



Florida Department of Environmental Protection

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May 21, 2010

Mr. Ricardo Lima
Vice-President and General Manager
New Hope Power Company
21250 US Highway 27
South Bay, Florida 33493

Re: New Hope Power Company Okeelanta Cogeneration Facility
Modification to Conditions of Certification, Ash Monofill
DEP Case Number PA04-46A
OGC number 08-1593

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Lima:

The Florida Siting Board issued a Final Order of Site Certification for the New Hope Power Partnership (NHPP) Okeelanta Cogeneration Facility on May 17, 2005. The certification authorized the construction and operation of an additional steam turbine electric generator (nominal 65 MW), and the continued operation of the existing facility consisting of three steam boilers and one steam turbine electric generator (nominal 75 MW).

The Department initiated a modification to the Conditions of Certification in response to the Notice of Intent to Transfer Certification from NHPP to New Hope Power Company (NHPC) included in NHPC's petition for modification dated May 2008. The Department also reviewed the petition for modification to the Conditions of Certification for the addition of an ash monofill and other associated changes. Additionally, the Department has considered modifications pursuant to 403.516 (1) (c), Florida Statutes ("F.S.").

On or before April 5, 2010, all parties to the certification proceeding were provided with notice by certified mail of the Department's intent to modify the Conditions of Certification for this facility, along with a copy of the proposed Order Modifying Conditions of Certification.

On April 16, 2010, notice of the Department's intent to modify the Conditions of Certification for this facility was published on the Florida Administrative Weekly (FAW). Pursuant to Section 403.516, Florida Statutes ("F.S."), and Rule 62-17.211, Florida Administrative Code ("F.A.C."), all parties to the certification proceeding have 45 days from the issuance of notice by mail to such party's last address of record in which to file a written objection to the modification; that any person who is not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification has 30 days from the date of publication of the public notice in the Florida Administrative Weekly to object in writing; that failure to act within the time frame

constitutes a waiver of the right to become a party; and that the Department will issue an Order Modifying the Conditions of Certification for this facility if no written objections are received by the Department.

No objections to the modification have been received by the Department.

The Conditions of Certification for the New Hope Power Company Okeelanta site are hereby modified as follows:

Modifications Directly Associated With the Ash Monofill or Land Application System

Existing Condition XVI was modified and moved to Section B, Specific Conditions, Condition I as shown below.

I.XIV. Effluent Limitations and Monitoring Requirements Industrial Wastewater Requirements

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

A. ~~Surface Water Discharges~~

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

B. ~~Underground Injection Control Systems~~

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

CA. Land Application Systems

1. The Licensee is authorized to discharge process wastewater, non- process wastewater, contact and non-contact stormwater, cooling tower blow down, cachaza slurry from Okeelanta Corporation's wastewater system (DEP Permit No. FLA015038), and reverse osmosis reject water to Land Application System R-001, R-002, R-003, R-004, a percolation pond network. Discharge to the percolation pond network shall be monitored by the Licensee. Flow shall be monitored and recorded daily and total dissolved solids shall be sampled monthly.
2. The annual average flow into the percolation pond system shall not exceed 1.10 MGD.
3. The annual average total dissolved solids concentration in the effluent to the percolation pond system shall not exceed 6,000 mg/l.
4. Records of the monitoring data shall be kept on Site and made available for inspection by Department personnel during normal business hours.
5. The Licensee will perform an inspection prior to placing a new cell into service each year to ensure that the berm is properly constructed. Documentation of this inspection will be kept on Site and made available for inspection by Department personnel

during normal business hours. The rotational schedule for the said cell rotation is provided below.

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

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

D.B. Other Methods of Disposal or Recycling

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

EC. Other Limitations and Monitoring and Reporting Requirements

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

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

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

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

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

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

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

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

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

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

~~F. Industrial Sludge Management Requirements~~

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

GD. Ground Water Monitoring Requirements

1. Construction Requirements

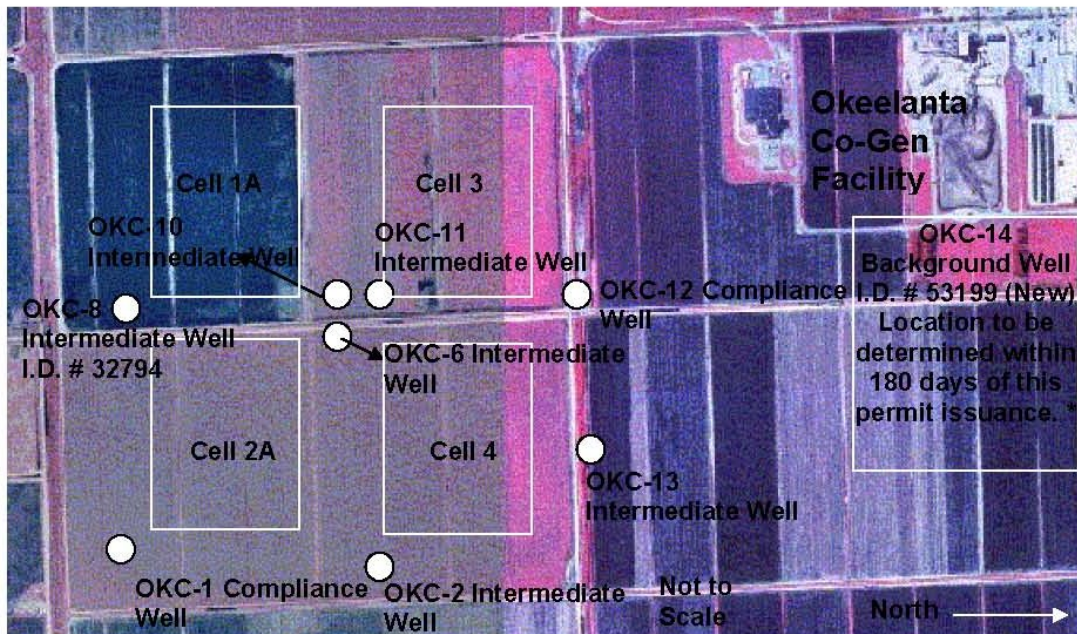
a. Prior to construction of any new ground water monitoring well, a soil boring shall be made at the new monitoring well location in order to properly determine the well depth and screen interval.

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

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

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

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



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

2. Operational Requirements

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

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

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

	northwest corner of Cell #2A. (Existing)			Quarters
MWI-32794	OKC-8 Intermediate Well. Located in the southeast corner of Cell #1A. (Existing)	17.5	Surficial	2nd & 4th Quarters
MWI-32796	OKC-10 Intermediate Well. Located in the northeast corner of Cell #1A. (Existing)	17.0	Surficial	2nd & 4th Quarters
MWI-44599	OKC-11 Intermediate Well. Located in the southeast corner of Cell #3. (Existing)	17.0	Surficial	1st & 3rd Quarters
MWI-44600	OKC-13 Intermediate Well. Located along the center north side of Cell #4. (Existing)	17.0	Surficial	1st & 3rd Quarters

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

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

Parameter Name	*Compliance Well Limit	Units	Sample Type
Specific Conductance (field)	Report	UMHO/C M	Grab
PH	6.5-8.5	SU	Grab
Chloride (as Cl)	250.0	MG/L	Grab
Solids, Total Dissolved (TDS)	500.0 **	MG/L	Grab
Water Level Relative to NGVD	Report	FEET	Measured
Sodium, Total Recoverable	160.0	MG/L	Grab

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

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

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

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

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

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

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

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

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

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

~~H. Other Land Application Requirements~~

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

~~IE. Operation and Maintenance Requirements 1. Operation of Treatment and Disposal Facilities~~

a1. The Licensee shall ensure that the operation of this facility is as described in the Application and supporting documents.

b2. The operation of the water pollution control facilities described in these Conditions shall be under the supervision of a person who is qualified by formal training and/or practical experience in the field of water pollution control.

~~J. Record keeping Requirements:~~

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

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

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

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

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

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

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

KF. Other Specific Conditions

1. Specific Conditions Applicable to All Permits

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

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

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

2. Specific Conditions Related to Construction

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

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

3. Reopener Clause

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

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

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

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

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

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

4. Notice of Modification or Revision

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

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

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

7. Bypass Provisions

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

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

ii. There were no Feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to

prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

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

b. If the Licensee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The Licensee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Section B, Condition I.F.7.a.iii of these Conditions. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

c. The Department shall approve an anticipated bypass, after considering its adverse effect, if the Licensee demonstrates that it will meet the three conditions listed in Section B, Condition I.F.7.a of these Conditions.

i. A Licensee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Section B, Condition I.F.7.a of these Conditions. [62-620.610(22), F.A.C.]

8. Upset Provisions:

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

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

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

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

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

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

c. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review. [62-620.610(23), F.A.C.]

The following By-Product and Solid Waste Storage Conditions were added to Section B, Specific Conditions:

III. BY-PRODUCT AND SOLID WASTE STORAGE

A. Solid Waste General

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

B. By-Product & Solid Waste Site Specific Standards

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

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

C. Ash Monofill (Class I Landfill)

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

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

3. The Permittee shall submit a Certification of Construction Completion (C.C.C.) [DEP Form 62-701.900(2)] signed, dated and sealed by a Professional Engineer within thirty (30) days of construction completion of each disposal unit and installation of leachate storage tanks. However, the report of construction completion may be submitted within ninety (90) days of construction completion. The applicant shall provide at least fourteen (14) days advance notice prior to accepting waste so that the Department has the opportunity to inspect the Site and the leachate storage tanks.

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

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

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

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

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

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

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

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

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

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

13. Pesticides (if any) used to control rodents, flies, and other insects shall be as specified by the Florida Department of Agriculture and Consumer Services (Chapter 5E-2, Florida Administrative Code), and such pesticides shall be available on Site for use, if necessary to control vectors.

14. Leachate Collection:

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

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

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

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

15. Leachate Measurement:

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

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

16. Water Quality Monitoring:

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

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

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

<u>WELL NO.</u>	<u>DESIGNATION</u>
<u>MW-1A</u>	<u>Detection</u>
<u>MW-2A</u>	<u>Detection</u>
<u>MW-3A</u>	<u>Detection</u>
<u>MW-4A</u>	<u>Detection</u>
<u>MW-5A</u>	<u>Detection</u>
<u>MW-6A</u>	<u>Detection</u>

<u>MW-7A</u>	<u>Background</u>
<u>MW-8A</u>	<u>Background</u>

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

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

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

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

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

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

f. On-Site surface water sampling locations are designated as SW-1 and SW-2. The locations of the surface water sampling points are indicated on Figure M.1.

prepared by Jones Edmunds & Associates, received September 25, 2008. On-Site surface water samples will be collected from each location semiannually, and analyzed for the parameters listed in F.A.C. Rule 62-701.510(8)(b):

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

<u>LABORATORY PARAMETERS</u>
<u>Unionized Ammonia</u>
<u>Total Hardness (as mg/L CaCO3)*</u>
<u>Biochemical Oxygen Demand (BOD5)</u>
<u>Iron</u>
<u>Mercury</u>
<u>Nitrate</u>
<u>Total Dissolved Solids (TDS)</u>
<u>Total Organic Carbon</u>
<u>Fecal Coliform</u>
<u>Total Phosphorous (as mg/L P)*</u>
<u>Chlorophyll A</u>
<u>Total Nitrogen</u>
<u>Chemical Oxygen Demand (COD)</u>
<u>Total Suspended Solids (TSS)</u>
<u>Those parameters listed in 40 CFR Part 258 Appendix I</u>
<u>*62-701, F.A.C. effective 01/06/10</u>

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

1. Cover letter ;
2. Summary of exceedances and recommendations;
3. Ground water contour maps;
4. Chain of custody forms;
5. Water levels, water elevation table;

6. Ground Water Monitoring Report Certification, using the appropriate Department form;

7. Appropriate sampling information on Form FD 9000-24 (DEP-SOP-001/01); and,

8. Laboratory and Field EDDs and error logs, as applicable.

All submittals in response to this specific condition shall be sent

both to:

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

And to:

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

And to:

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

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

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

i. Well Completion Reports and Construction Details;

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

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

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

j. If monitoring parameters are detected in the detection wells in concentrations which are significantly above background water quality, or exceed the

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

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

17. Leachate Monitoring:

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

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

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

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

<u>FIELD PARAMETERS</u>
<u>Specific Conductivity</u>
<u>pH</u>
<u>Dissolved Oxygen</u>
<u>Colors and Sheens (by observation)</u>

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

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

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

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

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

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

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

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

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

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

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

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

submitted cost estimates along with a copy of the estimates or statements shall be submitted to the DEP office in Tallahassee to the following address:

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

26. **Closure Schedule:** The Permittee shall, at least one year prior to the projected date when wastes will no longer be accepted at the landfill provide written notice to the Department District office with a schedule for cessation of waste acceptance and landfill closure in accordance with guidelines set forth in F.A.C. Chapter 62.701.

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

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

The following changes/updates were made to the South Florida Water Management District Conditions:

~~XV.IV,~~ South Florida Water Management District

A. Legal/Administrative Conditions

1. General

a. Responsible Entity

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

[Sections 373.223, 373.342, and 373.413, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.101(1), F.A.C.]

b. Minimum Standards

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

[Sections 373.219, 373.223, 373.229, 373.308, and 373.316, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.500-.531, F.A.C.]

c. Compliance Requirements

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

d. Off-Site Impacts

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

[Sections 373.223 and 373.309, F.S.; Rules 40E-2.091, 40E-2.381, 40E-3.301(3), and 40E-3.301(4), F.A.C.]

e. Liability

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

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

f. Construction, Operation, and Maintenance Responsibilities

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

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

g. Access

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

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

h. Post Certification Information Submittals

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

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

i. Enforcement

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

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

j. Modification/Termination of Agreement

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

B. Water Use Conditions

1. General

a. Water Shortage Compliance

In the event of a declared water shortage, the Licensee must comply with any water withdrawal reductions ordered by the SFWMD in accordance with the Water Shortage Plan, Chapter 40E-21, F.A.C.

[Section 373.246, F.S.; Rule 40E-2.381, F.A.C.]

b. Interference with Existing Legal Uses

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

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

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

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

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

c. Harm to Existing Off-Site Land Uses

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

i. Significant reduction in water levels on the property to the extent that the designed function of the water body and related surface water management improvements are damaged, not including aesthetic values. The designed function of a water body is identified in the original permit or other government authorization issued for the construction of the water body. In cases where a permit was not required, the designed function shall be determined based on the purpose for the original construction of the water body (e.g., fill for construction, mining, drainage canal, etc.);

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

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

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

d. Harm to Natural Resources

The Licensee shall mitigate harm to natural resources caused by the Licensee's withdrawals, as determined through reference to the Conditions for permit

issuance. When harm occurs, or is imminent, the SFWMD will require the Licensee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to ~~the Conditions for permit issuance~~ these Conditions of Certification includes:

- i. Reduction in ground or surface water levels that results in harmful lateral movement of the fresh water/salt water interface;
- ii. Reduction in water levels that harm the hydroperiod of wetlands;
- iii. Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;
- iv. Harmful movement of contaminants in violation of state water quality standards; or
- v. Harm to the natural system including damage to habitat for rare or endangered species.

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

e. Well System Operation

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

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

2. Site Specific Design Authorizations

a. Authorized Monthly Withdrawals

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

b. Authorized Annual Withdrawals

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

c. Authorized Withdrawal Facilities

GROUNDWATER – EXISTING

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

1 – 10” x 80’ x 250 GPM wells cased to 50 feet withdrawing from the Surficial aquifer
2 – 12” x 75’ x 250 GPM well cased to 25 feet withdrawing from the Surficial aquifer

SURFACE WATER – EXISTING

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

SURFACE WATER – PROPOSED

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

d. Consistency Review of Authorized Withdrawals

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

Within five years from the date of issuance of the Certification Order and every five years thereafter, unless extended by mutual agreement between the Licensee and the SFWMD, the Licensee shall submit to the SFWMD a report on the project’s consistency with SFWMD’s Water Use Conditions of Certification contained herein (Section B.IV.B). Within 90 days after receipt of the completed report, the SFWMD shall evaluate the information contained therein and issue a written notification to the DEP and the Licensee as to whether the ground water withdrawals for consumptive use authorized by this Certification remain in compliance with the provisions of Chapter 373, F.S., and Chapter 40-2, F.A.C., in effect at the time the certification was issued by the Siting Board. In determining whether the Licensee has established that its use of water complies with rule 40E-2, F.A.C., and the Basis of Review for Water Use Permit Applications within the SFWMD, the SFWMD shall evaluate whether the Licensee’s use of water interferes with a legal use of water that existed at the time the certification was issued by the Siting Board. If the notification indicates that the withdrawals are not in compliance with these provisions, the SFWMD shall recommend to the Licensee possible alternatives for bringing the withdrawals into compliance with SFWMD’s Water Use Conditions of Certification contained herein. In addition, if DEP determines, in consultation with SFWMD, based upon a review of a report submitted pursuant to this condition, that the Licensee has failed to establish that the Licensee’s use of water meets the consumptive water use requirements described herein, DEP may seek to modify the authorization to use water in the certification or take other appropriate measures to ensure that the consumptive use of water

meets the conditions for issuance in Chapter 40E-2, F.A.C., as described herein. Any modification made pursuant to this condition shall not be subject to, or denied as a result of, competing applications provided there is no increase in the Licensee's allocation and no change in source.

e. Request for Modification of Withdrawals

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

f. Dewatering Activities

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

- i. A detailed Site plan which shows the location(s) for each proposed dewatering area;
- ii. The method(s) used for each dewatering operation;
- iii. The maximum depth for each dewatering operation;
- iv. The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;
- v. The duration of each dewatering operation;
- vi. The discharge method, route, and location of receiving waters generated by each dewatering operation, including the measures (Best Management Practices) that will be taken to prevent water quality problems in the receiving water(s);
- vii. An analysis of the impacts of the proposed dewatering operations on any existing on and/or off-Site legal users, wetlands, or existing groundwater contamination plumes;
- viii. The location of any infiltration trench(es) and/or recharge barriers; and
- ix. All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

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

g. Reporting Requirements

~~Prior to operation of the proposed Expansion Project, the Licensee shall submit the results of the calibration testing of the identified water accounting method(s) and equip all existing and proposed withdrawal facilities with approved water use accounting~~

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

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

F.A.C.]

h. Existing Well Repair, Replacement, Abandonment

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

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

i. New Well Construction

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

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

F.A.C.]

j. Water Conservation Plan

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

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

- (a) Implementation of a leak detection and repair program;
 - (b) Implementation of a recovery/recycling or other program providing for technological, procedural or programmatic improvements to the Licensee's facilities; and
 - (c) Use of processes to decrease water consumption.
- ii. Development and implementation of an employee awareness program concerning water conservation.

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

k. Emergency Withdrawals

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

The following Palm Beach County Condition was added to Section B, Specific Conditions:

IX. Palm Beach County

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

Modifications Associated with the Incorporation of General Conditions

A copy of a complete set of the draft Conditions of Certification (strikethrough/underline notation and attachments included) are available at the following file transfer protocol site: http://publicfiles.dep.state.fl.us/siting/outgoing/New_Hope_Okeelanta/New_Hope_Okeelanta_Mod_A/. Several existing Conditions have been updated and incorporated into the more uniform set of General Conditions. Many existing Conditions have been moved to different sections of the document.

The complete set of the modified Conditions of Certification (including attachments) can be viewed and downloaded from the following website: <http://www.dep.state.fl.us/siting/certification.htm>. Copies of the Conditions of Certification and/or attachments may also be obtained by contacting Michael P. Halpin, P.E., Administrator, Siting Coordination Office, Department of Environmental Protection, 3900 Commonwealth Blvd, M.S. 48, Tallahassee, Florida 32399-3000, (850) 245-2002.

Any party to the this Order has a right to seek judicial review of it pursuant to Section 120.68, Florida Statutes by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate

Procedure, with the Clerk of the Department of Environmental Protection in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000, and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty days from the date this Order is filed with the Clerk of the Department of Environmental Protection.

Executed in Tallahassee, Florida.

Michael P. Halpin, P.E.

Michael P. Halpin, P.E.
Administrator,
Siting Coordination Office

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

Clerk *Essie Turner* Date *5-21-10*

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