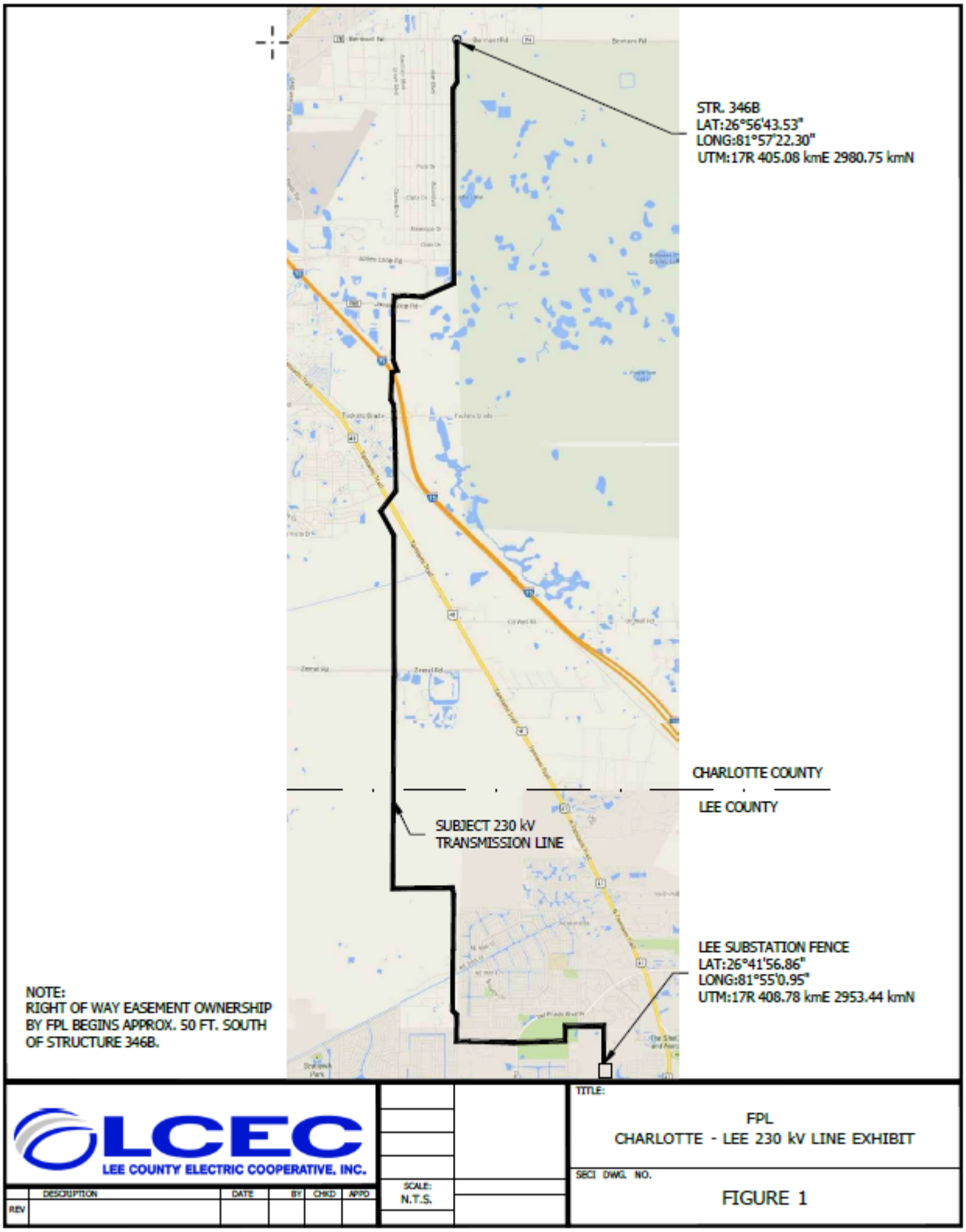
Attachment A – Charlotte-Lee Transmission Line

I. Road Crossings

1. FPL will comply with all applicable non-procedural county or city regulations pertaining to roadway crossings or connections by transmission lines and access roads.

2. For all future locations where the transmission line will cross state highways, FPL shall submit the data requested pursuant to the Department of Transportation's (DOT) "Utility Accommodation Guide" to DOT within 30 days prior to starting construction for a particular crossing. The FPL shall comply with the criteria in the Utility Accommodation Guide and with all applicable regulations pertaining to roadway crossings by transmission lines, including these conditions of certification, unless the DOT and the Licensee agree to change those requirements for good cause shown.

Attachment A – Charlotte-Lee Transmission Line



ATTACHMENT B

Pebbledale Transmission Line

To be attached upon receipt

Attachment B – Pebbledale Transmission Line

ATTACHMENT C

Vandolah to Charlotte Transmission Line

Attachment C – Vandolah to Charlotte Transmission Line

A. Scope

1. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501-.518, Florida Statutes (F.S.), and Chapter 62-17, Florida Administrative Code (F.A.C.), this certification is issued to Florida Power & Light Company (FPL) as owner/operator and Licensee of the Vandolah-Charlotte Transmission Line (VCTL), a subset of the Lee Transmission Line, which was originally certified as an associated facility with the Hardee Power Station, owned and operated by Seminole Electric Cooperative (SECI). Subject to the requirements contained in these Conditions of Certification (Conditions) contained within Attachment C, FPL will operate the VCTL, which is approximately 30 miles in length. The VCTL includes all towers, poles, insulators, conductors and other related transmission materials that allow energy to flow from a point (shown in Figure 1) south of State Road 70 (SR70) in DeSoto County, Florida to the Charlotte Loop, and then to FPL's 230 kV transmission line heading south to FPL's Saddlewood Substation in Charlotte County, Florida. The specific coordinates of the CTL are as follows:

At the point just south of SR70 (Vandolah):
Lat: 27°13'.39.123"N
Long: 81°53'31.056"W

At the point of connection to FPL's transmission line continuing on to the Saddlewood Substation (via the FPL Charlotte Substation):
Lat: 26°57'10.379"N
Long: 81°58'34.942"W

2. These Conditions, unless specifically amended or modified, are binding upon FPL and shall apply to the operation and maintenance of the VCTL as authorized under the PPSA and PPSA post-certification approvals issued by the Department of Environmental Protection. If a conflict should occur between the design criteria of this line and the Conditions, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions, the more specific condition governs.

B. Definitions

1. "Vandolah to Charlotte Transmission Line" or "VCTL" shall mean the transmission line and associated ROW described in Condition A.1. and shown in Figure 1.
2. "Lee Transmission Line" shall have the same meaning as in Certification Order 89-25.
3. "Right of Way or ROW" shall have the same meaning as s. 403.522(23), F.S.

C. Compliance

Maintenance and operation of the VCTL shall comply with the applicable non-procedural requirements of all state and local agencies.

D. Transmission ROW

1. Ground vehicles to be used in wetlands for maintenance access shall be low ground pressure vehicles unless limited to the access roads and structure pads.

2. Only EPA approved herbicides may be used in waters of the State, or the use of other herbicides in any areas of the ROW shall only be allowed with the concurrence of DEP.

E. DeSoto County

1. FPL shall comply with DeSoto County Ordinance No. 2001-11, Sections 11.40, 11.43.

2. Consistent with sound transmission line design and ROW location practices, the VCTL shall be located and constructed in a manner that minimizes impacts on adjacent land uses. To the extent feasible, FPL shall locate the ROWs so as to avoid the taking of homes.

F. Webb Wildlife Management Area (WWMA)

FPL will be responsible for maintenance of the VCTL across the WWMA, including the right to trim, cut and clear such trees, limbs, and undergrowth along the line and trees adjacent thereto as may endanger the proper operation of the VCTL. FPL has the reasonable right to enter upon Commission Land impacted by the VCTL in order to properly maintain the line.

G. Charlotte County

1. FPL shall be responsible for the correction of any sedimentation, turbidity, erosions, and/or shoaling problems that result from the construction, operation and/or maintenance of the VCTL.

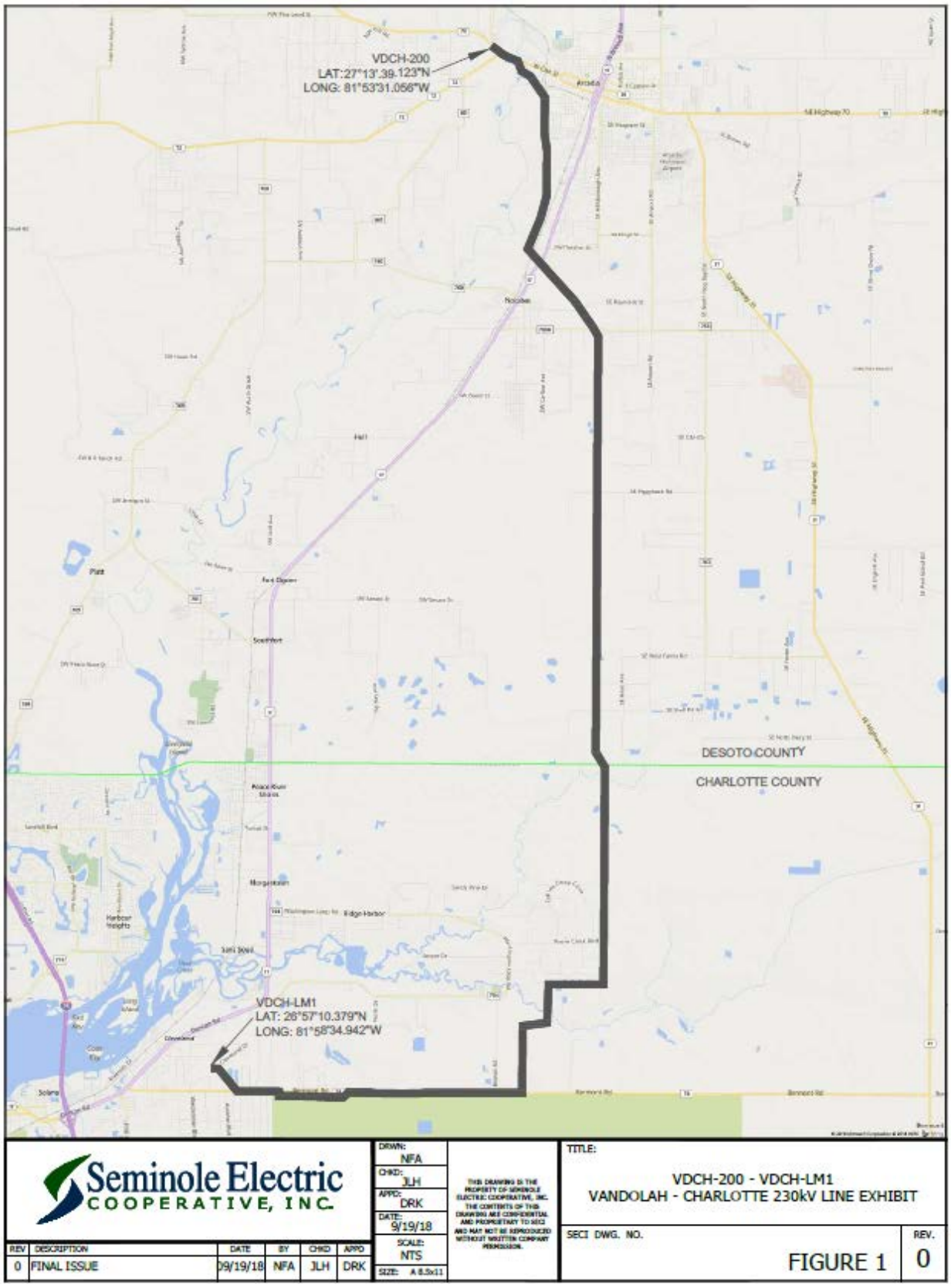
2. It is the responsibility of FPL to provide reasonable measures to assure that unauthorized adverse off-site water resource related impacts do not occur during operation and/or maintenance of the VCTL.

3. FPL shall, where practicable, utilize adjacent existing roads for access to the VCTL ROW for construction, operation and/or maintenance purposes.

4. Access road construction in Charlotte County shall include culverts as necessary and feasible to preserve preconstruction hydric flows.

H. Road Crossings

1. FPL will comply with all applicable non-procedural county or city regulations pertaining to roadway crossings or connections by transmission lines and access roads.

2. For all future locations where the transmission line will cross state highways, FPL shall submit the data requested pursuant to the Department of Transportation's (DOT) "Utility Accommodation Guide" to DOT within 30 days prior to starting construction for a particular crossing. FPL shall comply with the criteria in the Utility Accommodation Guide and with all applicable regulations pertaining to roadway crossings by transmission lines, including these conditions of certification, unless the DOT and FPL agree to change those requirements for good cause shown.

Attachment C – Vandolah to Charlotte Transmission Line