

**STATE OF FLORIDA
SITING BOARD**

IN RE: FLORIDA POWER & LIGHT CO.	)	
WEST COUNTY ENERGY CENTER POWER	)	OGC CASE NO. 05-0745
POWER PLANT SITING APPLICATION NO.	)	DOAH CASE NO. 05-1493EPP
PA 05-47	)	

FINAL ORDER APPROVING CERTIFICATION

On October 24, 2006, an administrative law judge ("ALJ") with the Division of Administrative Hearings ("DOAH") submitted his Recommended Order in this certification proceeding. The Recommended Order indicates that copies were served upon counsel for Florida Power & Light Company ("FPL") and the Department of Environmental Protection ("DEP" or "Department"). The Recommended Order also reflects service upon counsel for other designated state, regional and local agencies. A copy of the Recommended Order is attached hereto as Exhibit A. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final action under the Florida Electrical Power Plant Siting Act ("PPSA") embodied in Sections 403.501-403.518, Florida Statutes.

BACKGROUND

FPL is Florida's largest electric utility currently serving more than 8 million residents, representing approximately 4.4 million customer accounts. FPL provides service to these customers in all or parts of 35 counties in the State. In Palm Beach County, between 1966 and 2005, FPL's electric sales have increased by 890 percent. The last electrical generating unit added by FPL in Palm Beach County was at its Riviera Plant in 1963. The new plant site is

located adjacent to the existing FPL Corbett transmission substation in the unincorporated area of Palm Beach County. This new facility will be known as the West County Energy Center ("WCEC"). FPL owns the 220 acre WCEC site which is currently undeveloped, disturbed land free of vegetation and void of any wetlands, significant wildlife habitat and threatened or endangered species. The predominant land uses surrounding the WCEC site include mining to the east, industrial facilities as well as mining to the north, industrial facilities to the southeast and agricultural land to the west. The WCEC facility will not cause additional growth in the area, but is a response to projected state-wide electrical power demand growth and the requirement that FPL maintain a 20 percent electrical reserve margin.

On April 14, 2005, FPL applied for certification to construct and operate a new natural gas-fired electrical power plant at the WCEC site in Palm Beach County ("the Project"). FPL proposes to construct two new natural gas-fired combined cycle generating units, each providing approximately 1250 megawatts of electric generation ("WCEC Units 1 and 2"). The two generating units will utilize ultra-low sulfur light fuel oil as a backup fuel. FPL is also seeking approval for 3300 megawatts of ultimate capacity for the site.

On June 28, 2006, the Public Service Commission ("PSC") issued its final order affirmatively determining the need for the Project as proposed by FPL. The PSC found that there are no energy conservation measures reasonably available to FPL which could avoid or defer the need for the proposed WCEC Project and that FPL is actively encouraging development of renewable energy, consistent with the direction of the Florida Legislature and the PSC.

DOAH PROCEEDINGS

DEP forwarded the matter of FPL's requested site certification for the WCEC site to DOAH for formal administrative proceedings. On August 3, 2005, a land use hearing was held for the purpose of determining whether the Project is consistent and in compliance with local land use plans and zoning ordinances of Palm Beach County, Florida. On September 2, 2005, the assigned administrative law judge entered his Land Use Recommended Order concluding that the Project and its site are consistent and in compliance with Palm Beach County's land use plans and zoning ordinances. The Siting Board's Land Use Order adopting the Land Use Recommended Order and finding the Project to be consistent and in compliance with applicable land use plans and zoning ordinances was issued on November 15, 2005.

On July 18, 2006, DEP issued its Staff Analysis Report on the Project, incorporating the reports of the reviewing agencies and recommending certification of the WCEC, subject to a comprehensive set of recommended Conditions of Certification. At the hearing on this matter, DEP submitted a Revised Staff Analysis Report dated August 24, 2006, that incorporated some editorial changes and a slightly revised set of recommended Conditions of Certification (DEP Exhibit 2).

On August 28, 2006, FPL, DEP, the Florida Fish and Wildlife Conservation Commission, the Florida Department of Transportation, the Florida Department of Community Affairs, the Treasure Coast Regional Planning Council ("TCRPC"), PSC, South Florida Water Management District, and Palm Beach County filed a joint Prehearing Stipulation addressing certification issues. The Stipulation indicated that all of these parties either recommended certification, did

not dispute that certification should be approved, or took no position with respect to certification of the WCEC site.

The certification hearing was held on September 6 and 7, 2006, in Palm Beach County. FPL and DEP presented expert testimony and other evidence in support of site certification. No other party presented testimony or evidence. At the beginning of the certification hearing, four individuals represented by counsel motioned to intervene as parties to this proceeding. Section 403.508(4)(e), Florida Statutes, allows the designated administrative law judge discretion to grant intervention "any time prior to 30 days before commencement of the certification hearing." The provision was construed to mean that there was no discretion to allow intervention within 30 days of the certification hearing. Notice of the Certification Hearing was published by FPL in the Palm Beach Post on July 17, 2006. Any motion to intervene as a party to the proceeding should have been filed on or before August 4, 2006. In addition, other public notices concerning this proceeding were published by FPL and DEP at earlier stages of this proceeding. Accordingly, the motion was denied.

Members of the public were given an opportunity to provide public comment or testimony during the certification hearing. Four individuals provided public comment that was not sworn testimony. Twenty-five individuals testified under oath including three of the four individuals who had attempted to intervene as parties. Additional written public comment was allowed if filed with DOAH by September 15, 2006. Responses by the parties to any such written public comments were allowed if filed with DOAH by September 20, 2006.

RECOMMENDED ORDER

On October 24, 2006, the ALJ entered his Site Certification Recommended Order for the WCEC Project. The ALJ concluded that FPL met its burden of proof of demonstrating at the certification hearing that the WCEC site complies with all of the criteria for certification under the PPSA. The ALJ specifically concluded that the evidence at the hearing demonstrated that the construction and operational safeguards for the WCEC Project are sufficient to protect the public welfare. The ALJ further concluded that the WCEC Project will result in minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

The ALJ also concluded that in accordance with the PPSA, proper notice of the site certification application and certification hearing was given to all persons, entities, and parties entitled to such notice. The required governmental agencies, and members of the public, either participated or had the opportunity to participate in the certification hearing. The four individuals who motioned to intervene well after the statutory deadline were allowed to participate through public comment and their counsel was allowed to participate in the hearing to cross-examine members of the public, to make a closing argument following the public comment, and file a post-hearing statement if he chose to do so.

The ALJ ultimately recommended that the Siting Board grant full and final certification for the WCEC Project to an ultimate capacity of 3300 megawatts, in accordance with the application, the evidence presented at the certification hearing, and subject to the Conditions of Certification set forth in DEP Exhibit 2.

CONCLUSION

No Exceptions were filed in this administrative proceeding challenging any of the ALJ's findings or conclusions in the Siting Certification Recommended Order. Further, the record in this proceeding is devoid of any objections by any governmental agencies to site certification of the WCEC Project. Based on a review of the record and the governing law, the Siting Board concludes that FPL's WCEC Project complies with the certification requirement of the PPSA and that site certification of the WCEC Project fully balances the increasing demands for electrical power plant location and operation with the broad interests of the public.

It is therefore ORDERED that:

- A. The Site Certification Recommended Order (Exhibit A) is adopted and incorporated by reference herein.
- B. Certification of the location, construction, and operation of Units 1 & 2, totaling 2500 MW, of the WCEC Project as described in FPL's site certification application and by the evidence presented at the certification hearing is APPROVED, subject to the Conditions of Certification contained in DEP Exhibit 2 and incorporated by reference herein.
- C. Certification of the WCEC site for an ultimate site capacity of 3300 megawatts is APPROVED, subject to supplemental application review pursuant to Section 403.517, Florida Statutes, and Rule 62-17.231, Florida Administrative Code.
- D. Authority to assure and enforce compliance by FPL and its agents with all of the Conditions of Certification imposed by this Final Order is hereby delegated to DEP, except that any proposed modification to burn a fuel other than natural gas or ultra-low sulfur light fuel oil shall be reviewed by the Siting Board.

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

DONE AND ORDERED this 21st day of December, 2006, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on December 19, 2006.

THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



THE HONORABLE JEB BUSH
GOVERNOR

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


CLERK

12/26/06
DATE

CERTIFICATE OF SERVICE

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

Kelly Martinson, Esquire
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

James Antista, Esquire
Florida Fish & Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, Florida 32399-1600

Peter Cocotos, Esquire
South Florida Water Management District
Post Office Box 24680
West Palm Beach, Florida 33416-4690

Sheauching Yu, Esquire
Department of Transportation
605 Suwannee Street, Mail Station 58
Tallahassee, Florida 32399-0450

Martha Carter Brown, Esquire
Office of General Counsel
Florida Public Service Commission
2450 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Robert Banks, Esquire
Lil Walesky, Esquire
Palm Beach County
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401

Roger Saberson, Esquire
Treasure Coast Regional Planning Council
70 Southeast 4th Avenue
Delray Beach, Florida 33483-4514

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

Harris M. Rosen, Esquire
Corporate Counsel
Florida Power & Light Company
Post Office Box 14000
Juno Beach, Florida 33408

Ann Cole, Clerk and
David M. Maloney, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

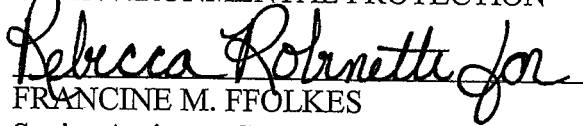
and by hand delivery to:

Scott A. Goorland, Esquire
Department of Environmental Protection
3900 Commonwealth Blvd., M.S. 35
Tallahassee, FL 32399-3000

Steven Palmer, P.E.
Department of Environmental Protection
Siting Coordination Office
2600 Blairstone Road, Mail Station 48
Tallahassee, Florida 32399-2400

this 26th day of December, 2006.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


FRANCINE M. FFOLKES
Senior Assistant General Counsel

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

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: FLORIDA POWER & LIGHT CO.)
WEST COUNTY ENERGY CENTER POWER) Case No. 05-1493EPP
POWER PLANT SITING APPLICATION)
NO. PA 05-47)
_____)

SITE CERTIFICATION RECOMMENDED ORDER

Pursuant to notice, the Division of Administrative Hearings, by its duly-designated Administrative Law Judge, David M. Maloney, held a certification hearing in the above-styled case on September 6 and 7, 2006, in Wellington, Florida.

APPEARANCES

For Florida Power & Light Co.:

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

Harris M. Rosen, Esquire
Corporate Counsel
Florida Power & Light Company
Post Office Box 14000
Juno Beach, Florida 33408

For the Department of Environmental Protection:

Scott A. Goorland, Esquire
Department of Environmental Protection
3900 Commonwealth Boulevard
Mail Station 35
Tallahassee, Florida 32399-3000

Exhibit A

STATEMENT OF THE ISSUE

The issue to be resolved in this proceeding is whether the Governor and Cabinet, sitting as the Siting Board, should approve Florida Power & Light Company's ("FPL") request for certification to authorize construction and operation of the first two units of the West County Energy Center Project ("WCEC Project" or the "Project") and for certification of an ultimate site capacity of 3300 megawatts ("MW") for the WCEC Project site, in accordance with the Florida Electrical Power Plant Siting Act ("PPSA"), Section 403.501, seq., Florida Statutes ("F.S.")

PRELIMINARY STATEMENT

This proceeding was conducted pursuant to the PPSA, Chapter 403, Part II, F.S., and Chapter 62-17, Florida Administrative Code ("FAC") to consider FPL's application for power plant site certification of the WCEC Project. On April 14, 2005, FPL applied for certification to construct and operate a new natural gas-fired electrical power plant in Palm Beach County, Florida, pursuant to the PPSA. The Florida Department of Environmental Protection ("DEP") determined the application for site certification to be complete on April 29, 2005.

Comments on the sufficiency of the application were timely submitted by the DEP, the Department of State's Division of

Historical Resources, the Department of Transportation, and the South Florida Water Management District ("SFWMD"). FPL filed responses to all agency sufficiency comments. (FPL Ex. 2)¹ The application was found sufficient on September 12, 2005.

On August 3, 2005, a land use hearing was held for the purpose of determining whether the Project is consistent and in compliance with local land use plans and zoning ordinances of Palm Beach County, Florida. On September 2, 2005, the assigned Administrative Law Judge entered his Land Use Recommended Order concluding that the Project and its site are consistent and in compliance with Palm Beach County's land use plans and zoning ordinances. The Siting Board's Land Use Order adopting the Land Use Recommended Order and finding the Project to be consistent and in compliance with applicable land use plans and zoning ordinances was signed by Governor Bush and issued on November 15, 2005. (FPL Ex. 7)

Pursuant to Section 403.519, F.S., the Florida Public Service Commission ("PSC") issued Order No. PSC-06-0555-FOF-EI, dated June 28, 2006, affirmatively determining the need for the West County Energy Center as proposed by FPL. (FPL Ex. 5)

The various reviewing agencies have submitted reports on the Project and recommended Conditions of Certification. On July 18, 2006, DEP issued its Staff Analysis Report on the

Project, incorporating the reports of the reviewing agencies and recommending certification of the West County Energy Center, subject to a comprehensive set of recommended Conditions of Certification. At the hearing on this matter, DEP submitted a Revised Staff Analysis Report dated August 24, 2006, that incorporated principally editorial changes and a slightly revised set of recommended Conditions of Certification. (DEP Ex. 2)

On July 17, 2006, notice of the certification hearing scheduled for September 6 and 7, 2006, was published by FPL in the Palm Beach Post, a newspaper published in Palm Beach County, Florida. (FPL Ex. 6) Notice of this certification hearing was also published by DEP in the Florida Administrative Weekly on July 21, 2006. (FPL Ex. 6)

On August 28, 2006, FPL, DEP, the Florida Fish and Wildlife Conservation Commission, the Florida Department of Transportation, the Florida Department of Community Affairs, the Treasure Coast Regional Planning Council ("TCRPC"), PSC, SFWMD, and Palm Beach County filed a Prehearing Stipulation addressing certification issues. The Stipulation indicated that no party objected to certification of the Project, subject to appropriate Conditions of Certification. The TCRPC took no position as to whether or not the Project should be certified.

The certification hearing was held on September 6 and 7, 2006, in Wellington, Florida. The hearing was conducted for the purposes of receiving evidence as to whether certification authorizing construction and operation of the first two units of the Project should be approved, approved with conditions, or denied, and as to whether the Project site should be certified for an ultimate site capacity of 3300 MW. The hearing was also held to allow opportunity for public comment.

Pursuant to Section 403.507(3), F.S., the certification hearing shall also serve as the hearing on any petition for an administrative hearing concerning the preliminary determination and draft permit issued by DEP on the separately-issued federal Prevention of Significant Deterioration ("PSD") permit for the Project. No such petition has been filed as to that permit.

At the beginning of the certification hearing, Barry Silver, an attorney representing Michael Christensen, Patricia Curry, Alexandria Larson, and Sharon Waite, made an *ore tenus* motion for those four individuals to intervene as parties to this proceeding. Section 403.508(4)(c), F.S. allows the designated administrative law judge discretion to grant intervention "any time prior to 30 days before the commencement of the certification hearing." The provision was construed to mean that there was no discretion to allow intervention within

30 days of the certification hearing. The motion was denied accordingly.

FPL presented the oral or written testimony of ten witnesses. The Applicant's expert witnesses and the subject of their expert testimony included: Peter Andersen, P.E., Water Resource Engineering and Groundwater Modeling; Karl Bullock, Terrestrial and Wetlands Ecology; Richard Hathaway, Power Plant Design, Engineering and Construction; John Gnecco, P.E., Power Plant Design and Operation; Kennard Kosky, P.E., Power Plant Siting, Licensing, Alternatives Analysis and Regulatory Compliance, Air Pollution Control Technology Design and Engineering, Best Available Control Technology Determinations, Air Quality Impact Analyses, including impacts to Visibility and Noise Evaluation and Impact Analyses; Gregory Powell, Ph.D., Surface Water Hydrology and Geohydrology; Carmine Priore, III, P.E., Power Plant Operations; Jonathan Shaw, P.G., Hydrogeology; and Richard Zwolak, AICP, Land Use Planning, Socioeconomic Impact Analysis and Traffic Impact Analysis. David N. Hicks, a fact witness, was also called by FPL.

The prefiled written testimony and exhibits of four of FPL's expert witnesses were received into evidence by prior agreement of all of the parties.

FPL Exhibits 1 through 9, along with FPL Exhibits DNH-1, JG-1, RH-1 through 6, KFK-1 through 4, RZ-1 through 4, and CP-1 were admitted into evidence.

DEP presented the testimony of Steven L. Palmer, P.E., an expert in Electrical Power Plant Site Certification in the State of Florida. DEP Exhibits 1 through 5 were admitted into evidence.

Members of the public were given an opportunity to provide public comment or testimony during the certification hearing. Four individuals provided public comment that was not sworn testimony. Twenty-five individuals testified under oath. Counsel for FPL and DEP, as well as Mr. Silver, were given the opportunity to cross-examine those members of the public who gave sworn testimony. Public comment exhibits Tsolkas 1, Larson 1 and Curry 1 were admitted in evidence. Mr. Silver was allowed to make a closing argument on the public comment portion of the proceeding. Additional written public comment was allowed if filed with the Division of Administrative Hearings by September 15, 2006. Responses by the parties to any such written public comments were allowed if filed with the Division of Administrative Hearings by September 22, 2006.

FPL elected to order a transcript of the proceedings. It was filed with the Division of Administrative Hearings on

September 13, 2006. A Joint Proposed Recommended Order was submitted by FPL and DEP and has been considered in rendition of this Recommended Order.

FINDINGS OF FACT

Based upon all of the evidence received, the following Findings of Fact are determined:

Project Summary

Public Notice

1. The Notice of Certification Hearing regarding the WCEC Project was published by FPL in the Palm Beach Post on July 17, 2006. It included language consistent with Section 403.508(4) and (5), F.S., regarding opportunities to participate in this proceeding, and requirements and deadlines for intervening as a party in this proceeding. Paragraph 6(c) of that Notice included the following sentence: "Intervention pursuant to this paragraph may be granted at the discretion of the designated Administrative Law Judge and upon such conditions as he may prescribe any time prior to 30 days before the commencement of the September 6, 2006 certification hearing." (FPL Ex. 6)

2. Other public notices concerning this proceeding were published by FPL and DEP at earlier stages of this proceeding. DEP published a Notice of Filing Application for Power Plant

Certification regarding the WCEC Project on May 13, 2005. Under the heading "Point of Entry," that notice stated:

"This notice does not serve as a point of entry for any person. However, in the future, two hearings will be announced. One hearing will consider the compliance of the site with local land use plans and zoning ordinances. The second will address environmental impacts. Any person who is not a statutory party to the certification proceeding and whose substantial interest is affected and being determined by the proceeding may file a motion to intervene in the proceeding pursuant to chapter 120, Florida Statutes, and the applicable rules; section 403.508(4)(e), Florida Statutes; and section 62-17.141(4), Florida Administrative Code, at least 31 days before the date of the certification hearing. Failure to act within the time frame constitutes a waiver of the right to become a party.

Intervention may be granted at the discretion of the designated administrative law judge and upon such conditions as he or she may prescribe any time prior to 30 days before the commencement of the certification hearing. The petition must be filed (received) with the Administrative Law Judge, Division of Administrative Hearings, The Desoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550 at least 31 days before the date of the certification hearing."

(DEP Ex. 3; Palmer Tr. III, pp. 51 to 53)

3. The Notice of Filing Application for Site

Certification regarding the Project published in the Palm Beach Post by FPL on May 14, 2005, included language consistent with Section 403.508(4), F.S. regarding intervention as follows:

"Intervention pursuant to this paragraph may be granted at the discretion of the designated administrative law judge and upon such conditions as he may prescribe any time prior to 30 days before the commencement of the certification hearing." The Notice of Land Use and Zoning Hearing regarding the Project published in the Palm Beach Post on June 16, 2005, included identical language regarding intervention. DEP published a Notice of Public Hearing regarding the land use hearing for the Project on June 17, 2005, that, under the heading "Point of Entry" also included substantially identical language on intervention. (FPL Ex. RZ-2, RZ-3; DEP Ex. 4; Palmer Tr. III, pp. 54, 55)

4. Each of the three newspaper notices published by FPL regarding this proceeding was approximately one-half page in size. The Palm Beach Post is a newspaper of general circulation in Palm Beach County. (FPL Ex. 6, RZ-2; RZ-3; Palmer, Tr. III, pp. 53, 54)

Background

5. Florida Power & Light Company is Florida's largest electric utility. FPL currently serves more than 8 million residents, representing approximately 4.4 million customer accounts. FPL provides service to these customers in all or parts of 35 counties in the state. FPL's service territory is

along the eastern seaboard and in the southern and southwestern portions of Florida. FPL has existing electrical generating units located at 14 sites in Florida. FPL has been providing electric service in Florida for more than 80 years. (FPL Ex. 1, pp. 1-2 to 1-3; FPL Ex. DH-1; Hicks, Tr. I, pp. 30-31)

6. The last electrical generating unit added by FPL in Palm Beach County was at its Riviera Plant in 1963. Between 1966 and 2005, FPL's electric sales in Palm Beach County have increased by 890 percent. (Hicks, Tr. I, p. 34)

7. FPL undertook an extensive public outreach program in connection with the WCEC Project. The goal of this program was to provide opportunities for FPL to share information with the public, to obtain their views, and to address their interests. Beginning in 2005 and continuing in 2006, FPL provided numerous presentations about the WCEC Project to homeowners' associations, Chambers of Commerce, and civic clubs. FPL also held open houses in local neighborhoods. (Priore, Tr. I, pp. 116-117; FPL Ex. 1, Vol. I, pp. 1-9 to 1-10; RZ-4)

PSC Need Determination

8. On June 28, 2006, the Public Service Commission issued its final order determining the need for the WCEC Units 1 and 2. The PSC found that: there is a need for FPL's proposed WCEC Units 1 and 2, taking into account the need for electric system

reliability and integrity, as used in Section 403.519, F.S.; without completing WCEC Unit 1 by June 2009, FPL's and Peninsular Florida's electric system reliability and integrity would be significantly reduced, and FPL would be unable to meet its reserve margin planning criterion; and, without completing WCEC Unit 2 by June 2010, FPL would fall below its reserve margin criterion. The PSC also found that: the WCEC Units 1 and 2 will be highly efficient and reliable, state-of-the-art units producing electricity for FPL's customers at a reasonable cost; the addition of WCEC Units 1 and 2 will improve FPL's average system heat rate by about four percent, allowing FPL's generating system to use four percent less natural gas; and that WCEC Units 1 and 2 are the most cost-effective alternatives available. The PSC found that there are no energy conservation measures reasonably available to FPL which could avoid or defer the need for the proposed WCEC Units 1 and 2 and that FPL is actively encouraging development of renewable energy, consistent with the direction of the Florida Legislature and the PSC. (FPL Ex. 5; Hicks, Tr. I, pp. 31-34)

Site and Site Vicinity

9. The site which is proposed to be certified in this proceeding is a new plant site of approximately 220 acres located adjacent to the existing FPL Corbett transmission

substation in the unincorporated area of Palm Beach County, Florida. FPL proposes to construct two new natural gas-fired combined cycle generating units, each providing approximately 1250 MW of electric generation. This new facility is referred to as the West County Energy Center. FPL is also seeking approval for 3300 MW of ultimate capacity for the site. The WCEC site is located north of State Road 80 and just northwest of the Village of Wellington. State Road 80, also known as U.S. Highways 98 and 441, is a major east-west corridor that traverses the middle of Palm Beach County. (FPL Ex. 1, pp. 1-1, 2-9, Fig. 2.1.1-1; FPL Ex. RH-2; Zwolak, Tr. III, p. 16-17; Palmer, Tr. III, p. 44)

10. FPL owns the 220 acre WCEC site, which was formerly owned by Palm Beach Aggregates, Inc. ("PBA"). Prior to FPL's purchase of the site, PBA conducted aggregate mining on a portion of this property. PBA reclaimed the land through removal of all organic material and overburden soils, and backfilled the site to 23 feet above mean sea level with structurally engineered material which meets the requirements of power plant construction. The site is currently undeveloped, disturbed land free of vegetation and void of any wetlands, significant wildlife habitat and threatened or endangered species. A berm has been constructed along the southern

boundary of the site where it abuts State Road 80, constituting a planted visual barrier approximately 30 feet above the elevation of State Road 80. The entire WCEC site is above the 100-year flood zone and is above the water levels projected in the event of a breach of the Lake Okeechobee dike. (FPL Ex. 1, pp. 2-1, 2-23 to 26, 4-4, 4-5; FPL Ex. RH-3; Gnecco, Tr. I, p. 44; Hathaway, Tr. I, p. 53-4; Zwolak, Tr. III, p. 10; Bullock, PT, p. 5)

11. Land uses immediately adjacent to the WCEC site include an electrical substation, mining, high voltage transmission lines and State Road 80. Agricultural lands are located west of the Project, while ongoing mining activities are located to the east and north of the Project. FPL's Corbett Substation is located northwest of and adjacent to the WCEC site. FPL's existing 500 kilovolts ("kV") transmission line corridor is located on the western boundary of the site. Palm Beach Aggregates has entered into an agreement with the SFWMD to construct water storage ponds to the east of the site after mining is completed by PBA. These ponds will be located east of the FPL site and between the PBA Road and the L-8 Canal. (FPL Ex. 1, pp. 2-1, 2-6, 2-21; FPL Ex. RH-3; Zwolak, Tr. III, pp. 10, 11, 14, 16)

12. The predominant land uses beyond those immediately adjacent to the site include mining to the east, industrial facilities, as well as mining to the north, industrial facilities to the southeast and agricultural land to the west of the site. (FPL Ex. 1, pp. 2-1, 2-6; FPL Ex. RH-3; Zwolak, Tr. III, p. 11)

13. The residential area nearest to the site is a multi-acre per lot subdivision called Deer Run, located to the northeast. The nearest residence in the Deer Run Subdivision is located approximately 0.75 miles from the location proposed for WCEC Unit 1. Beyond two miles from the site, land use patterns are primarily residential to the east, with density gradually increasing further to the east, and agriculture to the west. (FPL Ex. 1, p. 2-1; Zwolak, Tr. III, pp. 14-15)

14. The northern end of the Loxahatchee National Wildlife Refuge ("LNWR"), a part of the Everglades, is located south of the WCEC site and south of State Road 80. The LNWR comprises over 221 square miles including habitat for the American alligator and the endangered Everglades snail kite. In any given year, as many as 257 species of birds may use the LNWR's diverse wetland habitats. The portion of the LNWR located nearest the WCEC site is dominated by freshwater tree islands, marsh, shrubs, and cattails. Exotic species have extensively

colonized the northern, southwestern, and western portions of the LNWR. The LNWR's public access point nearest to the WCEC site is approximately 20 miles to the southeast. The portion of the LNWR closest to the WCEC site, a point on the LNWR's northern boundary, is not open for public use. (FPL Ex. 1, pp. 2-6, 2-7; Zwolak, Tr. III, pp. 13, 17) Testimony in the public comment portion of the hearing was that the distance from the site to the closest point in the LNWR is one-half mile. Mr. Zwolak, FPL's rebuttal witness estimated it to be "somewhere around 1000 foot . . . one-fifth of a mile." Tr. III, p. 13. Mr. Zwolak's estimate is found to be the more accurate. Whichever is more accurate, however, there is no question that the distance between the WCEC site and the nearest point of the LNWR is less than one mile.

15. In choosing the WCEC site, FPL considered a number of factors, including fuel supply, transmission access, water supply, location of the site, and physical attributes of the site. The WCEC site was found acceptable with respect to each of these factors. As to the site location and geology, FPL required assurances that PBA's ongoing mining operations, which include blasting of limerock material, would not adversely impact the operation of WCEC. PBA entered into an agreement with FPL that outlined the terms, conditions, and restrictions

associated with PBA's blasting activities. The blasting agreement included minimum separation criteria, maximum blasting levels, and coordination notification requirements. The minimum separation criteria was established to ensure that the most sensitive parts of the power plant (large rotating equipment such as the steam turbine) would not be adversely affected by blasting. With an understanding of the maximum velocity, displacement and accelerations associated with any blasting, FPL can design the WCEC structures, buildings and equipment to handle the resulting loads, including the combustion turbine foundations, fuel tanks and natural gas pipelines. Blasting associated with the PBA mining operations is not expected to adversely affect the buildings, structures, or equipment comprising WCEC or the safe and reliable operation of the facility. The ongoing mining activities of PBA have not adversely impacted the existing natural gas pipeline that runs along State Road 80, just south of the WCEC site. (Gnecco, Tr. I, pp. 40-49)

Project Design

16. The WCEC Project involves the construction and operation of two new "3-on-1" combined cycle units. Each unit will consist of three combustion turbines ("CTs") and three heat recovery steam generators ("HRSGs") that supply steam to a

single steam turbine generator. A combustion turbine is similar to a large jet engine. It combines air and fuel in the combustion turbine, where the fuel is ignited and the air expanded to rotate a shaft that has an electric generator attached to it. Heat from each combustion turbine, in addition to supplemental heat from duct burners, is exhausted into a HRSG which produces steam that is used with steam from the other HRSGs to rotate a conventional steam turbine shaft that is attached to a separate electric generator. The recovery of waste heat from the combustion turbine for use in the steam turbine results in the combined-cycle design having efficiency gains over conventional steam electric power plants. (FPL Ex. 1, pp. 3-1 to 3-2; Hicks, Tr. I, p. 32; Hathaway, Tr. I, p. 55)

17. Each of the 3-on-1 combined cycle units will have a total nominal generating capacity of 1250 MW. Each HRSG will contain a duct burner which is fired during peak demand periods to achieve the total nominal generating capacity. The duct burners will fire natural gas only. Duct firing will be limited to an equivalent of 2,880 hours per year per CT at the maximum firing rate. Each CT will also utilize inlet air cooling which removes heat from the inlet air and allows additional power to be produced more efficiently. An 8°F decrease in the inlet temperature would result in a three

percent increase in power output for each CT. (FPL Ex. 1, pp. 3-1 to 3-2; Hathaway, Tr. I, p. 56)

18. The WCEC Project will be fueled primarily by natural gas delivered by a new pipeline extension that will connect to an existing interstate natural gas pipeline. Natural gas will not be stored onsite. The natural gas pipeline extension will be permitted, constructed and operated by Gulfstream Natural Gas Systems, LLC. (FPL Ex. 1, pp. 3-2, 3-6; Hathaway, Tr. I, pp. 60-61)

19. Ultra low-sulfur light oil will be delivered by truck and used as a backup fuel for up to 500 hours per year per combustion turbine. Fuel oil will be stored onsite in two 6.3 million gallon storage tanks. Proper secondary containment will be provided to contain a spill of the fuel oil within these tanks. (FPL Ex. 1, pp. 3-2, 3-4; FPL Ex. 3; Hathaway, Tr. I, pp. 60-61)

20. No new transmission lines are required to connect the WCEC Project to FPL's existing transmission network. WCEC Units 1 and 2 will be connected to the existing FPL Corbett Substation located directly adjacent to the site by string buses from the onsite collector yards. (FPL Ex. 1, pp. 3-3, 6-1; Hathaway, Tr. I, p. 62)

Construction of WCEC Project Facilities

21. Construction of WCEC Units 1 and 2 is scheduled to commence in early 2007, with a planned in-service date for Unit 1 of June 2009 and a planned in-service date for Unit 2 of June 2010. (Hathaway, Tr. I, p. 62)

22. Construction traffic will use State Road 80 to access the existing PBA Road, which is an asphalt-paved road along the eastern boundary of the WCEC Project Site. A separate paved asphalt driveway will be constructed to connect the Site to PBA Road. (FPL Ex. 1, p. 4-4; Hathaway, Tr. I, p. 58)

23. Construction of the Project will not adversely impact adjacent surface water flood elevations or flows. There will be no adverse flooding or related impacts to offsite property. (FPL Ex. 1, p. 4-4)

24. No explosives for blasting will be used during construction of the Project. (FPL Ex. 1, p. 4-1)

25. Site preparation will be minimal due to the existing character and structural stability of the backfilled material at the site. Structural fill will be used in areas of the site as needed. Spread foundations and pilings will be used. Fugitive dust generation from traffic and/or excavations will be minimized through paving, the use of water sprinkling, or other dust suppressant techniques. (FPL Ex. 1, p. 4-2)

26. Temporary dewatering may be required for initial site preparation. In the Revised Staff Analysis Report, there appears the following about "Dewatering Activities:"

Prior to commencement of construction of those portions of the project that involve dewatering activities, the Licensee shall submit a detailed plan for any such activities to the SFWMD 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.

DEP Ex. 2., Appendix 1, p. 26 of 40. Dewatering should last less than one year and take place in the central portion of the site. Dewatering effluent will be routed to the stormwater retention ponds to allow it to evaporate or percolate. Construction dewatering is not expected to have any adverse impacts to groundwater or surface water resources and will comply with applicable SFWMD rules related to dewatering. FPL will submit a detailed dewatering plan to the SFWMD prior to commencement of dewatering. (FPL Ex. 1, p. 4-2; Powell, PT. pp. 10 to 11)

27. Water needed during construction will be obtained from the surficial aquifer. During construction, the work force will use portable chemical toilets. A licensed contractor will remove sanitary wastes for disposal in an approved disposal facility. (FPL Ex. 1, pp. 4-2 to 4-3)

Project Air Emissions, Air Emission Controls
and Air Quality Impacts

28. Air emissions from the WCEC Project will be minimized through the inherent efficiency of the combined cycle design, and the use of natural gas as the primary fuel, with ultra-low sulfur light oil as a backup fuel, advanced combustion control technology, and post-combustion control technology. Natural gas, the cleanest of fossil fuels, has very low levels of impurities relative to other fossil fuels. Ultra-low sulfur light oil is also relatively low in impurities and will be used as a backup fuel for no more than 500 hours per year per combustion turbine. Natural gas and ultra-low sulfur light oil can be burned very efficiently to minimize the formation of air pollutants. The use of dry low NO_x combustion design in the combustion turbines, and low NO_x burners in the duct burners, will also minimize air emissions by inhibiting formation of thermal NO_x by premixing of fuel and air prior to combustion, and by reducing flame temperatures. Selective Catalytic Reduction (SCR) will provide additional control of emissions of NO_x from the WCEC. The cooling towers will have high efficiency "drift" or "mist" eliminators to minimize the amount of drift and resulting particulate matter that is formed. These drift eliminators will reduce drift by over 99.99 percent. (FPL Ex.

1, pp. 3-6 to 3-12; App. 10.1.5, pp. 2-1 to 2-8; Hathaway, Tr. I, p. 63; Kosky, Tr. I, pp. 75-78)

29. State and federal Prevention of Significant Deterioration ("PSD") regulations require that the WCEC Project meet all applicable emission limiting standards and that Best Available Control Technology ("BACT") be determined in order to limit emissions. BACT is defined in Florida Administrative Code Rule 62-210.200(39)(a), as:

An emission limitation, including a visible emissions standard, based on the maximum degree of reduction of each pollutant emitted which the Department [of Environmental Protection], on a case by case basis, taking into account:

1. Energy, environmental and economic impacts, and other costs;
2. All scientific, engineering, and technical material and other information available to the Department; and
3. The emission limiting standards or BACT determinations of Florida and any other state;

determines is achievable through application of production processes and available methods, systems and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for control of each such pollutant.

The BACT requirements are intended to insure that the air emission control systems for WCEC reflect the latest in control technologies used in the electric utility industry and take into

consideration existing and future air quality in the vicinity of the Project. BACT review includes a cost-benefit analysis of alternative control technologies capable of achieving a higher degree of emission reduction than the proposed technology:

DEP's determination on what constitutes BACT for the WCEC Project is based on a balancing of environmental benefits with environmental, energy, and economic impacts and other costs.

(FPL Ex. 1, Vol. III, PSD Permit App., "PSD Report," pp. 3-2 to 3-4; DEP Ex. 2, App. VIII, pp. 7-8)

30. In its review for the PSD permit for the Project, the DEP determined that the emission limits proposed for WCEC Units 1 and 2 represent BACT for purposes of the PSD permit. (DEP Ex. 2, App. VIII, pp. 8-20)

31. The Project's use of relatively clean fuels, combined with advanced combustion control technology, will provide the maximum degree of emission reduction for sulfur dioxide, particulate matter, volatile organic compounds, carbon monoxide, and sulfuric acid mist. The dry low NO_x control technology for the combustion turbine combustion and the duct burners, along with SCR, reflect the latest available control technologies for reducing NO_x emissions from combined cycle systems. (FPL Ex. 1, pp. App. 10.1.5, "PSD Report" pp. 4-2 to 4-17; Kosky Tr. I, pp. 75-79)

32. The emission limits for the WCEC Project in the recommended Conditions of Certification contained in DEP Exhibit 2 incorporate the emission limits proposed as BACT by DEP. The recommended NO_x emission limit of 2.0 parts per million for combined cycle operation firing natural gas and 8.0 parts per million when firing ultra-low sulfur light oil are the lowest NO_x emission limits that have been approved as BACT for identical units, and are the lowest NO_x emission limits for any power plant in Florida. (DEP Ex. 2, Condition XXVIII.A. and App. 1, App. BD; Kosky Tr. I, pp. 79-80)

Air Quality Impact Analysis

33. Ambient air quality standards ("AAQS") have been established by the U.S. Environmental Protection Agency ("EPA") and DEP to protect public health and welfare. Air quality in the vicinity of the WCEC Project, and throughout Southeast Florida, currently meets all federal and State ambient air quality standards, and no area of Florida is currently designated as "nonattainment" for any air pollutant. The EPA and DEP have also established PSD increments that are more stringent than the AAQS to protect air quality from further degradation. PSD Class II increments apply except in designated Class I areas, which are subject to more restrictive increments. The Class I increments are designed to protect the sensitive

resources of national parks and national wilderness areas. (FPL Ex. 1, pp. 2-32, 2-33; Kosky, Tr. I, pp. 85-87)

34. In its review for the PSD permit for the Project, the DEP determined that air quality modeling demonstrates that WCEC Units 1 and 2 will comply with all federal and State ambient air quality standards, as well as PSD Class I and II increments. The air quality modeling conducted for the Project followed EPA and DEP modeling guidelines. Two air quality models were utilized to assess air quality impacts in the area surrounding the WCEC Project site, including assessing the potential impacts in the nearest PSD Class I area, which is the Everglades National Park ("ENP") located approximately 66 miles south of the WCEC site. Local and regional meteorological data from the National Weather Service was used in the modeling. The modeling incorporated maximum air emissions from the WCEC Project at various operating modes, fuels, loads, and ambient air temperatures, which may affect the emission rates from the WCEC Project. (FPL Ex. 1, pp. 5-21 to 5-29; Kosky, Tr. I, pp. 86, 87; DEP Ex. 2, p. 3 and App. VIII, pp. 30 to 39)

35. EPA has established "Significant Impact Levels" for the various pollutants that are subject to PSD review, and the Department has adopted these Significant Impact Levels at Rule 62-204.200(29), F.A.C. The comparison of a Project's

potential air quality impacts with the Significant Impact Levels represents an initial screening analysis to determine which pollutants require a more detailed modeling analysis. (FPL Ex. 1, pp. 5-21, 5-22, App. 10.1.5, "PSD Report" pp. 3-4 to 3-6; Kosky, Tr. I, pp. 89-91)

36. In its review for the PSD permit for the Project, the DEP determined that impacts of the emissions of WCEC Units 1 and 2 will be below the PSD Class II Significant Impact Levels for all applicable air pollutants, with the exception of the maximum impacts for particulate matter with an aerodynamic diameter of 10 microns ("PM₁₀") for the 24-hour averaging time. For this averaging time for PM₁₀, comparison of the maximum Project impacts and other increment consuming sources in the region compared to the PSD Class II increments was performed. This "multi-source modeling" demonstrated that the impacts of the Project, along with all other sources in the region would comply with the AAQS and the PSD increments. (FPL Ex. 1, pp. 5-29, 5-30, App. 10.1.5, "PSD Report" pp. 6-9 to 6-14; FPL Ex. KFK-2; Kosky, Tr. I, pp. 90, 93; DEP Ex. 2, App. VIII, pp. 30 to 39)

37. In its review for the PSD permit for the Project, the DEP determined that the impacts of WCEC Units 1 and 2 on air quality in the Everglades National Park comply with the restrictive PSD Class I increments. With the exception of the

24-hour averaging time for PM₁₀, predicted maximum Project impacts are below the Significant Impact Levels in ENP. A multi-source regional impact analysis for the 24-hour averaging time for PM₁₀ demonstrated that maximum predicted impacts in the ENP comply with the Class I increment. The maximum impacts of the Project on air quality in the ENP could not be measured even with the most sophisticated monitoring equipment. (FPL Ex. 1, pp. 5-30, App. 10.1.5, "PSD Report" pp. 6-12, 6-13; Kosky Tr. I, pp. 92, 93; DEP Ex. 2, App. VIII, pp. 31 to 35)

38. Analysis of the Project's potential impacts on Air Quality Related Values ("AQRVs") in the ENP was also performed as part of the PSD review. AQRVs are established by the federal land manager for each Class I area, taking into account potential impacts on soil, vegetation, wildlife, air deposition, and visibility. The analysis performed as part of the PSD permit review showed that the Project's impacts on ENP meet all of the federal land manager's AQRV criteria for protection of the sensitive resources in ENP. Nitrogen and sulfur deposition rates for the Project are less than the significant impact levels determined by the National Park Service, are well within the buffering capacities of the soils in the ENP, and are much less than the observed deposition rates in the area. Both natural gas and low sulfur light oil are relatively low in

mercury content. The relatively low sulfur deposition rate from the Project will also minimize activation of mercury in the soils by sulfur reducing bacteria. (FPL Ex. 1, pp. 5-32 to 5-34, App. 10.1.5, "PSD Report" pp. 7-9 to 7-21; DEP Ex. 2, App. VIII, pp. 36 to 37; Kosky, Tr. I, pp. 93, 94)

39. The Project's potential air quality impacts in the vicinity of the site and on the LNWR were evaluated based upon the soils, vegetation, and wildlife found in the LNWR. This evaluation and additional analyses conducted for staff of the LNWR included potential impacts of deposition from the Project's cooling towers. The analyses demonstrated that the Project's emissions would not have any adverse impact on the sensitive resources in the LNWR. (FPL Ex. 1, pp. 5-32 to 5-34, App. 10.1.5, "PSD Report" pp. 7-8, 7-9; Kosky Tr. I, pp. 88, 94, 95)

Project Water Use and Sources

40. Two mechanical draft cooling towers will be used in the heat dissipation system for the Project, one for each unit. The cooling towers bring water into contact with air for the purpose of lowering the temperature of the cooling water, mainly through evaporative cooling. Some of the cooling water must be continuously removed to prevent the buildup of dissolved solids that are left behind by the evaporative process. The water that is removed is called cooling tower

"blowdown." Water added to replace evaporation and blowdown is called cooling tower "makeup." (FPL Ex. 1, pp. 3-3, 3-13; Hathaway, Tr. I, pp. 55, 56; Powell PT p. 5)

41. One source of makeup water for the cooling towers will be surface water withdrawn from the SFWMD L10/L12 Canal, located to the south of the WCEC site. An inlet structure will be constructed and installed on the north bank of the L10/L12 Canal, with a circulating water pump structure located in the southeast corner of the WCEC site. When water is not available from the Canal, FPL will pump non-potable brackish groundwater from three new wells drilled into the Upper Floridan Aquifer. The wells will penetrate to 1400 feet below ground surface. The WCEC Project may also utilize captured onsite stormwater for cooling tower makeup when available. The Project will be able to accept reclaimed water when a source becomes available at the site in an acceptable quality and quantity for the new power plant's cooling towers. (FPL Ex. 1, pp. 3-3, 3-13; FPL Ex. RH-5; DEP Ex. 2, pp. 21, 23-25; Hathaway, Tr. I, pp. 59, 61, 62)

42. Under the recommended Conditions of Certification, water withdrawals from the L10/L12 Canal will be allowed when water is available in the regional system and the SFWMD determines that releases from the regional storage system are not required for the purpose of maintaining designated water

levels in the Canals and for meeting existing water supply demands. This limitation is recommended by SFWMD to protect the regional water supply needs and legal water users in existence prior to approval of FPL's Project. (DEP Ex. 2, p. 23; Powell PT, pp. 6-7)

43. Withdrawals from the L10/L12 Canal are not expected to cause any adverse effects on surface or ground waters in the vicinity of the WCEC site. A review of the historical water and flow levels in the Canal, as well as an evaluation of the hydrology and geohydrology of the Project area, demonstrates that there will be no adverse effects from these withdrawals from the L10/L12 Canal. (FPL Ex. 1, pp. 5-1 to 5-2, 5-13 to 5-16; Powell PT, pp. 6-7)

44. Withdrawals from the L10/L12 Canal are also not expected to have any adverse effect on aquatic life in the canals. The intake structure will use screening and diversion technologies to minimize impacts to aquatic organisms that may be in the canal. The intake structure will be designed to insure that maximum through-screen velocities are less than 0.5 feet per second. No protected species of fish are found in the canal. The canal does not provide desirable breeding habitat for native fish due to regular canal maintenance and excavation.

(FPL Ex. 1, pp. 5-1 to 5-2, 5-13 to 5-16; Powell PT, pp. 6-7; Bullock PT, p. 5)

45. The onsite wells pumping from the Floridan Aquifer system will supply cooling tower makeup and other plant water needs when surface water is not available. Each well will be rated at 7,000 gallons per minute ("gpm"). Analyses were performed to determine the impacts of these groundwater withdrawals from the Upper Floridan Aquifer. A three dimensional aquifer model was developed to evaluate these impacts. The model evaluates the response of the large natural aquifer system from the proposed pumping and can predict changes in water levels by changing inputs to the model. The model considers the layering within the aquifer system, the proposed withdrawal rates, and the aquifer system parameters. The Upper Floridan Aquifer model was run to assess the change in water levels or drawdown which would result from FPL's average proposed pumping of 14.56 million gallons per day ("mgd"). A series of sensitivity analysis simulations were also done to assess the effect of uncertainty or variability in the aquifer system parameters on the predicted results for aquifer drawdowns. There are no existing legal users of the Floridan Aquifer within 15 miles of the FPL West County Energy Center site. Two wells are located approximately 15.3 miles away.

These 2 wells will be within the cone of depression where there will be greater than a 1 foot drawdown in the aquifer levels. However, due to the potentiometric surface in the Floridan Aquifer, this drawdown is not expected to interfere with the operation of these wells. These groundwater withdrawals are not expected to impact surface wetlands. (FPL Ex. 1, pp. 5-16 to 5-17, App. 10.1.7; Andersen PT, pp. 9-12)

46. Potable water for the Project will be withdrawn from onsite wells in the surficial aquifer. These withdrawals of approximately 35,000 gallons per day were also modeled. The maximum cone of depression for these withdrawals, as defined by the 0.1 foot drawdown contour extends out 1,350 feet from the well. This drawdown will not significantly impact any wetlands or existing users of the surficial aquifer. The potable water system will meet the requirements of Chapter 62-555, F.A.C. (FPL Ex. 1, pp. 3-13, 5-17, App. 10.7; Andersen PT, p. 11; Bullock PT, p. 7)

47. The WCEC Project will have other process water needs. These water needs will be met by water from the L10/L12 Canal or from the Upper Floridan Aquifer. Demineralized water is required to replace blowdown from the HRSG which is necessary to maintain a low dissolved solids content in the HRSG, to replace steam losses, for NO_x control, and for the CT air inlet

evaporative cooling system. Demineralized water will be produced using an onsite trailer-mounted reverse osmosis/mixed bed demineralizer system. The demineralized water will be stored in a 2 million gallon storage tank for each unit. Reject water from the demineralizer system will be mixed with cooling tower blowdown for disposal. General service water for the Project will include seal water, cleaning and flushing water, and fire protection water. (FPL Ex. 1, p. 3-14)

48. Water use by WCEC will meet the statutory criteria in Chapter 373, F.S. for consumptive water use permits, that the use is a reasonable and beneficial use, that it is in the public interest, and that there be no adverse impact to existing legal users. The proposed withdrawals will therefore be consistent and in compliance with the consumptive water use permitting criteria of the SFWMD Basis of Review for water use permits. Prior to beginning pumping of water from the Upper Floridan Aquifer, FPL will conduct an aquifer performance test on the Project site. (Andersen PT, pp. 11-13; DEP Ex. 2, App. VI)

Project Wastewaters and Disposal

49. Project wastewaters include cooling tower blowdown, HRSG blowdown, process water treatment system wastewater, groundwater pretreatment wastewater, equipment wash water, and equipment area stormwater. HRSG blowdown will be quenched with

cooling tower blowdown. Contact area stormwater will be passed through an oil/water separator and released to the stormwater ponds. (FPL Ex. 1, p. 3-15)

50. Sanitary wastewater will be routed to an onsite package sanitary treatment system which meets the requirements of state and local regulations. The treated sanitary wastewater will be recycled through the cooling tower or routed to the injection wells. (FPL Ex. 1, 3-16)

51. Cooling tower and HRSG blowdown and other wastewaters will be routed to an onsite injection well system. These wastewaters will be collected in an onsite sump and injected into a 3200-foot deep injection well. The WCEC will require wastewater disposal capacity of approximately 7.0 mgd per Unit. The proposed Class I injection wells and at least one associated dual-zone monitoring well are proposed for the site to accommodate disposal for up to 3300 MW of site buildout. The proposed well design is consistent with the requirements of a Class I "tubing and packer" injection well which is required for disposal of non-hazardous industrial wastewaters, pursuant to Rule 62-528.300(1)(a)(2), F.A.C. This well classification requires injection using a well equipped with tubing and packer assembly installed within a seamless mild steel outer final casing. The injection well is constructed using a series of

telescoped steel well casings to seal off various portions of the subsurface system. The inner tubing material consists of fiber glass reinforced plastic. (Hathaway, Tr. I, p. 63; Shaw PT. pp. 7, 8 ; Ex. JS-2, p. 5; Ex JS-3)

52. The underground zone in which this liquid will be injected is a highly permeable zone referred to as the Boulder Zone which contains salt water. This zone is isolated from underground sources of drinking water by approximately 500 to 800 feet of overlying confining rock strata of low permeability. This zone is located in the lower Floridan Aquifer which is not used for drinking water supply. The Boulder Zone underlies most of southern Florida. The permeability of the Boulder Zone is extremely high because of its cavernous nature. This prevents pressure buildup in injection wells and coupled with the fact that the Boulder Zone contains salt water makes it in an ideal zone for receiving injected wastewater. There are approximately 110 Class I deep injection wells located in Florida with approximately 15 located in Palm Beach County. (Shaw, PT. pp. 6, 7, 10)

53. The underground injection wells are regulated by the U.S. Environmental Protection Agency and the Florida Department of Environmental Protection through its Underground Injection Control ("UIC") program. The state's UIC regulations, found in

Chapter 62-528, F.A.C., seek to protect the quality of the underground sources of drinking water and prevent degradation of the quality of other aquifers adjacent to the injection zone. These rules seek to insure that the injected fluid remains in the injection zone and that unapproved interchange of water between the aquifers is prohibited. DEP's criteria and standards for Class I injection wells prohibit the injection of hazardous wastes through any well permitted after January 1, 1992. Rule 62-528.400, F.A.C. Characterization of the Project wastewaters to be disposed in the UIC well indicates that these wastewaters are expected to be non-hazardous. (FPL Ex. 1, Vol. 1, Table 3.6.0-1; Shaw, PT. pp. 8, 9)

54. For the WCEC site, the injection well program involves first obtaining an exploratory well permit from the DEP to gather site specific information. After the exploratory well is drilled and tested, FPL will apply for a test/injection well permit from the DEP. This second permit requires two years of testing of the UIC well after which FPL will be required to obtain an operating permit from the DEP for the injection well system. The permit application process for the UIC well is overseen by the Florida Technical Advisory Committee ("TAC") composed of representatives from DEP, SFWMD, the U.S. Geological Survey, and U.S. Environmental Protection Agency. The TAC

provides a means for review and determination by DEP of what is acceptable or approvable based on the requirements of the Department's rules. The TAC also provides expert assistance to both DEP and to FPL as the Applicant. The UIC well proposed for the WCEC site can be constructed and operated in a manner that protects the underground sources of drinking water. (FPL Ex. 1, pp. 4-5 to 4-8; Shaw PT, pp. 4 to 10, Ex. JS-2, p. 5; Ex. JS-3)

Solid and Hazardous Wastes

55. The WCEC Project is not expected to generate large quantities of solid or hazardous wastes. An approved solid waste disposal contractor will dispose of all solid waste. Any waste identified as hazardous will be collected onsite and disposed of by a licensed hazardous waste contractor. All hazardous waste will be managed according to applicable rules and regulations. (FPL Ex. 1, pp. 3-17, 3-18)

Stormwater Management

56. The Project's onsite stormwater management system is designed to insure that virtually all stormwater runoff from the Project will be retained onsite with no off-site discharge. The only off-site discharge of non-contact stormwater will be from 6.2 acres along the western boundary of the WCEC site. Runoff from this area will be allowed to infiltrate within the adjacent FPL transmission line right-of-way. The stormwater management

system is designed to retain runoff from the 100-year, 3-day storm event. The surface water management system is also designed to meet the requirements of all applicable local, regional, state, and federal requirements, including the rules of SFWMD, Palm Beach County, DEP, and EPA. (FPL Ex. 1, p. 3-18; Hathaway, Tr. I, p. 63; Powell PT, pp. 11-13)

57. The Project's drainage system consists of a series of catch basins, pipes, channels, swales, and culverts to convey stormwater runoff to two onsite detention ponds. The northern stormwater basin will receive runoff from the power block areas and areas to the east and west of the power block. Stormwater collected in the northern retention ponds will be pumped back to the cooling tower basin for reuse by the Plant. Water collected in the southern retention pond will be allowed to percolate and evaporate. Based on this design, there should be no discernible degradation of water quality as a result of Project stormwater. (FPL Ex. 1, pp. 3-18 to 3-20; Hathaway, Tr. I, pp. 58; Powell PT, pp. 11 to 14)

Spill Prevention and Containment

58. The oil storage tanks will be designed to American Petroleum Institute Standards to ensure quality of construction and integrity. The tanks will be located within secondary containment structures that will contain a volume equal to at

least 110 percent of the volume of the largest tank. The secondary containment will be constructed to American Concrete Institute Standards to assure quality of construction and integrity. (Hathaway, Tr. I, pp. 64, 65)

Noise Impacts

59. Noise impacts from the construction and operation of the WCEC are predicted to be lower than the allowable noise levels established in Palm Beach County's Land Development Code. The Project's noise impacts were evaluated using two components. Existing or baseline noise levels at the Project site and the surrounding area were collected during both the daytime and nighttime. The baseline noise levels are affected by ongoing mining operations and area road traffic, but are generally considered to be typical of a primarily rural area. Noise levels of Project construction and operation were then modeled, including the baseline noise levels collected. The predicted maximum noise levels at the nearest residence are predicted to be below the limits established by Palm Beach County. Operations noise levels were also modeled and are predicted to be below Palm Beach County's noise limits. The Project's operational noise levels would be below the County standards at a distance of one-half of a mile from WCEC Units 1 and 2. Since the noise estimates are conservative, actual noise impacts are

expected to be lower than the predictions. (FPL Ex. 1, pp. 2-35 to 2-39, 4-16 to 4-19; 5-35 to 5-36; Kosky, Tr. I, pp. 96 to 99)

Impacts to Wetlands and Protected Areas and Species

60. SFWMD evaluated the WCEC Project's effects on the Comprehensive Everglades Restoration Plan ("CERP"). SFWMD has an agreement with PBA to construct water storage ponds adjacent to the WCEC site to store additional water for the CERP. Ten aquifer storage and recovery ("ASR") wells are proposed to be constructed to store water for CERP. SFWMD has proposed a condition of certification for the Project under which SFWMD and FPL may share in the costs and use of the ASR wells for CERP. (DEP Ex. 1, App. VI, Impact Assessment Report, pp. 3, 14, 26)

61. The WCEC Project is not expected to have an adverse impact on natural resources at the Project site or in its vicinity. No wetlands or ecologically significant areas exist within the WCEC site. Construction of the water inlet structure for the Project in the north bank of the L10/L12 canal will affect less than one-quarter acre. Impacts to aquatic and wetland systems from this construction will be negligible. (FPL Ex. 1, pp. 2-22 to 2-23, 4-11 to 4-12; Bullock PT, p. 5)

62. Assessment of potential impacts of the Project on wildlife in the LNWR concluded that the WCEC will have no significant adverse impacts upon wildlife habitat within the

LNWR. No foraging or breeding habitats for wading birds will be affected. Surficial aquifer drawdowns for the Project will result in an insignificant impact on the water levels in the LNWR. There will be no offsite surface water discharges of industrial wastewater or contact stormwater from the Project, and no temperature effect on any surface waters. (FPL Ex. 1, p. 5-8; Bullock PT. pp. 6 to 8; Powell PT. pp. 11 to 13)

Traffic Impacts

63. Traffic associated with Project construction and operation will affect roadway areas on a temporary basis during construction and have minimal impact during operation of the Project. The peak use of State Road 80 for Project construction traffic will flow west during the morning peak hour, away from the urbanized areas of Palm Beach County. The opposite will occur in the evening peak hour when construction traffic will flow in a predominantly easterly direction toward the urban areas. Thus, Project construction traffic will flow in the opposite direction of peak hour traffic. (FPL Ex. 1, pp. 4-14; Zwolak, Tr. III, p. 35)

64. A traffic impact analysis was conducted for the WCEC to determine impacts during the construction period when the peak construction work force will be present, which is expected to be in 2008. Background traffic conditions were obtained

using traffic counts. Project construction will take place primarily over a 3 year period with an average of 350 workers and a maximum of approximately 1,000 construction workers onsite. Workers are expected to be onsite between the hours of 7 a.m. and 4 p.m. Truck deliveries are expected to arrive at the site daily and will not have a significant impact during the morning or evening peak traffic hours. The construction traffic analysis indicates that all road segments will continue to operate at or above established level of service standards for area roads. If necessary, traffic control will be provided at the intersection of PBA Road and State Road 80 where Project construction traffic enters and departs from State Road 80. Traffic control will be handled by a traffic management specialist hired for the peak construction period. (FPL Ex. 1, pp. 4-14 to 4-16; Zwolak, TR. pp. 34, 35)

65. Traffic impacts from Project operation are expected to be minimal with no more than 20 employees working on any shift. The worst case estimate of operational traffic for the Project indicates that up to 36 trips per peak hour could be expected for employee traffic and delivery of materials. The local roadway segments are anticipated to operate without any degradation of level of service and remain at or above the State's level of service standards. No improvements are

required to accommodate traffic impacts during operation of the Project. (FPL Ex. 1, 5-37 to 5-38; Zwolak, TR. pp. 35 to 37)

Project Compatibility and Comprehensive Plan Consistency

66. The WCEC site is an appropriate site for the proposed new facility. The Project will be compatible with existing land use patterns in the vicinity of the site. There will be no significant adverse impacts on existing land uses due to the construction and operation of the Project. The WCEC Units 1 and 2 will be a suitable distance from nearby residential and recreational areas, with a series of buffers and other land use types separating the Project site from nearby residential uses and the Loxahatchee National Wildlife Refuge. The Project site is adjacent to existing electric power infrastructure consisting of the substation to the north and the transmission lines to the west. Mining, industrial, and future water reservoir uses are found further to the north, east, and southeast of the Project. A number of natural gas-fired combined cycle power plants have been developed and operated in the past decade in Florida that co-exist and are compatible with land use patterns that resemble the pattern in the vicinity of the Project site. (Zwolak Tr. III, pp. 19 to 21)

67. The WCEC Project is consistent with the State Comprehensive Plan, with the Strategic Regional Policy Plan of

the Treasure Coast Regional Planning Council, and with the Palm Beach County Comprehensive Plan. The Project will be consistent with the adopted Land Development Regulations of Palm Beach County, Florida. Palm Beach County issued final approval of the site plan for the Project on July 1, 2006. Location of the WCEC at the proposed site will not cause residential growth in western Palm Beach County that would not otherwise occur. Power plants do not cause residential growth, rather electric utilities must respond to historic growth trends and the future projection for growth, and provide a reliable supply of electric power for their service area. Economic forces, as well as governmental regulatory controls, such as the comprehensive plan and land development regulations, ultimately dictate residential growth patterns. The Project will not cause additional growth in the area, but is a response to projected state-wide electrical power demand growth and the requirement that FPL maintain a 20 percent electrical reserve margin. (FPL Ex. 1, p. 5-31; DEP Ex. 2, App. VIII, p. 37; Zwolak Tr. III, pp. 21 to 28, 37)

Socioeconomic Impacts

68. Construction of the proposed WCEC Project will have a substantial benefit to the local and regional economy. Direct benefits from the Project include employment opportunities

created by the construction of the Project. The peak construction work force is estimated to be 1,000 people with an average construction work force estimated at 350 employees over a 3 year period. Employment opportunities will result from construction job opportunities as well as jobs indirectly generated through the purchase of goods and services in the area. The majority of the \$170 million in construction wages paid for the Project will be spent within Palm Beach County and the surrounding region. The expenditure of these wages will create additional demands for goods and services, resulting in additional employment opportunity. The construction costs for Units 1 and 2 will be approximately \$1.2 billion. Tax benefits will accrue to the State of Florida as a result of the construction of the Project. (FPL Ex. 1, pp. 7-1, 7-2; Zwolak, Tr. III, pp. 29 to 31)

69. Ongoing operations of the WCEC Units 1 and 2 will employ approximately 30 to 50 people. At an average wage of \$60,000 annually, the additional annual operational payroll will be approximately \$2.7 million. Other fixed operational costs are expected to be \$4 million annually for goods and services which would generally be expended in the region. Over the first five years of operation, an estimated \$2 million in sales taxes will be paid to the State of Florida. The operational work

force is assumed to reside within commuting distance to the Plant. Impacts to local services from these employees as well as from the Project are expected to be minimal. (FPL Ex. 1, p. 7-2; Zwolak, Tr. III, pp. 31 to 32)

70. The Project site has been previously disturbed due to mining activities, including the placement of fill over the entire site. No archaeological or historical sites have been discovered on the site. There are no archaeological or historical sites located within five miles of the WCEC site. In the event archaeological finds are made during Project construction, the State Division of Historical Resources in the Florida Department of State will be contacted. (FPL Ex. 1, p. 2-7; Zwolak, Tr. III. p. 32)

Ultimate Site Capacity Determination

71. A request for certification of ultimate site capacity under the PPSA involves the future use of the site for additional generating capacity, beyond the capacity for which full certification is initially sought. FPL in this case is seeking certification of WCEC Units 1 and 2, with nominal capacity of 1250 megawatts, and certification of an ultimate site capacity of 3300 megawatts. The Siting Board's Land Use Order determined that "an ultimate capacity of 3300 megawatts for the WCEC site [is] consistent and in compliance with

existing land use plans and zoning ordinances and site-specific zoning approvals of Palm Beach County as they apply to the Site" The WCEC site has sufficient space to accommodate a third combined cycle generating unit. Predicted air quality impacts from a total of 3300 megawatts of combined cycle units at the WCEC site are expected to comply with the AAQS and PSD increments. Predicted noise levels for 3300 megawatts of combined cycle units at the WCEC site would comply with Palm Beach County's noise standards. The use of the WCEC site for up to 3300 megawatts of electrical generating capacity would be an appropriate land use for the site. Prior to construction of a third generating unit at the WCEC site for a total capacity of up to 3300 megawatts, FPL would have to go through the full site certification process, with the exception of the land use portion of the process. (FPL Ex. 1, pp. 5-29 to 5-31, 5-36, App. 10.1.5, "PSD Report" pp. 6-14, 6-15; FPL Ex. 7, p. 5; Kosky, Tr. I, pp. 91-92; Zwolak, Tr. III, p. 20; Palmer, Tr. III, p. 44)

Public Comment and Public Testimony

72. During the "public comment" portion of the certification hearing, four individuals provided unsworn comments generally in support of the WCEC Project. Letters from

three other individuals generally in support of the Project were received following the certification hearing.

73. Twenty-five individuals, including Michael Christensen, Patricia Curry, and Alexandria Larson, gave sworn testimony during the "public comment" portion of the certification hearing. Many of these individuals expressed questions, generalized concerns, and speculation about and/or opposition to the WCEC Project. Letters from four other individuals in opposition to the Project, including one from Sharon Waite, were received prior to the September 15, 2006, deadline established for receipt of any additional written comment following the hearing. Mr. Silver did not file any written comments by that deadline. On September 22, 2006, FPL filed a letter from Kennard F. Kosky in response to one of the written comment letters.

74. The individuals who testified in opposition to the Project raised a wide range of questions and concerns. Most of these concerns and questions were addressed by the evidence and are discussed by reference to the relevant Findings of Fact. A number of individuals suggested that there had been inadequate notice to the public regarding the Project, or that information regarding the Project has not been readily available. These matters are addressed in Findings of Fact 1 through 4. The

public notices of this proceeding published by DEP and FPL met the statutory requirements. The public notices advised the public of the availability of the Project application at DEP's offices, at local Public Libraries, and at FPL's local offices. Concern that the site certification process has moved too fast, that it has been "accelerated," was also expressed, leading some to request that the process be slowed down or action deferred. The typical time frame under the PPSA, from filing of a site certification application to the certification hearing, is eleven or twelve months. In the case of the WCEC Project, that time frame has been almost seventeen months. The site certification process has not been accelerated for the WCEC Project. (See Section 403.508(3), F.S.; Palmer, Tr. III pp. 51 to 58, 64, 65; FPL Ex. 6, RZ-2, RZ-3; DEP Exs 2 and 3).

75. A number of the members of the public who testified indicated their belief that the WCEC Project would cause, promote or encourage "growth" and "development" in western Palm Beach County. This concern appeared to be based on the premise that, if the Project were not located in the vicinity, such "growth" would not occur. This issue is addressed in Finding of Fact 67. The evidence indicated that the WCEC Project would not cause additional residential growth in western Palm Beach County that would not otherwise occur. Power plants do not cause

residential growth; rather electric utilities must respond to historic growth trends and the future projection for growth, and provide a reliable supply of electric power for their service area. (Zwolak Tr. III, pp. 21 to 28, 37)

76. Several of those who testified advocated additional conservation measures and/or use of renewable sources of energy, such as solar power, as an alternative to the Project. Those issues related to energy conservation and other generation options are issues to be addressed by the PSC in its separate need determination proceeding, under Section 403.519, F.S. That order and its findings are discussed in Finding of Fact 8. The PSC addressed those issues in its final order determining the need for the WCEC Project. The PSC found that there were no energy conservation measures which could avoid or defer the need for the new generating capacity. The PSC found FPL had taken all reasonably achievable, cost-effective conservation and load management measures. The PSC also found that FPL is actively encouraging development of renewable energy, consistent with the direction of the Florida legislature and the PSC. (FPL Ex. 6)

77. The level of air emissions from the Project, and the potential impacts of those emissions on human health and the environment, was raised as areas of concern in the public testimony. In addition to these general concerns, several

individuals expressed more specific concerns about the potential impacts of air emissions from the Project on the LNWR and ENP. A particular concern raised in this context was the effect of Project emissions on mercury levels in those areas. Concerns about global warming were also expressed. These matters are discussed in Findings of Fact 28 to 39. The evidence shows that air emission limits proposed to be applied to the WCEC Project are among the lowest of any power plant in Florida. Project impacts are well below all applicable ambient air quality standards which have been established to protect public health and welfare. Additional air quality analyses demonstrated that the Project's emissions would not have any adverse impact on the sensitive resources in the ENP and LNWR. (FPL Ex. 1, pp. 5-32 to 5-34, App. 10.1.5, "PSD Report" pp. 7-8, 7-9; Kosky Tr. I, pp. 85 to 88, 94, 95)

78. Water use concerns about the Project were also addressed by several individuals. Questions about potential impacts on wells in the vicinity of the site from Project groundwater withdrawals were raised, as were questions about how surface water withdrawals for the Project might affect the Comprehensive Everglades Restoration Project and the Stormwater Treatment Areas ("STAs") in the vicinity of the WCEC site. These concerns related to water use are addressed in Findings of

Fact 40 to 48. The evidence, including detailed groundwater modeling, indicated that withdrawals from the L10/L12 canal and groundwater sources for the WCEC Project are not expected to adversely impact any existing wells in the vicinity of the Project, and would not adversely affect any nearby surface waters, which would include the CERP and STAs. (Andersen, PT 9 - 12; Powell, PT 6 -7)

79. Concerns about Project wastewater disposal were also raised. The potential impacts of the use of underground injection control wells for the Project were the subject of questions by several individuals, one of whom thought that the wastewater to be disposed of in the underground injection wells would be "hazardous." These concerns are addressed in Findings of Fact 51 to 54. The Project's use of deep well disposal of wastewaters will protect the quality of underground sources of drinking water and prevent degradation of the quality of other aquifers adjacent to the injection zone. DEP's regulations prohibit the disposal of hazardous wastewaters in underground injection wells. Rule 62-528.400, F.A.C. The WCEC Project will not dispose of hazardous wastewaters in the UIC wells.

80. In addition to the other concerns about potential Project impacts in the LNWR, one individual questioned whether noise from WCEC could adversely impact LNWR. The issue of noise

impacts is addressed in Finding of Fact 59. The evidence indicates the operation of the WCEC Project will comply with the noise limits established by Palm Beach County. The Project's operational noise impacts would be below the County standards at a distance of one-half of a mile from WCEC Units 1 and 2. The nearest point in the LWNR is three-quarters of a mile to a mile from the location of the nearest WCEC Unit. Since the noise estimates are conservative, actual noise impacts are expected to be lower than the predictions. (FPL Ex. 1, pp. 2-35 to 2-39, 4-16 to 4-19; 5-35 to 5-36; Kosky, Tr. I, pp. 96 to 99)

81. Several who commented expressed concerns about the potential impact of blasting associated with ongoing mining operations in the vicinity of the WCEC site. In particular, there were fears that such blasting might affect the integrity of oil storage tanks or natural gas pipelines. Concerns about the potential for a spill of oil from the Project were mentioned by several individuals. The issues related to this concern are addressed in Findings of Fact 15 and 19. FPL has obtained an agreement with PBA that assures that the ongoing blasting will not affect the operation of the WCEC. FPL can design the WCEC structures and equipment to account for the blasting. The ongoing blasting by PBA has not affected an existing natural gas pipeline that runs south of the WCEC site. Proper containment

will be provided to contain a spill of fuel oil within the tanks. (Gnecco, Tr. 1, pp. 40-49; Hathaway, Tr. I, pp. 60-61)

82. A number of the individuals who testified during the public comment period reside in the general vicinity of the Project site. Residents of Naples, Lake Worth, Hobe Sound, West Palm Beach, Stuart, Delray Beach, and Ochopee also testified. One individual testified in her capacity as Advocacy Chair of the Friends of the Loxahatchee Refuge. Another individual stated that he was representing the Loxahatchee Sierra Club. The President of the Indian Trail Improvement District also testified, as did the National Co-Chair of the Green Party of the United States. None of these organizations sought to intervene as parties to this proceeding. The testimony by members of the public did not counter the weight of the evidence offered in support of certification of the WCEC Project.

Agency Positions

83. The DEP reviewed the WCEC Project with respect to wetlands protection, stormwater management, air resource management, industrial waste, domestic wastewater, domestic water, solid and hazardous waste, and state lands. After receipt of FPL's responses to the sufficiency comments of DEP and other reviewing agencies, DEP determined FPL's site certification application for the Project to be complete on

September 12, 2005. Agency reports on the Project were submitted to DEP by the Public Service Commission, the Department of State's Division of Historical Resources, the Department of Community Affairs, the Department of Transportation, the South Florida Water Management District, and the Treasure Coast Regional Planning Council. The DEP Staff Analysis Report on the Project, issued on July 18, 2006, contained a summary of the Project, Conditions of Certification, the other agencies' reports and a recommendation for certification. DEP issued a Revised Staff Analysis Report on August 24, 2006, containing principally editorial revisions and one change to the wording of a condition recommended by the Florida Department of Transportation. (DEP Ex. 2; Palmer, Tr. III, pp. 47 to 50) The Revised Staff Analysis Report contains the following recommendation:

If Florida Power & Light Company agrees to abide by the Conditions of Certification, attached and incorporated herein as Staff Analysis Report, Appendix I, the Department of Environmental Protection would recommend certification of the West County Energy Center Electric Power Generation Project to be constructed and operated in Palm Beach County, Florida to produce 2,500 MW of electrical power with an ultimate site capacity of 3,300 MW.

DEP Ex. 2. The Revised Staff Analysis Report is incorporated by reference into the Findings of Fact Section of this Recommended Order.

84. DEP has received reasonable assurances that the WCEC Project will comply with all applicable DEP statutes, rules, policies, and criteria, including but not limited to those concerning air quality, water quality, stormwater, wetlands, solid waste, industrial wastewater, and domestic wastewater. It is DEP's position that, if FPL complies with all recommended Conditions of Certification, the WCEC Project would comply with all applicable non-procedural requirements of the reviewing agencies. (Palmer, Tr. III, pp. 58, 59)

85. No state, regional or local agency has recommended denial of certification for the Project or denial of an ultimate site capacity determination of 3300 megawatts. All parties, other than the TCRPC, which took no position, agree that the Site Certification Application, as supplemented by the responses to agency sufficiency questions and the recommended Conditions of Certification, provide reasonable assurances that construction and operation of WCEC Units 1 and 2 will comply with all applicable agency standards. (FPL Ex. 4, p. 5)

Compliance with Agency Standards and PPSA Criteria

86. The design and construction of WCEC Units 1 and 2 will comply with the applicable regulatory requirements and standards of the various State, regional, and local agencies that reviewed the Project. The design and construction of WCEC Units 1 and 2 will be consistent with the recommended Conditions of Certification included in DEP's Revised Staff Analysis Report. WCEC Units 1 and 2 will be capable of operating in compliance with the recommended Conditions of Certification included in DEP's Revised Staff Analysis Report. Those recommended Conditions of Certification are acceptable to FPL. (Hathaway, Tr. I, pp. 64, 65; Priore, Tr. I, pp. 117, 118; Palmer, Tr. III, p. 58)

87. The WCEC Project utilizes reasonable and available means to minimize adverse impacts on human health, the environment, the ecology of the land and its wildlife and the ecology of State waters and their aquatic life. The WCEC Project does not unduly conflict with the goals of the Palm Beach County Comprehensive Plan. The WCEC Project includes operational safeguards that are technically sufficient for the welfare and protection of the citizens of Florida. (Kosky, Tr. I, p. 99; Zwolak, Tr. III, pp. 25 to 27; Palmer, Tr. III, p. 59)

CONCLUSIONS OF LAW

88. The Division of Administrative Hearings has jurisdiction of the parties and the subject matter of this proceeding pursuant to Sections 120.569, 120.57, and 403.508(3), F.S.

89. This proceeding was held to implement the purpose and intent of the electrical power plant site certification process, which is to assure the citizens of Florida that construction and operation safeguards of the West County Energy Center are technically sufficient for their welfare and protection, and to effect a reasonable balance between the need for the proposed Project and the environmental impact resulting from its construction and operation, including air and water quality, fish and wildlife, and the water resources and other resources of the state. Subsections 403.502(1) and (2), Florida Statutes.

90. In accordance with Part II of Chapter 403, F.S., and Chapter 62-17, F.A.C., proper notice of this proceeding and of the certification hearing was accorded all persons, entities, and parties entitled to such notice. All necessary and required governmental agencies, as well as members of the public, either participated in or had the opportunity to participate in the certification hearing.

91. The *ore tenus* Motion to Intervene offered at the hearing on behalf of four individuals was untimely as it was made well after the statutory deadline requiring that such petitions be filed no later than 30 days before the September 6, 2006, hearing. Section 403.508(4)(e), F.S. ("Other parties may include any person . . . whose substantial interests are affected and being determined . . . and who timely file a motion to intervene Intervention . . . may be granted at the discretion of the designated administrative law judge and upon such conditions as he or she may prescribe any time prior to 30 days before the commencement of the certification hearing.") Substantially affected persons were afforded adequate and appropriate notice of their right to intervene. They were also afforded adequate and appropriate notice that the deadline for granting such intervention was 30 days before the site certification hearing. These four individuals offered no good cause or extenuating circumstances to allow them to intervene as parties at the certification hearing. Their counsel was allowed to participate in the hearing to cross-examine members of the public, to make a closing argument following the public comment, and allowed to file a post-hearing statement if he chose to do so. Their counsel did not file any additional written comments by the post-hearing deadline. This participation allowed these

four individuals adequate opportunity to identify their concerns about the Project, in light of their untimely Motion to Intervene. The record reflects that their concerns and questions were adequately addressed by the evidence.

92. Reports, studies, and recommended Conditions of Certification were issued by DEP, SFWMD, DCA, Department of State's Division of Historical Resources, FDOT, and TCRPC.

93. The PSC has issued an affirmative determination that a need exists for WCEC Units 1 and 2 and the electricity it will produce. The PSC is the sole forum for the determination of the need for the WCEC Project, pursuant to Section 403.519, F.S.

94. The Governor and Cabinet of the State of Florida, sitting as the Siting Board, have determined that the proposed site of the WCEC Project is in conformity with the existing land use plans and zoning ordinances of Palm Beach County, Florida.

95. FPL is the applicant for site certification in this proceeding under the Power Plant Siting Act, Chapter 403, Part II, F.S. As the applicant, FPL has the burden to prove by a preponderance of the evidence that its application for site certification should be approved. Section 120.57(1)(j), F.S.; Department of Transportation v. J.W.C. Co., Inc., 396 So. 2d 778, 788 (Fla. 1st DCA 1981). The standard for FPL's burden of proof is one of reasonable assurances, not absolute guarantees,

that the applicable conditions for the issuance of the certification have been satisfied. Manasota-88 Inc. v. Agrico Chemical Company and Department of Environmental Regulation, 12 F.A.L.R. 1319, 1325, 1988 WL 617583, (DER 1990). "Reasonable assurance" contemplates "a substantial likelihood that the project will be successfully implemented." Metropolitan Dade County v. Coscan Florida Inc., 609 So. 2d 644, 648 (Fla. 3d DCA 1992); Hamilton County Board of County Commissioners v. Department of Environmental Regulation, 587 So. 2d 1378, 1387 (Fla. 1st DCA 1991). The reasonable assurance standard requires FPL "to deal with 'reasonably foreseeable contingencies' in establishing entitlement to" the site certification. Further, FPL is "not required to disprove all the 'worst case scenarios' or 'theoretical impacts' raised by" members of the public. Ginnie Springs Inc. v. Craig Watson and Department of Environmental Protection, 21 FALR 4072, 4080, 1999 WL 1483647; (DEP 1999)

96. A party should be able to anticipate that when agency employees with special expertise in a field accept data and information supplied by the applicant, then the same data and information will be accepted by the administrative law judge, absent evidence showing the inaccuracy or unreliability of that data and information. J.W.C., 396 So. 2d at p. 789. In this

proceeding, FPL has met its burden of showing by a preponderance of the evidence its entitlement for site certification for the West County Energy Center under the Power Plant Siting Act. The data and information submitted by FPL to the agencies and at the hearing has not been rejected or contested by any of the agency parties, including DEP, which have expertise in the matters involved in this Project and which have reviewed the information submitted by FPL on the WCEC Project. The evidence offered by FPL is therefore entitled to acceptance as meeting FPL's burden of proof in support of issuance of a site certification for the Project.

97. In addition to FPL's affirmative evidence, the other evidence in support of issuance of certification includes the DEP's Revised Staff Analysis Report and the testimony of DEP staff. The DEP's Report reflects agencies' reviews of the Project and demonstrates the Project's compliance with applicable regulatory requirements, including but not limited to, air quality standards, water use criteria, and transportation-related standards. Cumulatively, this evidence from FPL, DEP and other agencies comprises the competent, substantial evidence in support of certification.

98. Once an applicant makes a preliminary showing of its entitlement to the certification, the burden shifts to those

opposing the project to offer "contrary evidence of equivalent quality" to show why the certification should be denied. J.W.C., 396 So. 2d at 789. In this case, no agency or party opposes certification and no party offered evidence in opposition to that presented by FPL. Several members of the public, who were not parties, raised generalized concerns and statements of opposition to the Project, but their statements do not constitute "contrary evidence of equivalent quality" to the evidence provided by FPL in support of certification. Such evidence constitutes "mere speculation on what might occur," which is an inadequate basis to overcome FPL's competent, substantial evidence in support of certification. Lake Region Audubon Society v. SWFWMD and Spanish Oaks of Central Florida, LLC, 2005 WL 373875 (DOAH Case No. 05-2606) (Fla. DOAH 2005) (Adopted *in toto* by SWFWMD Governing Board, Order No. SWF 05-81, dated November 30, 2005); Citizens Against Blasting, Inc. v. DEP and Angelo's Aggregate Materials, Ltd., 23 FALR 2463 (DEP 2001) Accordingly, FPL has met its burden of proof in this proceeding.

99. Competent substantial evidence produced at the certification hearing demonstrates that the West County Energy Center Units 1 and 2 meet the criteria for certification under the PPSA. The evidence demonstrates that the construction and operational safeguards for the WCEC Units 1 and 2 are

technically sufficient for the welfare and protection of the citizens of Florida and are reasonable and available methods to achieve that protection. The WCEC Project, if constructed, maintained, and operated in accordance with the recommended Conditions of Certification contained in DEP Exhibit 2, will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life. The WCEC Project will not unduly conflict with the goals established by the Palm Beach County Comprehensive Plan. Certification of the Units 1 and 2, with the recommended Conditions of Certification, will fully balance the increasing demand for electrical power plant location and operation in this State with the broad interests of the public that are protected by the PPSA.

RECOMMENDATION

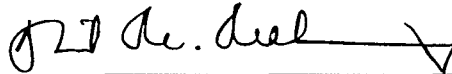
Based upon the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Siting Board:

1. Grant full and final certification to Florida Power & Light Company, under Chapter 403, Part II, Florida Statutes, for the location, construction, and operation of the West County Energy Center Units 1 and 2, comprising two nominal 1250 megawatt combined cycle units, as described in the Site Certification Application and the evidence presented at the

certification hearing, and subject to the Conditions of Certification contained in DEP Exhibit 2.

2. Certify the West County Energy Center site for an ultimate site capacity of 3300 megawatts, fueled by natural gas with light oil as backup fuel, subject to supplemental application review pursuant to Section 403.517, F.S. and Rule 62-17.231, F.A.C.

DONE AND ENTERED this 24th day of October, 2006, in Tallahassee, Leon County, Florida.



DAVID M. MALONEY
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of October, 2006.

ENDNOTE

1/ References to testimony and exhibits use the following format: "FPL Ex." refers to FPL exhibits by number; "PT" refers to the Prefiled Testimony of FPL, which is FPL Exhibit 8; "Tr. I, II, or III" refers to the three volumes of the certification hearing transcript.

COPIES FURNISHED:

Colleen M. Castillo, Secretary
Department of Environmental Protection
Douglas Building, Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Greg Munson, General Counsel
Department of Environmental Protection
Douglas Building, Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Lea Crandall, Agency Clerk
Department of Environmental Protection
Douglas Building, Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Scott A. Goorland, Esquire
Department of Environmental Protection
Douglas Building, Mail Station 35
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Kelly Martinson, Esquire
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

James Antista, Esquire
Florida Fish & Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, Florida 32399-1600

Peter Cocotos, Esquire
South Florida Water Management District
Post Office Box 24680
West Palm Beach, Florida 33416-4690

Sheauching Yu, Esquire
Department of Transportation
605 Suwannee Street, Mail Station 58
Tallahassee, Florida 32399-0450

Martha Carter Brown, Esquire
Office of General Counsel
Florida Public Service Commission
2450 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Robert Banks, Esquire
Lil Walesky, Esquire
Palm Beach County
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401

Roger Saberson, Esquire
Treasure Coast Regional Planning Council
70 Southeast 4th Avenue
Delray Beach, Florida 33483-4514

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

Harris M. Rosen, Esquire
Corporate Counsel
Florida Power & Light Company
Post Office Box 14000
Juno Beach, Florida 33408

Steven Palmer, P.E.
Department of Environmental Protection
Siting Coordination Office
2600 Blairstone Road, Mail Station 48
Tallahassee, Florida 32399-2400

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

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

CONDITIONS OF CERTIFICATION

FLORIDA POWER & LIGHT COMPANY – WEST COUNTY ENERGY CENTER

PA 05-47

DOAH Case No. 05-1493EPP

OGC Case No. 05-0745

I. CERTIFICATION CONTROL

A. This Certification authorizes an ultimate site capacity for the Florida Power & Light Company's (FPL) West County Energy Center of 3300 MW. Under the control of these Conditions of Certification FPL may construct and operate a 2,500 MW (nominal) facility consisting of two new units. Each unit will consist of three 250 MW natural gas fired combustion turbines with evaporative inlet cooling systems and with ultra low sulfur light oil as back-up fuel, three supplementary-fired heat recovery steam generators, three 428 MMBTU/hour gas-fired duct burners, three selective catalytic reduction reactors, one 500 MW steam turbine, three 149 feet exhaust stacks, and one 26 cell mechanical draft cooling tower. The two new units will be located on approximately 90 acres of the approximately 220 acres West County Energy Center site in Palm Beach County, Florida.

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

II. APPLICABLE RULES

The construction and operation of the certified facility shall be in accordance with all applicable provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the following regulations: Chapters 403 and 373, Florida Statutes (F.S.), and Chapters 40E-1, 40E-4, 40E-40, 40E-45, 62-4, 62-17, 62-256, 62-296, 62-297, 62-301, 62-302, 62-531, 62-532, 62-550, 62-555, 62-560, 62-600, 62-601, 62-604, 62-610, 62-620, 62-621, 62-650, 62-699, 62-660, 62-701, 62-762, 62-767, 62-769, and 62-770, Florida Administrative Code (F.A.C.), or their successors as they are renumbered.

III. DEFINITIONS

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

- A. "DCA" shall mean the Florida Department of Community Affairs.
- B. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.
- C. "DHR" shall mean the Florida Department of State, Division of Historical Resources.
- D. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- E. "FWCC" shall mean the Florida Fish and Wildlife Conservation Commission.
- F. "IWW Permit" shall mean the Florida Industrial Wastewater permit issued by the Department in accordance with the federal Clean Water Act.
- G. "Licensee" shall mean an applicant that has obtained a certification order for the subject electrical power plant.
- H. "NPDES permit" shall mean any federal National Pollutant Discharge Elimination System permit issued in accordance with the federal Clean Water Act.
- I. "NSPS" shall mean new source performance standards as identified in 40 CFR 60.
- J. "Power plant", "facility", or "project" shall mean an electrical power generating plant as defined in Section 403.503(12), F.S. and as described in the Site Certification Application.
- K. "PSD permit" shall mean the federal Prevention of Significant Deterioration air emissions permit issued in accordance with the federal Clean Air Act.

L. “Title III permit” shall mean any federal permit issued in accordance with Title III of the federal Clean Air Act (Hazardous Air pollutants).

M. “Title IV permit” shall mean any federal permit issued in accordance with Title IV of the federal Clean Air Act (Acid Rain).

N. “Title V permit” shall mean any federal permit issued in accordance with Title V of the federal Clean Air Act (Operation).

O. “SED” shall mean the Department’s Southeast District Office.

P. “SFWMD” shall mean the South Florida Water Management District.

Q. “UIC permit” shall mean any federal underground injection control permit issued in accordance with the federal Clean Water Act.

IV. FACILITY OPERATION

The Licensee shall at all times properly operate and maintain the West County Energy Center facility and related appurtenances, and systems of treatment and control that are installed and used to achieve compliance with these Conditions of Certification. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with these Conditions of Certification.

Any directly associated linear facilities connecting the collector yard to the switchyard shall be maintained in accordance with the site certification application and any appropriate state and federal regulations concerning use of herbicides. The Licensee shall notify the Southeast District of the Department and the Siting Coordination Office of the type of herbicides to be used at least 60 days prior to their first use.

V. RECORDS MAINTAINED AT THE FACILITY

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

B. The Licensee shall hold at the facility, or other location designated by this approval, records of all monitoring information; including all calibration and maintenance records and all original strip chart recordings or electronic data storage media, for continuous monitoring instrumentation required by this approval, copies of all reports required by this approval, and records of all data used to complete the application for this approval. These materials shall be retained at least three (3) years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule. The Licensee shall provide copies of these records to the Department upon request. If the Licensee becomes aware of relevant facts that were not submitted or were incorrect

in any report to the Department, such facts or information shall be promptly submitted or corrected.

VI. CHANGE IN DISCHARGES OR EMISSIONS

All discharges or emissions authorized herein shall be consistent with the terms and conditions of these Conditions of Certification. The discharge or emission of any pollutant not identified in the application, or discharged or emitted more frequently than, or at a level in excess of that authorized by these Conditions of Certification, shall constitute a violation of the Certification. Any anticipated facility expansions, production increases, or process modifications which may result in new, different or increased discharge or emission of any pollutant, a change in fuel, or an expansion in steam generating capacity must be reported by submission of an appropriate application for site certification or modification of these Conditions of Certification.

VII. COMPLIANCE

A. The Licensee shall comply with all rules adopted by the Department subsequent to the issuance of this certification, which prescribe new or stricter criteria to the extent that the rules are applicable to electric power plants. Except where express variances have been granted, subsequently adopted rules that prescribe new or stricter criteria, which are applicable to electrical power plants, shall operate as a modification pursuant to Section 403.511(5)(a), F.S.

B. Pursuant to Section 403.511(5)(b), F.S., upon written notification to the Department's Siting Coordination Office, the Licensee may choose to operate in compliance with any rule subsequently adopted by the Department which prescribes criteria more lenient than the criteria required by the terms and conditions in this certification, so long as this operation causes no violation of standards or these Conditions of Certification.

C. If, for any reason, the Licensee does not comply with or is unable to comply with any limitation specified in these Conditions of Certification, the Licensee shall notify the Southeast District Office of the Department by telephone during the working day that said noncompliance occurs. After normal business hours, the Licensee shall report any condition that poses a public health threat to the State Warning Point at telephone number (850) 413-9911 or (850) 413-9912. The Licensee shall confirm this situation to the Southeast DEP District Office in writing within seventy-two (72) hours of becoming aware of such conditions and shall supply the following information:

1. A description of the discharge and cause of noncompliance; and,
2. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and,

3. Steps being taken to reduce, eliminate and prevent recurrence of the non-complying event.

D. The Licensee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying event.

VIII. RIGHT OF ENTRY

The Licensee shall allow authorized agency personnel, including but not limited to representatives of the Florida Department of Environmental Protection, and/or Water Management District, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated:

A. To enter upon the Licensee's premises where an effluent source is located or in which records are required to be kept under the terms and conditions of this Certification; and

B. To have access to and to copy any records required to be kept under these Conditions of Certification; and

C. To inspect the facilities, equipment, practices, or operations regulated or required under these Conditions of Certification; and

D. To sample or monitor any substances or parameters at any location necessary to assure compliance with these Conditions of Certification.

IX. ENFORCEMENT

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of Certification are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S. Any noncompliance with these Conditions of Certification or any condition of a federally delegated or approved permit constitutes a violation of chapter 403, F.S., and is grounds for enforcement action. The Department may initiate enforcement action for any violation of these Conditions of Certification.

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

evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

X. REVOCATION OR SUSPENSION

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

XI. CIVIL AND CRIMINAL LIABILITY

This certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any conditions of this certification, applicable rules or regulations of the Agencies, or any other state statutes or regulations which may apply. As provided in Section 403.511, F.S., the issuance of this Certification does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to human health or welfare, public or private property or any invasion of personal rights. This certification does not allow any infringement of federal, state, or local laws or regulations, nor does it allow the Licensee to cause pollution in contravention of Florida Statutes and Department rules or injury to animal or plant life, unless specifically authorized by an order from the Department or these Conditions of Certification. This Certification is not a waiver of any other Department approval that may be required for other aspects of the total project under federally delegated or approved programs.

XII. PROPERTY RIGHTS

The issuance of this Certification does not convey any property rights in either real or personal property, or any exclusive privileges thereto. The applicant shall obtain title, lease, easement, or right of use from the State of Florida to any sovereign submerged lands utilized by the project.

XIII. SEVERABILITY

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

XIV. PROCEDURAL RIGHTS

No term or condition of certification shall be interpreted to preclude the post-certification exercise by the Licensee of whatever procedural rights it may have under Chapter 120, F.S.

XV. MODIFICATION OF CONDITIONS OF CERTIFICATION

Pursuant to Section 403.516(1), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Secretary of the Department of Environmental Protection to modify these Conditions of Certification:

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

B. The Secretary of the Department may modify any condition of these Conditions of Certification except those pertaining to a change in fuel.

C. The Secretary of the Department may modify any condition of these Conditions of Certification if the Secretary finds that an immediate danger to the public health, safety, or welfare requires the issuance of an immediate final order temporarily modifying these Conditions of Certification. If the Secretary elects to exercise this delegated authority, the Secretary shall prepare an immediate final order that recites with particularity the facts underlying the Secretary's finding of an immediate danger to the public health, safety, or welfare. The immediate final order and the modification to the Conditions of Certification shall be effective only for so long as is necessary to address the immediate danger and shall be applicable or enjoined from the date rendered.

D. In the event of a prolonged [thirty (30) days or more] equipment malfunction or shutdown of pollution control equipment, the Secretary of the Department may allow facility operation to resume and continue to take place under an immediate final order temporarily modifying these Conditions of Certification, provided that the Licensee demonstrates that such operation will be in compliance with all applicable ambient air quality standards and PSD increments, water quality standards and rules, solid waste rules, domestic wastewater rules and industrial wastewater rules. During such malfunction or shutdown, the operation of the facility shall comply with all other requirements of these Conditions of Certification and all applicable state and federal emission and effluent standards not affected by the malfunction or shutdown.

XVI. TRANSFER OF CERTIFICATION

This Certification is transferable only upon Department approval in accordance with Section 403.516, F.S., and Rule 62-17.211(3), F.A.C. The Licensee shall be liable for any noncompliance of the approved activity until the transfer is approved by the Department.

XVII. SAFETY

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 shall be complied with during construction and operation.

XVIII. SCREENING

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

XIX. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS

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

B. The Licensee shall report all spills of materials having potential to significantly pollute surface or ground waters and which are not confined to a building or similar containment structure, by telephone immediately after discovery of such spill. The Licensee shall submit a written report within forty-eight hours, excluding weekends, from the original notification. The telephone report shall be submitted by calling the DEP Southeast District Office Industrial Wastewater Compliance/Enforcement Section. After normal business hours, the Licensee shall contact the State Warning Point by calling (850) 413-9911 or (850) 413-9912. The written report shall include, but not be limited to, a detailed description of how the spill occurred, the name and chemical make-up (include any Material Safety Data Sheets) of the substance, the amount spilled, the time and date of the spill, the name and title of the person who first reported the spill, the size and extent of the spill and surface types (impervious, ground, water bodies, etc.) it impacted, the cleanup procedures used and status of completion, and include a map or aerial photograph showing the extent and paths of the material flow.

XX. NOISE

Construction and operation noise shall not exceed noise criteria or any applicable requirements of Palm Beach County. The Licensee shall notify area residents in advance

of the onset and anticipated duration of the steam blowout of the facility's heat recovery steam generator and steam lines

XXI. FLOOD CONTROL PROTECTION

The plant and associated facilities shall be protected from flood damage by construction in such a manner as to comply with the appropriate Palm Beach County flood protection requirements or by flood proofing or by raising the elevation of the facilities above the 100-year flood level, whichever is more stringent.

XXII. HISTORICAL OR ARCHAEOLOGICAL FINDS

If historical or archaeological artifacts are discovered at any time within the project site, the Licensee shall notify the DEP Southeast District office and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, Tallahassee, Florida 32399-0250, telephone number (850) 487-2073.

XXIII. ENDANGERED AND THREATENED SPECIES

Prior to start of construction, the Licensee shall survey the certified site for species of animal and plant life listed as endangered or threatened by the federal government or listed as endangered by the state. If these species are found, their presence shall be reported to the Siting Coordination Office, the SED, and the Florida Fish & Wildlife Conservation Commission's Office of Environmental Services. These species shall not be disturbed, if practicable. If avoidance is not practicable, the endangered species shall be treated as recommended by the appropriate agency. Entombment of gopher tortoises shall not be allowed.

XXIV. DISPUTE RESOLUTION

If a dispute situation arises between the Licensee and an Agency exercising its regulatory jurisdiction, the Department will act as mediator to resolve it. If, after mediation, a mutual agreement cannot be reached between the parties, then the matter will be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S.

XXV. LABORATORIES AND QUALITY ASSURANCE

A. The Licensee shall ensure that all laboratory analytical data submitted to the Department, as required by this certification, are from a laboratory which is approved by the Department and meets the requirements of Chapter 62-160, F.A.C.

B. The Licensee shall ensure that all samples required pursuant to this Certification are taken by an appropriately trained technician following EPA and

Department approved sampling procedures and chain-of-custody requirements in accordance with Rule 62-160, F.A.C. Records of monitoring information shall follow the guidelines in Rule 62-160.600, F.A.C. All chain-of-custody records shall be retained on-site for at least three (3) years and made available to the Department immediately upon request.

XXVI. POST-CERTIFICATION SUBMITTALS

A. Post-certification Submittals shall be handled pursuant to Rule 62-17.191, F.A.C.

B. Interagency Meetings: Within sixty (60) days of the filing of a complete post-certification submittal, DEP may conduct an interagency meeting with other agencies that received copies of the submittal. The purpose of such an interagency meeting shall be for the agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether reasonable assurance of compliance with the conditions of certification has been provided. Failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions of Certification nor to delay the time frames for review established by these Conditions of Certification.

XXVII. CONSTRUCTION

A. Standards and Review of Plans

1. All construction at the facility shall be pursuant to the design standards presented in the application or amended application and the standards or plans and drawings submitted and signed by an engineer registered in the state of Florida. Specific DEP Southeast District Office acceptance of plans will be required based upon a determination of consistency with approved design concepts, regulations, and these conditions prior to initiation of construction of any: industrial waste treatment facility; domestic waste treatment facility; potable water treatment and supply system; ground water monitoring system, storm water runoff system; solid waste disposal area; and hazardous or toxic handling facility or area. The Licensee shall present specific plans for these facilities for review by the DEP Southeast District Office at least ninety (90) days prior to construction of those portions of the facility for which the plans are then being submitted, unless other time limits are specified in the following conditions herein. Review and approval or disapproval shall be accomplished in accordance with Chapter 120, F.S., or these Conditions of Certification as applicable.

2. The Department must be notified in writing and prior written approval obtained for any material change or revision to be made to the project during construction that is in conflict with these Conditions of Certification. If there is any material change or revision made to a project approved by the Department without this

prior written approval, the project will be considered to have been constructed without Departmental approval, the construction will not be cleared for service, and the construction will be considered a violation of these Conditions of Certification.

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

B. Control Measures

1. To control runoff which may reach and thereby pollute waters of the state, necessary measures shall be utilized to settle, filter, treat or absorb silt containing or pollutant laden storm water to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units (NTU) above background in waters of the state or significant degradation of Outstanding Florida Waters in violation of Rule 62-4.242, F.A.C. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5. The Licensee shall comply with the applicable nonprocedural requirements in Rules 40B-4, 40C-42, 40D-4 and/or 40E-4, F.A.C.

2. Any open burning in connection with initial land clearing shall be in accordance with Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum, and any other applicable county regulation. Any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., shall be approved by the DEP Southeast District office in conjunction with the Division of Forestry and any other county regulations that may apply. Burning shall not occur if not approved by the appropriate agency or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.

3. Disposal of sanitary wastes from construction toilet facilities shall be in accordance with applicable regulations of the appropriate local health agency.

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

5. The Licensee shall employ proper odor and dust control techniques to minimize odor and fugitive dust emissions. The applicant shall employ control

techniques sufficient to prevent nuisance conditions which interfere with enjoyment of residents of adjoining property.

6. The Licensee shall develop the site so as to retain the buffer of natural vegetation as described in the application and in Condition XVIII, Screening.

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

C. ENVIRONMENTAL CONTROL PROGRAM

An environmental control program shall be established under the supervision of a Florida registered professional engineer or other qualified person to assure that all construction activities conform to applicable environmental regulations and the applicable Conditions of Certification. If a violation of standards, harmful effects or irreversible environmental damage not anticipated by the application or the evidence presented at the certification hearing is detected during construction, the Licensee shall notify the DEP District Office as required by Condition VII, Compliance.

D. REPORTING

Notice of commencement of construction shall be submitted to the Siting Coordination Office and the DEP Southeast District Office within fifteen (15) days after initiation. Starting three (3) months after construction commences, a quarterly construction status report shall be submitted to the DEP Southeast District Office. The report shall be a short narrative describing the progress of construction.

XXVIII. AIR

A. The terms, conditions, requirements, limitations, and restrictions set forth in draft Permit PSD-FL-354, which is attached as Appendix 1, and any final issuance, modification, or amendment to such PSD permit, are incorporated by reference herein, and are binding and enforceable Conditions of this Certification. The Licensee is subject to and shall comply with the terms, conditions, requirements, limitations, and restrictions set forth in Appendix 1 and any final issuance, modification, or amendment to such PSD permit. A violation of the terms conditions, requirements, limitations, and restrictions in Appendix 1 is a violation of these Conditions of Certification.

B. General and Administrative

1. Permitting Authority: All documents related to applications for federally delegated or approved air permits to construct, modify or operate these emissions units shall be submitted to the:

Bureau of Air Regulation (BAR)
Florida Department of Environmental Protection
2600 Blair Stone Road, Tallahassee, Florida 32399-2400

and phone number 850/488-0114. Copies of these documents shall be submitted to the Compliance Authority.

2. Compliance Authority: All documents related to compliance activities for federally delegated or approved air permits such as reports, tests, and notifications shall be submitted to the compliance authority. The compliance authority is the:

Air Quality Division
DEP Southeast District Office
400 North Congress, Suite 200
West Palm Beach, Florida 33401

3. The owner and operator are subject to, and shall operate under the attached General Conditions listed in *Appendix GC* of Appendix 1 and any final issuance, modification, or amendment to such PSD permit. General Conditions are binding and enforceable pursuant to Chapter 403 of the Florida Statutes. [Rule 62-4.160, F.A.C.]

4. The proposed new emissions units are:

ID	Emission Unit Description
001	Unit 1A – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
002	Unit 1B – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
003	Unit 1C – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
004	Unit 2A – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
005	Unit 2B – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
006	Unit 2C – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
007	Two nominal 6.3 million distillate fuel oil storage tanks

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008	Two 26 cell mechanical draft cooling towers
009	Two nominal 85,000 lb/hr (99.8 MMBtu/hr) auxiliary boilers
010	Two nominal 10 MMBtu/hr gas-fired process heaters
011	Four nominal 2,250 KW (~ 21 MMBtu/hr) emergency generators
012	One nominal 300-hp emergency diesel fire pump engine and 500 gallon fuel oil storage tank

XXIX. INDUSTRIAL AND DOMESTIC WASTEWATER

A. The construction and operation of the West County Energy Center shall be in accordance with all applicable provisions of any required federal permit such as any NPDES permit issued for the West County Energy Center and of any updates or modifications thereto. Upon the issuance of any NPDES permit or any subsequent updates or modifications thereto, these Conditions of Certification will be modified to incorporate the conditions of that permit.

B. The Licensee is hereby authorized to operate wastewater facilities as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof. Domestic wastewater facilities shall comply with the provisions of Chapter 64E-6, F.A.C., and Palm Beach County ECR-I. The Licensee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment

C. The construction and operation of the West County Energy Center shall be in accordance with all applicable provisions of any required federal permit such as any UIC permit issued for the West County Energy Center and of any updates or modifications thereto. Upon the issuance of any UIC permit or any subsequent updates or modifications thereto, these Conditions of Certification will be modified to incorporate the conditions of that permit.

XXX. POTABLE WATER

The Licensee is hereby authorized to operate potable water facilities as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof. Non-transient, non-community potable water facilities shall comply with the provisions of Chapter 62-555, F.A.C., and Palm Beach County ECR-II.

XXXI. SOLID AND HAZARDOUS WASTE

A. The Licensee is hereby authorized to collect any hazardous materials generated on site and to temporarily store them as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof.

No hazardous waste is to be permanently stored onsite. Any hazardous waste generated on site shall be contained and transferred for disposal to a properly licensed contractor in accordance with the Department's rules and regulations.

B. The Licensee is hereby authorized to collect any solid waste generated on site and to temporarily store them as shown or described in the West County Energy Center Site Certification Application and other documents on file with the Department and made a part hereof.

No solid waste is to be permanently stored onsite. Any solid waste generated on site shall be contained and transferred for disposal to a properly licensed contractor in accordance with the Department's rules and regulations.

XXXII. WATER MANAGEMENT

A. Administrative

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. Reference: Sections 373.044, 373.085, 373.113, 373.223, 373.342, and 373.413, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.101(1), and 40E-6.351, F.A.C.

b. Minimum Standards

This Certification is based on the Licensee's submitted information to the SFWMD which reasonably demonstrates that harm to the site water resources will not be caused by the authorized activities. The plans, drawings and design specifications submitted by the Licensee shall be considered the minimum standards for compliance. Reference: Sections 373.219, 373.223, 373.229, 373.308, 373.316, 373.413, and 373.416, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.500-531, and 40E-6.381, F.A.C.

c. Compliance Requirements

This project must be constructed, operated and maintained in compliance with and meet all non-procedural requirements set forth in Chapter 373, F.S., and Chapters 40E-2 (Consumptive Use), 40E-3 (Water Wells), 40E-20 (General Water Use Permits), and 40E-6 (Works or Lands of the District), 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 project. Reference: Sections 373.223 373.309, and 373.413, F.S.; Rules 40E-2.091, 40E-2.381, 40E-3.301(3), 40E-3.301(4), and 40E-6.381, 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. Reference: Sections 373.223 and 373.443, 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. Reference: Sections 373.309, 373.413, and 373.416, F.S.; Rules 40E-3.301 and 40E-6.381, F.A.C.

g. Access

SFWMD representatives shall be allowed reasonable escorted access to the power plant site, the water withdrawal facilities and any associated facilities to inspect and observe any activities associated with the construction of the

proposed project and/or the operation and/or maintenance of the on-site wells in order to determine compliance with the conditions of this Certification. 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. Reference: Sections 373.223, 373.319, and 373.423, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.461, and 40E-6.381, 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, 40E-3, 40E-20, and 40E-6, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder. Reference: Rule 62-17.191, F.A.C.

i. Enforcement

The SFWMD may confer with FDEP to request FDEP to 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. Reference: Sections 373.223, 373.319, and 373.603, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.461, and 40E-6.501, F.A.C.; Section 403.514, F.S.

2. Processing of Informational Requests

a. Completeness and Sufficiency Review

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

b. Compliance Review and Confirmation

Within sixty (60) days of the determination by SFWMD staff that the additional information is complete and sufficient, the SFWMD shall determine and notify the Licensee in writing whether the proposed activities conform to SFWMD rules, as required by Chapters 40E-2, 40E-3, 40E-20, and 40E-6, F.A.C., and the Conditions of Certification. If necessary, the SFWMD shall identify what items remain to

be addressed. No construction activities shall begin until the SFWMD has determined either in writing, or by failure to notify the Licensee in writing, that the activities are in compliance with the applicable SFWMD criteria. Reference: Sections 373.413(1) and (2), F.S.

c. Revisions to Site Specific Design Authorizations

The Licensee shall submit, consistent with the provisions of Condition A.2., any proposed revisions to the site specific design authorizations specified in this Certification to the SFWMD for review and approval prior to implementation. The submittal shall include all the information necessary to support the proposed request, including detailed drawings, calculations and/or any other applicable data. Such requests may be included as part of the appropriate additional information submittals required by this Certification provided they are clearly identified as a requested amendment or modification to the previously authorized design. Reference: Sections 373.085, 373.219, 373.223, 373.313, F.S.; Rules 40E-2.091, 40E-2.301, 40E-3.461, 40E-6.121, and 40E-6.221, F.A.C.

d. Dispute Resolution

Since this Certification is the only form of permit required from any agency, it is understood that the Licensee and the SFWMD shall strive to resolve disputes by mutual agreement. Reference: Sections 373.044, 373.085, 373.113, 373.129, 373.413 and 373.429, F.S.; Rules 40E-1.601, 40E-4.331, 40E-6.331, and 40E-6.341, F.A.C.

e. Objections

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

f. Changes to Information Requirements

The SFWMD and the Licensee may jointly agree to vary the informational requirements. Reference: Sections 373.085 and 373.229, F.S.; Rules 40E-2.101(1), 40E-3.101(2), and 40E-6.101(1), F.A.C.

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. Reference: 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, in existence at the time of issuance of the Certification Order, 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:

(1) Inability to draw water consistent with the provisions of the permit, such as when remedial structural or operational actions not materially authorized by existing permits must be taken to address the interference;

(2) 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

(3) 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 these Conditions of Certification includes:

(1) 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.);

(2) Damage to agriculture, including damage resulting from reduction in soil moisture resulting from consumptive use;

(3) 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 these Conditions of Certification includes:

(1) Reduction in ground or surface water levels that results in harmful lateral movement of the fresh water/salt water interface;

(2) Reduction in water levels that harm the hydroperiod of wetlands;

(3) Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;

(4) Harmful movement of contaminants in violation of state water quality standards; or

(5) Harm to the natural system including damage to habitat for rare or endangered species.

Reference: Sections 373.223, F.S.; Rules 40E-2.091, 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.

f. Legal Control Over Project Site

The Licensee must demonstrate the legal right to conduct water use on the project lands, in accordance with Section 2.1.1 of the Basis of Review for Water Use Permits in the SFWMD. Prior to issuance of the Certification Order, the Licensee shall submit copies of legal documents to the SFWMD that clearly demonstrate ownership or control of the project site, including a sketch map and project acreage, for incorporation into this Certification.

2. Site Specific Design Authorizations

a. Authorized Monthly Withdrawals

This Certification authorizes a maximum monthly withdrawal of 605 MGM from the L-10/L-12 Canal and/or the upper Floridan aquifer for cooling, service, and process water, subject to the limitations set forth in Condition B.2.d below. This Certification authorizes a maximum monthly withdrawal of 1.09 MGM from the surficial aquifer for potable water. The SFWMD may authorize alternative water supply sources for the project's cooling, service and process water, as set forth in Condition B.2.h below. However, in no instance shall the project's water use exceed a maximum of 605 MGM for its cooling, service and process water demands, except as provided for in Conditions B.2.d(4) and B.2.f below.

b. Authorized Annual Withdrawals

This Certification authorizes an average annual withdrawal of 5,550 MGY from the L-10/L-12 Canal and/or the upper Floridan aquifer for cooling, service, and process water, subject to the limitations set forth in Condition B.2.d below. This Certification authorizes an average annual withdrawal of 12.78 MGY from the Surficial aquifer for potable water. The SFWMD may authorize alternative water supply sources for the project's cooling, service and process water, as set forth in Condition B.2.h below. However, in no instance shall the project's water use exceed an average of 5,550 MGY for its cooling, service and process water demands, except as provided for in Conditions B.2.d(4) and B.2.f below.

c. Aquifer Performance Test

(1) Authorization to commence withdrawals from the upper Floridan aquifer for the backup water supply for the cooling tower makeup water will not be granted until an Aquifer Performance Test (APT) is completed, evaluated by the SFWMD, and a determination is made by the SFWMD that reasonable assurances have

been provided confirming that interference to existing legal users will not occur. The report submitted to the SFWMD on the APT shall include the following and shall be signed and sealed by a Florida Registered Professional Geologist:

- (a) The transmissivity and storage of the proposed pumping zone of the Floridan aquifer;
- (b) An analysis of the potential impacts to existing legal users;
- (c) An impact analysis, if potential impacts to existing legal users are identified.

(2) Upon submittal of the APT report, the SFWMD shall have 30 days to review the report for completeness. If the information is not complete, accurate, or fully documented, the SFWMD shall, within the 30 day time period, request additional information needed to complete the review of the report. Once the report is deemed complete, the SFWMD shall evaluate the potential for impacts to existing legal users in accordance with the applicable criteria in Rule 40-2, F.A.C., and the Basis of Review for Water Use Permit Applications in the SFWMD.

(3) If the SFWMD determines that the results of the additional site-specific test data confirms the initial conclusion that interference to existing legal users will not occur, then the SFWMD shall provide the Licensee and DEP with written confirmation of this finding within 30 days of submittal of a complete report to the SFWMD on the APT.

(3) If the SFWMD determines that the potential exists for interference with existing legal users as a result of the site-specific test data, then the SFWMD will advise the Licensee and DEP, within 30 days of submittal of a complete report to the SFWMD on the APT, of this conclusion. The SFWMD will review additional submittals of data such as additional modeling, alternative water supplies, and mitigation plans that may be proposed by the Licensee to provide reasonable assurances that interference with existing legal users will not occur. The SFWMD shall have 30 days to review the additional submittals for completeness. Upon completion of the evaluation, the SFWMD will provide the Licensee and DEP with notification of authorization to commence withdrawals from the Floridan aquifer at acceptable rates and will require mitigation, as necessary and appropriate, pursuant to the Basis of Review for Water Use Permits in the SFWMD, to prevent interference with existing legal users.

Reference: Sections 373.219 and 373.223, F.S.; Rules 40E-2.091, 40E-2.041, 40E-2.301, and 40E-2.381, F.A.C.

d. Limitations on Authorized Withdrawals

Withdrawals from the L-10/L-12 Canal are authorized, except as indicated below.

(1) Withdrawals from the L-10/L-12 Canal are prohibited when Water Supply Deliveries are being made. Water Supply Deliveries are defined as releases from regional system storage conducted to maintain designated canal stages within the L-10/L-12 Canal that have been depleted by consumptive and non-consumptive uses that occur during dry conditions.

(2) Withdrawals from the L-10/L-12 Canal are prohibited when Regulatory Releases are being made from Lake Okeechobee and water supply demands from existing legal users, authorized prior to May 10, 2006, exceed the capacity of the S-352 structure. Regulatory Releases are defined as releases from Lake Okeechobee that are conducted to pass lake inflows or lower the lake stage for the purpose of current and/or future flood control, pursuant to Lake Okeechobee's Water Supply and Environment (WSE) Regulation Schedule (in effect at the time of withdrawal pursuant to the Water Control Plan for Lake Okeechobee and the Everglades Agricultural Area).

(3) Determination of water availability from the L-10/L-12 Canal shall be made by SFWMD Operations Department staff, based on the following criteria:

(a) When the Licensee is withdrawing from the L-10/L-12 Canal, the Licensee shall contact the SFWMD's West Palm Beach Operations Control Center by 8:00 a.m. each Friday for a determination as to whether or not water is available from this source for the following week. In the event that water is unavailable from the L-10/L-12 Canal for the following week, the Licensee shall have up to 48 hours following the determination of unavailability to cease withdrawals from the L-10/L-12 Canal.

(b) When the Licensee is withdrawing from the Floridan aquifer, the Licensee may (but is not required to) contact the SFWMD's West Palm Beach Operations Control Center by 8:00 a.m. each Friday for a determination as to whether or not water is available from the L-10/L-12 Canal for the following week.

(c) Determination of water availability from the L-10/L-12 Canal shall be made only if water is available for a minimum period of one week. Shorter time-frames will not be authorized by the SFWMD's West Palm Beach Operations Control Center.

(4) If, pursuant to Condition B.2.h, the SFWMD requires or authorizes the Licensee to utilize an alternative water supply source that results in a reduction or increase of the authorized withdrawals set forth in Conditions B.2.a and B.2.b

above, the SFWMD shall petition the DEP for a modification to these Conditions of Certification.

e. Authorized Withdrawal Facilities

Prior to commencement of construction of the withdrawal facilities, the Licensee shall submit the details of the proposed withdrawal facilities (number of wells, well diameter, well depth, casing depth) for review and approval by the SFWMD. These Conditions of Certification shall be modified at a future date to reflect the specific withdrawal facilities authorized by the SFWMD.

f. Emergency Withdrawals

Any withdrawals from the L-10/L-12 Canal, the Floridan aquifer, or the Surficial aquifer in excess of the withdrawals authorized under this Certification shall require prior SFWMD approval. Any withdrawals from alternative surface or ground water supply sources shall require prior SFWMD approval. The SFWMD may grant such approval for any emergency withdrawals less than 90 days in duration without modifying these Conditions of Certification. The SFWMD's approval shall be based on the non-procedural requirements of Chapter 40E-2, F.A.C.

g. Consistency Review of Authorized Withdrawals

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. 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 competing applications provided there is no increase in the allocation and no change in source.

h. Alternative Water Supplies

(1) Reclaimed Water

(a) Upon written notification from the SFWMD that a reliable source of reclaimed water is available at the project site to provide Units 1 and 2 with cooling water in a quality that meets the reclaimed water user requirements and limitations set forth in Rule 62-610, F.A.C., and would not require significant modifications to the plant's water pre-treatment system, the Licensee shall conduct a feasibility evaluation in accordance with Section 3.2.3.2 of the Basis of Review For Water Use Permit Applications in the SFWMD to determine the environmental, technical, and economic feasibility of utilizing reclaimed water. The evaluation shall include an analysis of potential conflicts with facility permit requirements such as air emission control and wastewater disposal.

(b) In conducting the feasibility evaluation, it shall not be deemed to be economically feasible for the Licensee to use reclaimed water unless the PSC authorizes the recovery of the additional costs associated with reclaimed water use.

(c) If the feasibility evaluation demonstrates that the use of reclaimed water is feasible, the Licensee shall provide the SFWMD with a schedule for reclaimed water use, for the SFWMD's review and approval, within 90 days of such notification. Once the use of reclaimed water has been approved by the SFWMD and established, withdrawals of surface water from the L-10/L-12 Canal, the Floridan aquifer, or any other authorized use of excess storm water shall be reduced in proportion to the volume of reclaimed water to be used by Units 1 and 2.

(2) Excess Storm Water

(a) Upon identification of a reliable alternative source of excess storm water available at the project site from the L-8, the L-8 water storage ponds, or other sources to serve Units 1 and 2 in a quantity and quality acceptable to the Licensee, and which does not result in a conflict with permit requirements for the facility, the Licensee shall provide the SFWMD with a schedule for use of the excess storm water for the SFWMD's review and approval.

(b) Once the use of excess storm water has been approved by the SFWMD and established, withdrawals of surface water from the L-10/L-

12 Canal and/or ground water from the Floridan aquifer shall be reduced in proportion to the volume of excess storm water to be used by Units 1 and 2.

(3) Dual-Purpose Floridan Aquifer Wells

(a) If determined to be mutually beneficial, the Licensee and the SFWMD shall enter into an agreement to share the water made available by, and the costs associated with, the permitting, construction, and operation of dual-purpose aquifer storage and recovery (ASR) wells.

(b) Once withdrawals of ASR water have been approved by the SFWMD and established, the use of surface water from the L-10/L-12 Canal and/or excess storm water authorized under this certification shall be reduced in proportion to the volume of ASR water to be used by Units 1 and 2.

i. Request for Modification of Withdrawals

The SFWMD may request a modification of the ground 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.

j. Dewatering Activities

Prior to commencement of construction of those portions of the project that involve dewatering activities, the Licensee shall submit a detailed plan for any such activities to the SFWMD 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:

- (1) A detailed site plan which shows the location(s) for each proposed dewatering area;
- (2) The method(s) used for each dewatering operation;
- (3) The maximum depth for each dewatering operation;
- (4) The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;
- (5) The duration of each dewatering operation;

(6) The discharge method, route, and location of receiving waters generated by each dewatering operation, including the measures (Best Management Practices) that will be taken to prevent water quality problems in the receiving water(s);

(7) An analysis of the impacts of the proposed dewatering operations on any existing on and/or off-site legal users, wetlands, or existing groundwater contamination plumes;

(8) The location of any infiltration trench(es) and/or recharge barriers; and

(9) All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

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

k. Reporting Requirements

Prior to the use of any proposed withdrawal facility authorized under this Certification, the Licensee shall equip each 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. The Licensee shall specify the water accounting method and means of calibration on each report. Reference: Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.

l. 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. 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.

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

n. Water Conservation Plan

Prior to the commencement of construction of Units 1 and 2, the Licensee shall submit a Water Conservation Plan, as required by Chapter 40E-2, F.A.C., in effect at that time, for review and approval by SFWMD staff. The plan shall, at a minimum, incorporate the following components:

(1) An audit of the amount of water needed in the Licensee's operational processes. 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.

(2) 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.

C. Right-of-Way Conditions

1. General

a. Inlet Structure Location

At least ninety (90) days prior to the commencement of construction of any portion of the inlet structure, the Licensee shall provide the SFWMD with the specific location(s) of all proposed facilities within the canal right-of-way. Reference: Sections 373.085(1) and 373.413(2), F.S.

b. Construction Within SFWMD Right-of-Way

Prior to the commencement of construction of any portion of the inlet structure that will cross over, on, under, or otherwise use or be located within the SFWMD's right-of-way, the Licensee shall submit complete scaled or fully dimensioned 8½" X 11" drawings and related computations to the SFWMD, showing/delineating the proposed facilities, for a determination of compliance with the requirements of Chapter 40E-6, F.A.C.

(1) The drawings shall depict the proposed inlet structure in both plan and profile views and shall show, at a minimum, the following:

(a) The location of the facilities in relation to a section line, major road or other prominent well-known landmark by which the facility may be located in the field;

(b) The canal right-of-way lines;

(c) The top of the canal bank and its elevation;

(d) The maximum projection into the existing channel of the south face of the inlet structure as measured from the existing top of the canal bank;

(e) A cross section of the canal taken at the location of the inlet structure showing the location of the inlet structure in relation to the existing canal section;

(f) The maximum projection into the channel of the encroachment of any coffer dam (or similar temporary installation proposed to facilitate the construction of the inlet structure) as measured from the existing top of bank;

(g) A cross section of the canal taken at the location of the inlet structure showing the location of the coffer dam (or similar temporary installation proposed to facilitate the construction of the inlet structure) in relation to the existing canal section;

(h) The location and elevation of any buried facilities; and

(i) All slope protection with the top and bottom elevations as well as the east and west limits clearly depicted.

(2) The computations shall show, at a minimum, the following:

(a) The cross-sectional area, in square feet, of the existing channel lost to the construction of the inlet structure;

(b) The maximum cross-sectional area, in square feet, of the existing channel lost to the construction of the temporary coffer dam (or similar temporary installation proposed to facilitate the construction of the inlet structure;

(c) The maximum cross-sectional area, in square feet, of the channel lost to the construction of any barges or other floating equipment used to facilitate the construction of the temporary coffer dam or the inlet structure; and

(d) The head loss imposed on the channel by the temporary equipment and facilities, including the coffer dam, barges, and floating equipment.

Reference: Sections 373.085 and 373.086, F.S.; Rules 40E-6.091(1) and 40E-6.201(1)(h), F.A.C.

c. Use of SFWMD Right-of-Way During and After Construction

Should the Licensee desire to utilize the SFWMD's right-of-way for access during construction of the inlet structure, and/or for inspection and maintenance after construction, the Licensee shall submit to the SFWMD a detailed plan identifying the proposed route, type and number of vehicles to be used and the frequency of such use. Licensee shall certify to SFWMD initially, and in subsequent years as requested by the SFWMD, in the form of an affidavit, that Licensee is self-insured. Licensee shall submit to SFWMD an audited financial statement to support its affidavit of self-insurance and as evidence of Licensee's financial ability to comply with the conditions stated herein. All use of the SFWMD's right-of-way by the Licensee shall be in accordance with Chapter 40E-6, F.A.C., unless otherwise authorized in this Certification. Reference: Sections 373.085 and 373.086, F.S.; Chapter 40E-6, F.A.C.

2. Standard Limiting Conditions

a. All structures on SFWMD works or lands that are constructed by Licensee shall remain the property of Licensee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. The Licensee is advised that other federal, state and local safety standards may govern the occupancy and use of the SFWMD's lands and works. The SFWMD

assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused to others by any such failure.

b. Licensee solely acknowledges and accepts the duty and all associated responsibilities to incorporate safety features, which meet applicable engineering practice and accepted industry standards, into the design, construction, operation and continued maintenance of the authorized facilities/use. This duty shall include, but not be limited to, Licensee's consideration of the SFWMD's regulation and potential fluctuation, without notice, of water levels in canals and works, as well as the Licensee's consideration of upgrades and modifications to the authorized facilities/use which may be necessary to meet any future changes to applicable engineering practice and accepted industry standards. Licensee acknowledges that the SFWMD's review of this project and authorization to commence construction, including, but not limited to, any field inspections performed by the SFWMD, does not in any way consider or ensure that the authorized use/facilities are planned, designed, engineered, constructed, or will be operated, maintained or modified so as to meet applicable engineering practice and accepted industry standards, or otherwise provide any safety protections. Licensee further acknowledges that any inquiries, discussions, or representations, whether verbal or written, by or with any SFWMD staff or representative during the Site Certification review process, including, but not limited to, any field inspections, shall not in any way be relied upon by Licensee as the SFWMD's assumption of any duty to incorporate safety features, as set forth above, and shall also not be relied upon by Licensee in order to meet Licensee's duty to incorporate safety features, as set forth above.

c. Licensee agrees to abide by all of the terms and conditions of this Certification, including any representations made in the Site Certification Application and related documents. Licensee agrees to pay all removal and restoration costs, investigative costs, court costs and reasonable attorney's fees, including appeals, resulting from any action taken by the SFWMD to obtain compliance with the conditions of Certification. If SFWMD legal action is taken by staff counsel, "reasonable attorney's fees" is understood to mean the fair market value of the services provided, based upon what a private attorney would charge.

d. This Certification does not convey any property rights nor any rights or privileges other than those specified herein and this Certification shall not, in any way, be construed as abandonment or any other such impairment or disposition of the SFWMD's property rights. The SFWMD approves the use/facilities authorized in this Certification only to the extent of its interest in the works of the SFWMD. Licensee shall obtain all other necessary federal, state, local, special district and private authorizations prior to the start of any construction or alteration authorized by this Certification. Licensee shall comply with any more stringent conditions or provisions which may be set forth in other required permits or other authorizations. The SFWMD, however, assumes no duty to ensure that any such authorizations have been obtained or to

protect the legal rights of the underlying fee owner, in those instances where the SFWMD owns less than fee.

e. Unless specifically prohibited or limited by statute, Licensee agrees to indemnify, defend and save the SFWMD (which used herein includes the SFWMD and its past, present and future employees, agents, representatives, officers and Governing Board members and any of their successors and assigns) from and against any and all lawsuits, actions, claims, demands, losses, expenses, costs, attorneys fees (including but not limited to the fair market value of the SFWMD's in-house attorneys' fees based upon private attorneys' fees/rates), judgments and liabilities which arise from or may be related to the ownership, construction, maintenance or operation of the authorized use or the possession, utilization, maintenance, occupancy or ingress and egress of the SFWMD's right of way which arise directly or indirectly and/or are caused in whole or in part by the acts, omissions or negligence of the Licensee, its agents, representatives, and third parties under contract with the Licensee. Licensee agrees to provide legal counsel acceptable to the SFWMD if requested for the defense of any such claims.

f. The SFWMD does not waive sovereign immunity in any respect.

g. The Licensee shall not engage in any activity regarding the authorized use which interferes with the construction, alteration, maintenance or operation of the works of the SFWMD, including:

- (1) Discharge of debris or aquatic weeds into the works of the SFWMD;
- (2) Causing erosion or shoaling within the works of the SFWMD;
- (3) Planting trees or shrubs or erecting structures which limit or prohibit access by SFWMD equipment and vehicles, except as may be authorized by this Certification;
- (4) Leaving construction or other debris on the SFWMD's right of way or waterway; and
- (5) Damaging SFWMD bank slopes, berms and levees.
- (6) Licensee shall be responsible for any costs incurred by the SFWMD resulting from any such interference, as set forth in (1), (2), and (3), above;

h. The SFWMD is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the SFWMD's canal or any activities which may include use or contact with water from the SFWMD's canal, since the SFWMD periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

i. Licensee shall allow the SFWMD to inspect the authorized use at any reasonable time.

j. Licensee shall not interfere with any other existing or future permitted uses or facilities authorized by the SFWMD. SFWMD shall advise Licensee of any future proposed permitted use or facility that may interfere with Licensee's facilities or withdrawals.

k. The SFWMD has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the SFWMD in accordance with criteria established by the SFWMD or the U. S. Army Corps of Engineers for the works of the SFWMD.

l. Licensee shall be responsible for the repair or replacement of any existing facilities located within the SFWMD's right of way which are damaged as a result of the installation or maintenance of the authorized facilities.

m. It is the responsibility of the Licensee to make prospective bidders aware of the terms and conditions of this Certification. It shall be the responsibility of the Licensee's contractors to understand the terms and conditions of this Certification and govern themselves accordingly.

n. The Licensee is advised that the SFWMD will not alter its operating practices to facilitate construction of the authorized facilities. At the pre-construction meeting, SFWMD shall advise the Licensee of its operating practices and any planned activities in the vicinity of the inlet structure during the period of planned construction.

Reference: Sections 373.044, 373.113, 373.085(1), 373.086, 373.103, 373.129, and 373.603, F.S.; Rule 40E-6.381, F.A.C.

3. Special Conditions

a. General Requirements

(1) Prior to commencement of construction or utilization of the SFWMD's right of way, the Licensee shall contact the SFWMD's field representative at the West Palm Beach Field Station office to schedule a pre-construction meeting.

(2) The Licensee shall comply with any more stringent conditions set forth in other required permits and approvals for the certified facility.

(3) A copy of the Certification application, Certification order, SFWMD post-certification submittals, and the SFWMD's construction authorization letter will be kept at a location to be determined until completion of all phases of construction and acceptance of the constructed facilities and restoration of the right of way by the SFWMD's field representative.

(4) The Licensee shall be responsible for the removal of all materials and debris from the SFWMD's canal and right of way, and, for the repair, replacement and restoration of any sections of the SFWMD's right of way damaged or disturbed resulting from the authorized activity. Restoration shall be to the satisfaction of the SFWMD and shall include grading/re-shaping, seeding, re-sodding with bahia, argentine, or other species recognized by the SFWMD as a drought tolerant species.

(5) Should the authorized activities or placement of the authorized facilities or within the SFWMD's right of way or maintenance of same contribute to shoaling, erosion or wash-outs of the SFWMD's right of way, berm or side slope of the canal, it is the Licensee's sole responsibility and expense to, upon notification from the SFWMD, immediately take appropriate steps to restore the right of way to its pre-construction condition to the satisfaction of the SFWMD to the extent of the Licensee's contribution to such shoaling, erosion or wash-out.

(6) At no time shall the Licensee place permanent or semi-permanent above-ground encroachments or facilities within the 40 foot wide strip of land lying parallel to the canal, as measured from the top of the existing canal bank landward, unless otherwise authorized in this Certification or any post-certification approvals.

(7) At no time shall the Licensee place above ground facilities within the SFWMD's designated 100 foot long equipment staging areas located at all bridges and pile-supported utility crossings, unless otherwise authorized in this Certification or any post-certification approvals.

(8) Immediately upon completion of the authorized work, the Licensee shall contact the SFWMD's field representative at the West Palm Beach Field Station office to schedule a final inspection.

b. Inlet Structure

(1) This inlet structure shall be for surface water withdrawals from the West Palm Beach (L-12 Extension) Canal only. The use of this installation as a discharge facility is not authorized.

(2) The top of any rip-rap or other slope protection must match the elevation of the existing ground.

(3) The Licensee shall construct the inlet structure and associated slope protection to preclude erosion.

(4) The Licensee shall obtain prior approval from the SFWMD for any fill pads or other areas needed for temporary or long-term construction staging within SFWMD right-of-way. Said fill pads or other staging areas shall not encroach the canal section. The Licensee is advised that approvals from the Florida Department of Transportation (FDOT) may be required for such facilities.

c. Temporary Use of SFWMD Right Of Way for Construction Activities

(1) Work activities within the L-12 Extension Canal are prohibited between May 1st and October 31st. Any work activities initiated before May 1st shall be completed by May 1st. The Licensee may submit a request to the SFWMD to conduct limited construction activities as may be required, to prepare for construction or to complete work already underway. Such request(s) shall be submitted to the SFWMD at least 30 days prior to October 31st in order to commence work prior to October 31, and at least 30 days prior to May 1 in order to continue work after May 1. Approval of any such request shall be at the sole discretion of the SFWMD.

(2) Prior to commencement of construction or utilization of the SFWMD's right of way, the Licensee shall contact the SFWMD's field representative at the West Palm Beach Field Station office to schedule a pre-construction meeting. The Licensee shall prepare and present the following items at the pre-construction meeting.

(a) A list of 24 hour contact personnel. The list shall include the contractor and designer, their titles and telephone numbers for office, mobile, beeper, home or local residences.

(b) A written inventory of the type of vehicles, construction equipment, other machinery and materials which will be located within the SFWMD's right of way.

(c) Written procedures for the clearing of all construction materials, coffer dam, machinery, equipment barges or other floating equipment and vehicles from the canal and the area immediately adjacent to the canal within 24 hours notice from the SFWMD.

(d) A list containing the names and contact numbers of the individuals responsible for the various operations involved in the clearing procedures.

(3) The Licensee is responsible for providing and utilizing acceptable dust control measures throughout the life of project.

(4) No vehicular maintenance/repair activities or substances or parts associated with the repair or maintenance of vehicles/equipment will take place, be used, stored or discarded within the right of way nor shall the SFWMD's right of way be used for storage or parking of equipment, associated machinery or construction trailers.

(5) The Licensee shall not stockpile excavated material in the canal. Any temporary stockpiling of excavated material within the canal right of way shall be addressed at the preconstruction meeting and, if approved, shall be at the sole discretion of the SFWMD. The Licensee is responsible for the removal of all excess project related material from the SFWMD's right of way, unless otherwise authorized in this Certification or any post-certification approvals.

(6) Licensee shall certify to SFWMD initially, and in subsequent years as requested by the SFWMD, in the form of an affidavit, that Licensee is self-insured. Licensee shall submit to SFWMD an audited financial statement to support its affidavit of self-insurance and as evidence of Licensee's financial ability to comply with the conditions stated herein.

d. Storm Event Notifications/Requirements During Construction Activities

(1) If storm, hurricane, or emergency circumstances are developing, the SFWMD will attempt to provide a forty-eight (48) hour notice. The Licensee will be contacted by telephone or a visit to the construction site wherein the Licensee will be informed of the emergency situation. The Licensee is put on notice that the 48-hour notice is a warning that the SFWMD may or may not be able to provide the Licensee.

(2) If storm, hurricane or emergency circumstances have developed, the SFWMD will contact the Licensee by telephone or visit the site to place the Licensee on 24-hour alert. At this time, the Licensee and the Licensee's contractor(s) and sub-contractor(s) must begin securing the project site and removing temporary equipment from the canal per the SFWMD's approved contingency plans, including any temporary sheet pile cofferdam. The SFWMD will not require removal of any part of the cofferdam structure that will become part of the permanent inlet structure.

(3) The Licensee is advised that the SFWMD's hurricane, storm event and/or emergency alert may differ from the National Hurricane Center or the local news and weather. The SFWMD takes into consideration the numerous factors concerning construction within the channel and canal rights of way. As such, upon the SFWMD's notification to the Licensee of a pending emergency, storm event, or hurricane, the Licensee has twenty-four (24) hours or less to comply with SFWMD orders and the previously submitted SFWMD-approved contingency plan.

e. Removal of Exotic/Nuisance Vegetation

(1) The Licensee shall remove all exotic vegetation from within the SFWMD's right of way throughout the limits of the project and keep the right of way free of said exotic vegetation throughout the life of the project.

(2) The Licensee is put on notice that successful removal of the exotic vegetation may require the application of a suitable herbicide on cut stumps, etc. by following manufacturers label instructions.

(3) The Licensee shall take all precautions to not damage or destroy existing native (indigenous) vegetation located within the SFWMD's right of way throughout the project limits.

(4) The Licensee shall not remove, cut, trim or treat with herbicide applications any mangrove or other shoreline vegetation native (indigenous) to the region.

(5) The Licensee shall maintain the project area on a regular cycle basis and keep the right of way free of excessive weeds and exotic vegetation.

Reference: Sections 373.044, 373.113, 373.085(1), 373.086, 373.103, 373.129, and 373.603, F.S.

D. Everglades Works of the District

Prior to the commencement of construction of the surface water management system or any modifications thereto that involve off-site discharges, the Licensee shall submit the details of the proposed surface water management system design/modifications to the SFWMD for a determination of compliance with the non-procedural requirements of Chapter 40E-63, F.A.C. All plans, details, and calculations shall be signed and sealed by a Florida Registered Professional Engineer. Upon review of the submitted plans/calculations, the Licensee may be required to incorporate additional

water quality treatment methods, a Best Management Practices Plan, and a Water Quality Monitoring Plan into the project design.

XXXII. TRANSPORTATION

A. Traffic control shall be maintained during plant construction and operations in compliance with the standards in the *Manual on Uniform Traffic Control Devices; Statewide Minimum Level of Service Standards*, Rule Chapter 14-94, F.A.C.; Florida Department of Transportation's *Roadway and Traffic Design Standards*; and Florida Department of Transportation *Standard Specifications for Road and Bridge Construction*, whichever is more stringent.

B. Operation of overweight or overdimensional vehicles by the applicant on State transportation facilities during the construction and operation of the West County Energy Center shall be subject to safety and permitting requirements of Chapter 316, F.S., and *Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles*, Rule Chapter 14-26, F.A.C.

C. Any new access to the State Highway System shall follow the provisions of, *State Highway System Connection Permits, Administrative Process*, Chapter 14-96, F.A.C. and *State Highway Access Management Classification System and Standards*, Rule Chapter 14-97, F.A.C.

D. Any use of State of Florida right of way and certain activities on State transportation facilities will be subject to the requirements of the Department of Transportation's *Utility Accommodation Manual* (Document 710-020-001) and *Utilities Installation or Adjustment*, Rule Chapter 14-46, F.A.C. and Section 337.403, F.S.

E. Any drainage onto State of Florida right of way and transportation facilities will be subject to the requirements of *Drainage Connections*, Rule Chapter 14-86, F.A.C.

F. Any structures proposed in the application which exceed 200 feet in height will be subject to an aeronautical study by the Federal Aviation Authority under the provisions of 14 CFR Part 77. The Licensee must obtain any necessary variances.

G. The Licensee shall encourage transportation demand management by:

1. Placing a bulletin board on site for car pooling advertisements.
2. Requiring that heavy construction vehicles remain on site for the duration of their use during construction.

H. The Licensee ~~shall~~ is encouraged to install a Soil Tracking Prevention

Device in accordance with the Florida Department of Transportation's *Roadway and Traffic Design Standards, Index 106* or any other approved suitable alternative technique to minimize offsite tracking of sediment.

I. If the Licensee uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the Licensee shall ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, F.S., and Rule Chapter 14-26, F.A.C.

J. All infrastructure crossings of State Road 80 shall be subject to the requirements of the Florida Department of Transportation's *Utility accommodation Manual* (Document 710-020-001) and Rule Chapter 14-46, F.A.C. The placement of the waterline shall take into consideration the possible widening of State Road 80. If future widening of State Road 80 occurs, the cost of relocating the waterline shall be borne by the Licensee unless the terms and conditions of Section 337.403, F.S., are met.

XXXIV. EMERGENCY MANAGEMENT

A. The Licensee shall prepare a West County Energy Center hurricane preparation and recovery plan. The plan shall be submitted to the Department of Community Affairs and the Palm Beach County Office of Emergency Management no later than completion of building construction code compliance review of the West County Energy Center by Palm Beach County.

B. The Licensee shall formally update the plan every five (5) years following commencement of commercial operation of the West County Energy Center and whenever an additional electrical generating unit is brought into service at the West County Energy Center site. The updated plan shall be submitted to the Department of Community Affairs and the Palm Beach County Office of Emergency Management.

C. The Department of Community Affairs will review the plan and any plan update. If the Department of Community Affairs deems the plan or any plan update not to be in compliance with the requirements of these Conditions of Certification, it may petition the Department for enforcement of this condition pursuant to the Florida Electrical Power Plant Siting Act.

APPENDIX 1
Draft Air Construction Permit PSD-FL-354

PERMITTEE:

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

Authorized Representative:

Randall R. LaBauve, Vice President

FPL West County Energy Center
FPL File No. 0990646-001-AC
Permit No. PSD-FL-354
SIC No. 4911
Expires: December 31, 2011

PROJECT AND LOCATION

This permit authorizes the construction of two nominal 1,250 megawatt combined cycle units at the proposed Florida Power and Light Company (FPL) West County Energy Center.

The proposed project will be located at 4000 205th Street, North in unincorporated Palm Beach County. This site encompasses 220 acres of which approximately 40 acres will be used for two combined cycle units.

UTM coordinates are Zone 17; 562.19 km E; 2953.04 km N.

STATEMENT OF BASIS

This PSD construction permit is issued under the provisions of Chapter 403 of the Florida Statutes (F.S.), Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297, and the Florida Administrative Code (F.A.C.) Chapters 62-212.400, F.A.C., the preconstruction review program for the Prevention of Significant Deterioration (PSD) of Air Quality. Pursuant to Chapter 62-212, F.S., and Chapter 403 F.S., the project is also subject to Electrical Power Plant Siting. The permittee is authorized to install the proposed equipment in accordance with the conditions of this permit and as described in the application, approved drawings, plans, and other documents on file with the Department.

CONTENTS

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

Michael G. Cooke, Director (Date)
Division of Air Resources Management

SECTION I. GENERAL INFORMATION

FACILITY DESCRIPTION

The FPL West County Energy Center will be a nominal 2,500 megawatt (MW) greenfield power plant. The initial phase is the construction of two nominal 1,250 MW gas-fired combined cycle units that will use ultralow sulfur (ULS) fuel oil as backup fuel. The two combined cycle units are designated as Unit 1 and Unit 2.

Each combined cycle unit will consist of: three nominal 250 megawatt Model 501G gas turbine-electrical generator sets with evaporative inlet cooling systems; three supplementary-fired heat recovery steam generators (HRSG's) with SCR reactors; one nominal 428 mmBtu/hour (LHV) gas-fired duct burner located within each of the three HRSG's; three 149 feet exhaust stacks; one 26 cell mechanical draft cooling tower; and a common nominal 500 MW steam-electrical generator.

Additional ancillary equipment will include: four emergency generators; two nominal gas fired fuel heaters; two diesel fuel storage tanks; two auxiliary steam boilers; and other associated support equipment.

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

NEW EMISSIONS UNITS

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

ID	Emission Unit Description
001	Unit 1A – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
002	Unit 1B – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
003	Unit 1C – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
004	Unit 2A – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
005	Unit 2B – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
006	Unit 2C – one nominal 250 MW gas turbine with supplementary-fired heat recovery steam generator
007	Two nominal 6.3 million gallon distillate fuel oil storage tanks*
008	Two 26 cell mechanical draft cooling towers
009	Two nominal 100 lb/hr (2.2 MMBtu/hr) auxiliary boilers
010	Two nominal 10 MMBtu/hr gas-fired process heaters
011	Four nominal 2,250 kW (~21 MW) emergency generators
012	One nominal 300-hp emergency diesel fire pump engine and 500 gallon fuel oil storage tank

* This capacity will allow approximately 108 hours of on-site oil storage

REGULATORY CLASSIFICATION

Title III: This facility will be a major for hazardous air pollutants (HAPs).

Title IV: The facility will operate emissions units subject to the acid rain provisions of the Clean Air Act.

Title V: Because potential emissions of at least one regulated pollutant exceed 100 tons per year, the new facility is a Title V major source of air pollution in accordance with Chapter 62-213, F.A.C. Regulated pollutants include pollutants such as carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM/PM₁₀), sulfur dioxide (SO₂), and volatile organic compounds (VOC).

SECTION I. GENERAL INFORMATION

PSD: The facility is located in an area designated as "attainment," "maintenance," or "unclassifiable" for each pollutant subject to a National Ambient Air Quality Standard. The facility is considered a "fossil fuel fired steam electric plant of more than 250 million BTU per hour of heat input", which is one of the 28 PSD source categories with the lower PSD applicability threshold of 100 tons per year. Potential emissions of at least one regulated pollutant exceed 100 tons per year. Therefore, the facility is classified as a PSD-major source of air pollution with respect to Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (PSD) of Air Quality.

NSPS: This project is subject to applicable requirements of 40 CFR 60, Subparts GG (Standards of Performance for Stationary Gas Turbines) and Da (Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1980). When the proposed 40 CFR 60, NSPS-Subpart KKKK (Standards of Performance for Stationary Combustion Turbines for Which Construction is Commenced After February 18, 2005) becomes final, the project will be subject to Subpart KKKK, and may no longer be subject to Subparts GG and Da. This project is also subject to applicable requirements of 40 CFR 60, NSPS-Subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels for which Construction, Reconstruction, or Modification Commenced After July 23, 1984); to 40 CFR 60, NSPS-Subpart Dc (Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units) and to 40 CFR 60, NSPS-Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (ICE); Proposed Rule Federal Register / Vol. 70, No. 137, July 11, 2005.

NESHAPS: This project is subject to applicable requirements of 40 CFR 63, Subpart YYYYY, National Emissions Standards for Hazardous Air Pollutants for Stationary Combustion Gas Turbines. This project is also subject to applicable requirements of 40 CFR 63, Subpart ZZZZ, National Emissions Standards for Reciprocating Internal Combustion Engines (RICE); and 40 CFR 63, Subpart DDDDD National Emissions Standards for Industrial, Commercial, or Institutional Boilers and Process Heaters.

Siting: The facility is subject to Electrical Power Plant Siting in accordance with Chapter 62-17, F.A.C. and Chapter 403, Part II, F.S.

PERMITTING AUTHORITY

All documents related to applications for permits to construct, operate or modify an emissions unit shall be submitted to the Bureau of Air Regulation, Florida Department of Environmental Protection (DEP) at 2600 Blair Stone Road, MS #5505, Tallahassee, FL 32399-2400. Copies of all such documents shall also be submitted to the Compliance Authority.

COMPLIANCE AUTHORITY

All documents related to compliance activities such as reports, tests, and notifications shall be submitted to the Department of Environmental Regulation Southeast District office (DEP-SED), 400 North Congress Avenue, Suite 200, West Palm Beach, FL 33401.

SECTION I. GENERAL INFORMATION

APPENDICES

The following Appendices are attached as part of this permit.

Appendix A: Subparts A from NSPS 40 CFR 60 and NESHAP 40 CFR63; Identification of General Provisions.

Appendix BD: Final BACT Determinations and Emissions Standards.

Appendix Da: NSPS Requirements for Duct Burners, 40 CFR 60, Subpart Da.

Appendix Dc: NSPS Requirements for Small Steam Generating Units, 40 CFR 60, Subpart Dc.

Appendix DDDDD: NESHAP Requirements for Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63, Subpart DDDDD.

Appendix GC: General Conditions.

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

Appendix SC: Standard Conditions.

Appendix XS: Semiannual NSPS Excess Emissions Report.

Appendix YYYYY: NESHAP Requirements for Gas Turbines, 40 CFR 63, Subpart YYYYY.

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

The following 40 CFR 60, New Source Standard Performance (NSPS) subparts, shall become part of this permit on the effective final date of each regulation:

Standards of Performance (NSPS) for Stationary Compression Ignition Internal Combustion Engines (ICE), 40 CFR 60, Subpart IIII; Proposed Rule (published July 14, 2005). This subpart will be eventually incorporated as Appendix IIII.

Standards of Performance (NSPS) for Stationary Gas Turbines, 40 CFR 60, Subpart KKKK; Proposed Rules (published February 18, 2004). This subpart will be eventually incorporated as Appendix KKKK.

RELEVANT DOCUMENTS

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

- Permit application received on April 14, 2005;
- Department PSD Application Sufficiency comments dated June 13, 2005;
- Sufficiency Responses received August 1, 2005;
- Letter from FPL to DEP dated December 29, 2005;
- Draft permit package issued on March 1, 2006;
- Final Certification of the Power Plant Siting Board on Month Day, Year; and
- Final Determination distributed concurrently with Final PSD Permit.

SECTION II. ADMINISTRATIVE REQUIREMENTS

1. General Conditions: The permittee shall operate under the attached General Conditions listed in Appendix GC of this permit. General Conditions are binding and enforceable pursuant to Chapter 403 of the Florida Statutes. [Rule 62-4.160, F.A.C.]
2. Applicable Regulations, Forms and Application Procedures: Unless otherwise indicated in this permit, the construction and operation of the subject emissions unit shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of: Chapter 403 of the Florida Statutes (F.S.); Chapters 62-4, 62-204, 62-210, 62-212, 62-213, 62-296, and 62-297 of the Florida Administrative Code (F.A.C.); and the Title 40, Parts 51, 52, 60, 63, 72, 73, and 75 of the Code of Federal Regulations (CFR), adopted by reference in Rule 62-204.800, F.A.C. The terms used in this permit have specific meanings as defined in the applicable chapters of the Florida Administrative Code. The permittee shall use the applicable forms listed in Rule 62-210.900, F.A.C. and follow the application procedures in Chapter 62-4, F.A.C. Issuance of this permit does not relieve the permittee from compliance with any applicable federal, state, or local permitting or regulations. [Rules 62-204.800, 62-210.300 and 62-210.900, F.A.C.]
3. Construction and Expiration: The permit expiration date includes sufficient time to complete construction, perform required testing, submit test reports, and submit an application for a Title V operation permit to the Department. Approval to construct shall become invalid if any of the following reasons: construction is not commenced within 18 months after issuance of this permit; construction is discontinued for a period of 18 months or more; or construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. In conjunction with an extension of the 18-month period to commence or continue construction or to construct the project in phases), the Department may require the permittee to demonstrate the adequacy of any previous determination of Best Available Control Technology (BACT) for emission units regulated by the project. For good cause, the permittee may request that this PSD or construction permit be extended. Such a request shall be submitted to the Department's Bureau of Air Regulation at least sixty (60) days prior to the expiration of this permit. [Rules 62-4.070(4), 62-4.080, 62-210.300(1), and 62-212.400(6)(b), F.A.C.]
4. New or Additional Conditions: For good cause shown, and after notice and an administrative hearing, if requested, the Department may require the permittee to conform to new or additional conditions. The Department shall allow the permittee a reasonable time to conform to the new or additional conditions, and on application of the permittee, the Department may grant additional time. [Rule 62-4.080, F.A.C.]
5. Modifications: No emissions unit at a facility subject to this permit shall be constructed or modified without obtaining an air construction permit from the Department. Such permit shall be obtained prior to beginning construction or modification. [Chapters 62-10 and 62-212, F.A.C.]
6. Application for Title IV Permit: At least 24 months before the date on which the new units begin serving an electrical generator greater than 25 MW, the permittee shall submit an application for a Title IV Acid Rain Permit to the Department's Bureau of Air Regulation in Tallahassee and a copy to the Region 4 Office of the U.S. Environmental Protection Agency in Atlanta, Georgia. [40 CFR 72]
7. Application for Title V Permit: The permittee shall submit an application, pursuant to Chapter 62-213, F.A.C, for a Title V air operation permit at least 90 days before the expiration of this permit, but no later than 180 days after commencing operation of the new units. To apply for a Title V operation permit, the applicant shall submit the appropriate application form, compliance test results, a Compliance Assurance Monitoring Plan (as necessary), and such additional information as the Department may by law require.

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

A. COMBINED CYCLE UNITS 1 AND 2 – GAS TURBINES (EUs 001, 002, 003, 004, 005, and 006)

This section of the permit addresses the following emissions units.

Combined Cycle Units 1 and 2 and associated equipment

Description: Emissions units 001, 002, 003, 004, 005, and 006. Each emission unit consists of: a Model 501G combustion gas turbine-electrical generator set with automated gas turbine control, inlet air filtration system and evaporative cooling, a gas-fired heat recovery steam generator (HRSG) with duct burner, a HRSG stack, and associated support equipment. Each combined cycle unit is comprised of three of the described emission units. The project also includes two steam turbine-electrical generators, each of which has a combined cycle unit.

Fuels: Each gas turbine fires natural gas as the primary fuel and ultra low sulfur distillate fuel oil as a restricted alternate fuel.

Generating Capacity: Each of the six gas turbine-electrical generator sets has a nominal generating capacity of 250 MW. Each of the two steam turbine-electrical generators has a nominal generating capacity of 500 MW. The total nominal generating capacity of each of the "3 on 1" combined cycle unit is approximately 1,250 MW. The total nominal generating capacity of the proposed project is 2,500 MW.

Controls: The efficient combustion of natural gas and restricted firing of ultra low sulfur distillate fuel oil minimizes the emissions of CO, PM/PM₁₀, SAM, SO₂ and Volatile Organic Compounds (VOC). Dry Low NO_x (DLN) combustion technology for gas firing and water injection for oil firing reduce NO_x emissions. Selective catalytic reduction (SCR) system further reduces NO_x emissions.

Stack Parameters: Each HRSG has a stack at least 149 feet tall with a nominal diameter of 22 feet. The Department may require the permittee to perform additional air dispersion modeling should the actual specified stack dimensions change. The following summarizes exhaust characteristics without the duct burners:

<u>Fuel</u>	<u>Heat Input Rate (LHV)</u>	<u>Compressor Inlet Temp., °F</u>	<u>Exhaust Temp., °F</u>	<u>Flow Rate ACFM</u>
Gas	2,333 MM Btu/hour	59° F	195° F	1,330,197
Oil	2,117 MM Btu/hour	59° F	293° F	1,533,502

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

APPLICABLE STANDARDS AND REGULATIONS

1. **BACT Determinations:** Determinations of the Best Available Control Technology (BACT) were made for carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM/PM₁₀), sulfuric acid mist (SAM), sulfur dioxide (SO₂) and volatile organic compounds (VOC).

See Appendix B of this permit for a summary of the final BACT determinations.
[Rule 62-212.400(1), F.A.C.]

2. **NSPS Requirements:** The combustion turbines shall comply with all applicable requirements of 40 CFR 60, listed below, adopted by reference in Rule 62-204.800(7)(b), F.A.C. The Department determines that compliance with the BACT emissions performance requirements also assures compliance with the New Source Performance Standards for Subpart Da, Subpart GG, and Subpart KKKK (as proposed). Some separate reporting and monitoring may be required by the individual subparts.

a. *Subpart A, General Provisions*, including:

- 40 CFR 60.7, Notification and Record Keeping
- 40 CFR 60.8, Performance Tests

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- 40 CFR 60.11, Compliance with Standards and Maintenance Requirements
 - 40 CFR 60.12, Circumvention
 - 40 CFR 60.13, Monitoring Requirements
 - 40 CFR 60.19, General Notification and Reporting Requirements
- b. *Subpart Da, Standards of Performance for Electric Utility Steam Generating Units:* These provisions include standards for duct burners.
- c. *Subpart GG, Standards of Performance for Stationary Gas Turbines:* These provisions include a requirement to correct test data to ISO conditions; however, such correction is not used for compliance determinations with the BACT standards.
- d. *Subpart KKKK, Standards of Performance for Stationary Gas Turbines:* These provisions were published February 18, 2004 as a proposed new NSPS standard. The final rule will be applicable to Unit 001 through Unit 006 at the time of publication in the Federal Register. When the rule becomes final, Unit 001 through Unit 006 gas turbines may no longer be subject to NSPS Subparts Da and GG.
3. NESHAP Requirements: The combustion turbines are subject to 40 CFR 63, Subpart A, Notification of General Provisions and 40 CFR 63, Subpart YYYYY, National Emission Standard for Hazardous Air Pollutants for Stationary Combustion Gas Turbines. The permittee must comply with the Initial Notification requirements set forth in Sec. 63.6145 but need not comply with any other requirement of Subpart YYYYY until EPA takes final action to require compliance and publishes a document in the Federal Register. (Reference: Appendix YYYYY and Appendix NESHAP Subpart A of this permit).

EQUIPMENT AND CONTROL TECHNOLOGY

4. Gas Turbines: The permittee is authorized to install, tune, operate, and maintain six Model 501G gas turbine-electrical generator sets each with a nominal generating capacity of 250 MW. Each gas turbine shall include an automated gas turbine control system and have dual-fuel capability. Ancillary equipment includes an inlet air filtration system and an evaporative inlet air-cooling system. The gas turbines will utilize DLN combustion. [Application Design]
5. HRSGs: The permittee is authorized to install, operate, and maintain six new heat recovery steam generators (HRSGs) with separate inlet and outlet stacks. Each HRSG shall be designed to recover exhaust heat energy from two of the six gas turbines (1A and 1C and 2A and 2C) and deliver steam to one of the two steam turbine electrical generators. Each HRSG may be equipped with a gas-fired duct burner having a nominal heat input rate of 18 MMBtu per hour (LHV).
6. Gas Turbine/Supplementary Fired HRSG Emission Controls
- a. *DLN Combustion:* The permittee shall operate and maintain the DLN system to control NO_x emissions from each gas turbine when firing natural gas. Prior to the initial emissions performance tests required for each gas turbine, the DLN combustors and automated gas turbine control system shall be tuned to achieve sufficiently low CO and NO_x values to meet the CO and NO_x limits with the additional SCR control technology described below. Thereafter, each system shall be maintained and tuned in accordance with the manufacturer's recommendations.
 - b. *Water Injection:* The permittee shall install, operate, and maintain a water injection system to reduce NO_x emissions from each gas turbine when firing distillate fuel oil. Prior to the initial emissions performance tests required for each gas turbine, the water injection system shall be tuned to achieve sufficiently low CO and NO_x values to meet the CO and NO_x limits with the additional SCR control technology described below. Thereafter, each system shall be maintained and tuned in accordance with the manufacturer's recommendations.

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- c. *Selective Catalytic Reduction (SCR) System:* The permittee shall install, tune, operate, and maintain an SCR system to control NO_x emissions from each gas turbine when firing either natural gas or distillate fuel oil. The SCR system consists of an ammonia (NH₃) injection grid, catalyst, ammonia storage, monitoring and control system, electrical, piping and other ancillary equipment. The SCR system shall be designed, constructed and operated to achieve the permitted levels for NO_x and NH₃ emissions.
- d. *Oxidation Catalyst:* The permittee shall design and build the project to facilitate possible future installation of oxidation catalyst system to control CO emissions from each gas combustion turbine/supplementary-fired heat recovery steam generator. The permittee may install oxidation catalyst during project construction or, after notifying the Department, at a future date as described in Specific Condition 12.h.
- e. *Ammonia Storage:* In accordance with 40 CFR 60.130, the storage of ammonia shall comply with all applicable requirements of the Chemical Accident Prevention Provisions in 40 CFR 68.

[Design; Rule 62-212.400(BACT), F.A.C.]

PERFORMANCE RESTRICTIONS

7. Permitted Capacity - Gas Turbines: The nominal heat input rate to each gas turbine is 2,331 MMBtu per hour when firing natural gas and 2,117 MMBtu per hour when firing distillate fuel oil (based on a compressor inlet air temperature of 59° F, the lower heating value (LHV) of each fuel, and 100% load). Heat input rates will vary depending upon gas turbine characteristics, ambient conditions, alternate methods of operation, and evaporative cooling. The permittee shall provide manufacturer's performance curves (or equations) that correct for site conditions to the Permitting and Compliance Authorities within 45 days of completing the initial compliance testing. Operating data may be adjusted for the appropriate site conditions in accordance with the performance curves and/or equations submitted with the Department. [Rule 62-210.200(PTE), F.A.C.]
8. Permitted Capacity - HRSG Duct Burners: The total nominal heat input rate to the duct burners for each HRSG is 428 MMBtu per hour based on the lower heating value (LHV) of natural gas. Only natural gas shall be fired in the duct burners. [Rule 62-210.200(PTE), F.A.C.]
9. Authorized Fuels: The gas turbine shall fire natural gas as the primary fuel, which shall contain no more than 2.0 grains of sulfur per 100 standard cubic feet of natural gas. As a restricted alternate fuel, the gas turbine may fire distillate fuel oil containing no more than 0.0015% sulfur by weight. The gas turbine shall fire no more than 500 hours of fuel oil, during any calendar year. [Rule 62-210.200(PTE) and 62-212.400(BACT), F.A.C.]
10. Hours of Operation: Subject to the operational restrictions of this permit, the gas turbines may operate throughout the year (8760 hours per year). Restrictions on individual methods of operation are specified below.
11. Methods of Operation: Subject to the restrictions and requirements of this permit, the gas turbines may operate under the following methods of operation.
 - a. *Combined Cycle Operation:* Each gas turbine/HRSG system may operate to produce direct, shaft-driven electrical power and steam-generated electrical power from the steam turbine-electrical generator as a three-on-one combined cycle unit subject to the restrictions of this permit. In accordance with the specifications of the SCR and HRSG manufacturers, the SCR system shall be on line and functioning properly during combined cycle operation or when the HRSG is producing steam.
 - b. *Inlet Conditioning:* In accordance with the manufacturer's recommendations and appropriate ambient conditions, the evaporative cooling system may be operated to reduce the compressor inlet air temperature and provide additional direct, shaft-driven electrical power.

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- c. *Duct Firing*: When firing natural gas, each HRSG system may fire natural gas in the duct burners to provide additional steam-generated electrical power. The total combined heat input rate to the duct burners (all six HRSGs) shall not exceed 7,395,840 MMBtu (LHV) during any consecutive 12 months.

[Application; Rules 62-210.200(PTE) and 62-212.400(BACT), F.A.C.]

EMISSIONS STANDARDS

12. Emissions Standards: Emissions from each gas turbine shall not exceed the following standards.

Pollutant	Fuel	Method of Operation	Stack Test, 3-Run Average		CEMS Block Average
			ppmvd @ 15% O ₂ / hr ^g	ppmvd @ 15% O ₂	
CO ^a	Oil	Combustion Turbine (CT)	8.0	52.5	8.0, 24-hr 52.5, 12-month ^h
	Gas	CT & Duct Burner (DB)	7.6	52.5	
		CT Normal	4.1	23.2	
NO _x ^b	Oil	CT	8.0	82.4	2.0, 24-hr
	Gas	CT & DB	2.0	24.2	
		CT Normal	2.0	20.0	
PM/PM ₁₀ ^c	Oil/Gas	All Modes	2 gr S/100SCF of gas, 0.0015% sulfur fuel oil Visible emissions shall not exceed 10% opacity for 15 minute block average.		
SAM/SO ₂ ^d	Oil/Gas	All Modes	2 gr S/100SCF of gas, 0.0015% sulfur fuel oil		
VOC ^e	Oil	CT	6.0	19.6	NA
	Gas	CT & DB	1.5	5.4	
		CT Normal	1.2	4.1	
Ammonia	Oil/Gas	CT, All Modes	5	NA	NA

- a. Compliance with the continuous 24-hour CO standards shall be demonstrated based on data collected by the required CEMS. The initial and annual EPA Method 10 tests associated with the certification of the CEMS instruments shall also be used to demonstrate compliance with the individual standards for natural gas, fuel oil, and duct burner modes. The stacks test limits apply only at high load (90-100% of the combustion turbine capacity).
- b. Compliance with the continuous NO_x standards shall be demonstrated based on data collected by the required CEMS. The initial and annual EPA Method 7E or Method 20 tests associated with demonstration of compliance with 40 CFR 60, Subpart GG or certification of the CEMS instruments shall also be used to demonstrate compliance with the individual standards for natural gas, fuel oil, and duct burner modes during the time of those tests. NO_x mass emission rates are defined as oxides of nitrogen expressed as NO₂.
- c. The sulfur fuel specifications combined with the efficient combustion design and operation of each gas turbine represents (BACT) for PM/PM₁₀ emissions. Compliance with the fuel specifications, CO standards, and visible emissions standards shall serve as indicators of good combustion. Compliance with the fuel specifications shall be demonstrated by keeping records of the fuel sulfur content. Compliance with the visible emissions standard shall be demonstrated by conducting tests in accordance with EPA Method 9.

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- d. The fuel sulfur specifications effectively limit the potential emissions of SAM and SO₂ from the gas turbines and represent BACT for these pollutants. Compliance with the fuel sulfur specifications shall be determined by the ASTM methods for determination of fuel sulfur as detailed in the draft permit.
- e. Compliance with the VOC standards shall be demonstrated by conducting tests in accordance with EPA Method 25A. Optionally, EPA Method 18 may also be performed to deduct emissions of methane and ethane. The emission standards are based on VOC measured as methane. The limits apply only at high load (90-100% of the combustion turbine capacity). Compliance with the CO CEMS based limits at lower loads shall be deemed as compliance with the VOC limit.
- f. Compliance with the ammonia slip standard shall be demonstrated by conducting tests in accordance with EPA Method CTM-027.
- g. The mass emission rate standards are based on a turbine inlet condition of 35°C and may be adjusted to actual test conditions in accordance with the performance curves and/or equations on file with the Department.
- h. Rolling Average. Enforcement discretion may be exercised for up to 12 months with respect to the 6 ppmvd @15% O₂ limit for any combustion turbine/supplementary-fired heat recovery steam generator upon notification by the permittee of intent to install oxidation catalyst. The permittee shall have 12 months to complete the oxidation catalyst installation. From time of notification of installation of the catalyst all partial or complete calendar months shall be excluded from the 12-month rolling average.

{“DB” means duct burning. “SCR” means selective catalytic reduction. “N/A” means not applicable}.

[Rule 62-212.400(BACT), F.A.C.]

- 13. Duct Burners: The duct burners are also subject to the provisions of Subpart Da of the New Source Performance Standards in 40 CFR 60, which are summarized in Appendix Da.

{Permitting Note: The BACT limits applicable during duct burning are much more stringent than the standards of NSPS Subpart Da for duct burners. Therefore, compliance with the BACT limits insures compliance with the emission limitations in Subpart Da. [Subpart Da, 40 CFR 60]}

EXCESS EMISSIONS

{Permitting Note: The following conditions apply only to the SIP-based emissions standards specified in Condition No. 12 of this section. Rule 62-210.700, F.A.C. (Excess Emissions) cannot vary or supersede any federal provision of the NSPS, or acid rain programs.}

- 14. Operating: The Best Available Control Technology (BACT) determinations established by this permit rely on “good operating practices” to reduce emissions. Therefore, all operators and supervisors shall be properly trained to operate and maintain the gas turbines, HRSGs, and pollution control systems in accordance with the guidelines and procedures established by each manufacturer. The training shall include good operating practices as well as methods of minimizing excess emissions.

[Rules 62-210.700(3) and 62-210.700(BACT), F.A.C.]

- 15. Alternate Visible Emissions Standard: Visible emissions due to startups, shutdowns, and malfunctions shall not exceed 10% opacity except for up to ten, 6-minute averaging periods during a calendar day, which shall not exceed 20% opacity. [Rule 62-212.400(BACT), F.A.C.]

16. Definitions

- a. *Startup* is defined as the commencement of operation of any emissions unit which has shut down or ceased operation for a period of time sufficient to cause temperature, pressure, chemical or pollution control device imbalances, which result in excess emissions.

[Rule 62-210.200(245), F.A.C.]

- b. *Shutdown* is the cessation of the operation of an emissions unit for any purpose.

[Rule 62-210.200(230), F.A.C.]

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- c. *Malfunction* is defined as any unavoidable mechanical and/or electrical failure of air pollution control equipment or process equipment or of a process resulting in operation in an abnormal or unusual manner. [Rule 62-210.200(159), F.A.C.]
17. Excess Emissions Prohibited: Excess emissions caused entirely or in part by poor maintenance, poor operation or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited. All such preventable emissions shall be included in any compliance determinations based on CEMS data. [Rule 62-210.700(4), F.A.C.]
18. Excess Emissions Allowed: As specified in this condition, excess emissions resulting from startup, shutdown, oil-to-gas fuel switches and documented malfunctions are allowed provided that operators employ the best operational practices to minimize the amount and duration of emissions during such incidents. For each gas turbine/HRSG system, excess emissions resulting from startup, shutdown, or documented malfunctions shall not exceed two hours in any 24-hour period except for the specific cases listed below. A “documented malfunction” means a malfunction that is documented within one working day of detection by contacting the Compliance Authority by telephone, facsimile transmittal, or electronic mail.
- a. *Steam Turbine/HRSG System Cold Startup*: For cold startup of the steam turbine system, excess emissions from any gas turbine/HRSG system shall not exceed eight hours in any 24-hour period. A cold “startup of the steam turbine system” is defined as startup of the 3-on-1 combined cycle system following a shutdown of the steam turbine lasting at least 48 hours.
- {Permitting Note: During a cold startup of the steam turbine system, each gas turbine/HRSG system is sequentially brought on line at low load to gradually increase the temperature of the steam-electrical turbine and prevent thermal metal fatigue. Note that shutdowns and documented malfunctions are separately regulated in accordance with the requirements of this condition.}*
- b. *Shutdown Combined Cycle Operation*: For shutdown of the combined cycle operation, excess emissions from any gas turbine/HRSG system shall not exceed three hours in any 24-hour period.
- c. *Gas Turbine/HRSG System Cold Startup*: For cold startup of a gas turbine/HRSG system, excess emissions shall not exceed four hours in any 24-hour period. “Cold startup of a gas turbine/HRSG system” is defined as a startup after the pressure in the high-pressure (HP) steam drum falls below 450 psig for a one-hour period.
- d. *Fuel Switching*: For fuel switching, excess emissions shall not exceed 2 hour in any 24-hour period.
19. Ammonia Injection: Ammonia injection shall begin as soon as operation of the gas turbine/HRSG system achieves operating parameters specified by the manufacturer. As authorized by Rule 62-210.700(5), F.A.C., the above conditions allow excess emissions only for specifically defined periods of startup, shutdown, fuel switching, and documented malfunction of the gas turbines. [Design; Rules 62-210.200(159) and 62-210.700, F.A.C.]
20. DLN Tuning: CEMS data collected during initial or other major DLN tuning sessions shall be excluded from the CEMS compliance demonstration provided the tuning session is performed in accordance with the manufacturer’s specifications. A “major tuning session” would occur after completion of initial construction, a combustor change-out, a major repair or maintenance to a combustor, or other similar circumstances. Prior to performing any major tuning session, the permittee shall provide the Compliance Authority with an advance notice of at least 14 days that details the activity and proposed tuning schedule. The notice may be by telephone, facsimile transmittal, or electronic mail. [Design; Rule 62-4.070(3), F.A.C.]

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EMISSIONS PERFORMANCE TESTING

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

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

Method CTM-027 is published on EPA's Technology Transfer Network Web Site at www.epa.gov/ttn/emc/ctm.html. The other methods are described in Appendix A of 40 CFR 60, adopted by reference in Rule 62-204.800, F.A.C. No other methods may be used unless prior written approval is received from the Department.
[Rules 62-204.800, F.A.C.; 40 CFR 60, Appendix A]

22. Initial Compliance Determinations: Each gas turbine shall be stack tested to demonstrate initial compliance with the emission standards for CO, NO_x, VOC, visible emissions, and ammonia slip. The tests shall be conducted within 60 days after achieving the maximum load at which the unit will be operated, but not later than 180 days after the initial startup of each unit configuration. Each unit shall be tested when firing natural gas, when firing the test burners and when firing distillate fuel oil. Referenced method data collected during the required Relative Accuracy Test Audits (RATAs) may be used to demonstrate compliance with the CO and NO_x standards. With appropriate flow measurements (or fuel measurements and approved EF-factor), CEMS data may be used to demonstrate compliance with the CO and NO_x mass rate emission standards. CO and NO_x emissions recorded by the CEMS shall also be reported for use during testing for visible emissions, VOC and ammonia slip. The Department may require the permittee to conduct additional tests after major replacement or major repair of any air pollution control equipment, such as the SCR catalyst, oxidation catalyst, DLN combustors, etc.
[Rule 62-297.310(7)(a)1, F.A.C. and 40 CFR 60.8]

23. Continuous Compliance: The permittee shall demonstrate continuous compliance with the 24-hour CO and NO_x emission standards based on data collected by the certified CEMS. Within 45 days of conducting any RATA on a CEMS, the permittee shall submit a report to the Compliance Authority summarizing results of the RATA. Compliance with the CO emission standards also serves as an indicator of efficient fuel combustion and oxidation catalyst operation, which reduces emissions of particulate matter and volatile organic compounds. The Department also reserves the right to use data from the continuous monitoring record and from annual RATA tests to determine compliance with the short term CO and NO_x limits for each method of operation given in Condition 12 above. [Rule 62-212.400 (BACT), F.A.C.]

24. Annual Compliance Tests: During each federal fiscal year (October 1st to September 30th), each gas turbine shall be tested to demonstrate compliance with the emission standards for visible emissions. NO_x and CO emissions data collected during the required continuous monitor Relative Accuracy Test Audits (RATAs) may be used to demonstrate compliance with the CO and NO_x standards. Annual testing to determine the ammonia slip shall be conducted while firing the primary fuel. NO_x emissions recorded by the CEMS shall

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be reported for each ammonia slip test run. CO emissions recorded by the CEMS shall be reported for the visible emissions observation period.

{Permitting Note: After initial compliance with the VOC standards is demonstrated, annual compliance tests for VOC emissions are not required. Compliance with the continuously monitored CO standards shall indicate efficient combustion and low VOC emissions. The Department retains the right to require VOC testing if CO limits are exceeded or for the reasons given in Appendix SC, Condition 17, Special Compliance Tests.}

[Rules 62-212.400 (BACT) and 62-297.310(7)(a)4, F.A.C.]

CONTINUOUS MONITORING REQUIREMENTS

25. CEM Systems: The permittee shall install, calibrate, maintain, and operate continuous emission monitoring systems (CEMS) to measure and record the emissions of CO and NO_x from the combined cycle gas turbine in a manner sufficient to demonstrate continuous compliance with the CEMS emission standards of this section. Each monitoring system shall be installed, calibrated, and properly functioning prior to the initial performance tests. Within one working day of discovery of emissions in excess of a CO or NO_x standard (and subject to the specified averaging period), the permittee shall notify the Compliance Authority.

- a. CO Monitors. The CO monitors shall be certified pursuant to 40 CFR 60, Appendix B, Performance Specification 4 or 4A. Quality assurance procedures shall conform to the requirements of 40 CFR 60, Appendix F, and the Data Assessment Report of Section 7 shall be made each calendar quarter, and reported semiannually to the Compliance Authority. The RATA tests required for the CO monitor shall be performed using EPA Method 10 in Appendix A of 40 CFR 60 and shall be based on a continuous sampling train. The CO monitor span values shall be appropriately considering the allowable methods of operation and corresponding emission standards.
- b. NO_x Monitors. Each NO_x monitor shall be certified, operated, and maintained in accordance with the requirements of 40 CFR 75. Record keeping and reporting shall be conducted pursuant to Subparts F and G in 40 CFR 75. The RATA tests required for the NO_x monitor shall be performed using EPA Method 20 or 7E in Appendix A of 40 CFR 60.
- c. Diluent Monitors. The oxygen or carbon dioxide (CO₂) content of the flue gas shall be monitored at the location where CO and NO_x are measured to correct the measured emissions rates to 15% oxygen. If a CO monitor is installed, the oxygen content of the flue gas shall be calculated using F-factors that are appropriate for the fuel fired. Each monitor shall comply with the performance and quality assurance requirements of 40 CFR 75.

26. CEM Data Requirements:

- a. Data Collection: Emissions shall be monitored and recorded at all times including startup, operation, shutdown, and malfunction except for continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments. The CEMS shall be designed and operated to sample, analyze, and record data at least spaced over an hour. If the CEMS measures concentration on a wet basis, the CEM system shall include provisions to determine the moisture content of the exhaust gas and an algorithm to enable correction of the monitoring results to a dry basis (0% moisture). Alternatively, the owner or operator may develop through manual stack test measurements a curve of moisture contents in the exhaust gas versus load for each allowable fuel, and use these typical values in an algorithm to enable correction of the monitoring results to a dry basis (0% moisture). Final results of the CEMS shall be expressed as ppmvd corrected to 15% oxygen. The CEMS shall be used to demonstrate compliance with the CEMS emission standards for CO and NO_x as specified in this permit. For purposes of determining compliance with the CEMS emissions standards of this permit, missing (or excluded) data shall not be substituted. Upon request by the Department, the CEMS emission rates shall

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be corrected to ISO conditions to demonstrate compliance with the applicable standards of 40 CFR 60.332.

- b. *Valid Hour:* Hourly average values shall begin at the top of each hour. Each hourly average value shall be computed using at least one data point in each fifteen-minute quadrant of an hour, where the unit combusted fuel during that quadrant of an hour. Notwithstanding this requirement, an hourly value shall be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant of an hour). If less than two such data points are available, the hourly average value is not valid. An hour in which any oil is fired is attributed towards compliance with the permit standards for oil firing. The permittee shall use all valid measurements or data points collected during an hour to calculate the hourly average values.
- c. *24-hour Block Averages:* A 24-hour block shall begin at midnight of each operating day and shall be calculated from 24 consecutive hourly average emission rate values. If a unit operates less than 24 hours during the block, the 24-hour block average shall be the average of all available valid hourly average emission rate values for the 24-hour block. For purposes of determining compliance with the 24-hour CEMS standards, the missing data substitution methodology of 40 CFR Part 60, subpart D, shall not be utilized. Instead, the 24-hour block average shall be determined using the remaining hourly data in the 24-hour block. [Rule 62-212.400(BACT), F.A.C.]

{Permitting Note: There may be more than one 24-hour compliance demonstration required for CO and NO_x emissions depending on the use of alternative methods of operation}

- d. *Data Exclusion:* Each CEMS shall monitor and record emissions during all operations including episodes of startup, shutdown, malfunction, fuel switches and DLN tuning. Some of the CEMS emissions data recorded during these episodes may be excluded from the corresponding CEMS compliance demonstration subject to the provisions of Conditions 17 and 18 of this section. All periods of data excluded from the consecutive record for each such episode and only data obtained during the described episodes (startup, shutdown, malfunction, fuel switches, DLN tuning) may be used for the appropriate exclusion periods. The permittee shall minimize the duration of data excluded for such episodes to the extent practicable. Data recorded during such episodes shall not be excluded if the episode was caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure, which may reasonably be expected. Best operational practices shall be used to minimize non-compliance emissions to occur during such episodes. Emissions of any quantity or duration that occur entirely or in part from poor maintenance, poor operation, or any other equipment or process failure, which may reasonably be expected, shall be prohibited.
- e. *Availability:* Monitor availability for the CEMS shall be 95% or greater in any calendar quarter. The quarter excess emission report shall be used to demonstrate monitor availability. In the event 95% availability is not achieved, the permittee shall provide the Department with a report identifying the problems in achieving 95% availability and a plan of corrective actions that will be taken to achieve 95% availability. The permittee shall implement the reported corrective actions within the next calendar quarter. Failure to take corrective actions or continued failure to achieve the minimum monitor availability shall be violations of this permit, except as otherwise authorized by the Department's Compliance Authority.

[NSPS Subparts Da and GG; Rule 62-297.520, F.A.C.; 40 CFR 60.7(a)(5) and 40 CFR 60.13; 40 CFR Part 51, Appendix P; 40 CFR 60, Appendix B - Performance Specifications; 40 CFR 60, Appendix F - Quality Assurance Procedures; and Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]

27. Ammonia Monitoring Requirements: In accordance with the manufacturer's specifications, the permittee shall install, calibrate, operate and maintain an ammonia flow meter to measure and record the ammonia injection rate to the SCR system by the time of the initial compliance tests. The permittee shall document

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and periodically update the general range of ammonia flow rates required to meet permitted emissions levels over the range of load conditions allowed by this permit by comparing NO_x emissions recorded by the CEM system with ammonia flow rates recorded using the ammonia flow meter. During NO_x monitor downtimes or malfunctions, the permittee shall operate at the ammonia flow rate and, as applicable for fuel oil firing, the water-to-fuel ratio, that are consistent with the documented flow rate for the combustion turbine load condition. [Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]

RECORDS AND REPORTS

28. Monitoring of Capacity: The permittee shall monitor and record the operating rate of each gas turbine and HRSG duct burner system on a daily average basis, considering the number of hours of operation during each day (including the times of startup, shutdown and malfunction). Such monitoring shall be made using a monitoring component of the CEM system required above, or by monitoring daily rates of consumption and heat content of each allowable fuel in accordance with the provisions of 40 CFR 75 Appendix D. [Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]
29. Monthly Operations Summary: By the fifth calendar day of each month, the permittee shall record the following for each fuel in a written or electronic log for each gas turbine for the previous month of operation: fuel consumption, hours of operation, hours of firing, and the updated 12-month rolling totals for each. Information recorded and stored as an electronic file shall be available for inspection and printing within at least three days of a request by the Department. The fuel consumption shall be monitored in accordance with the provisions of 40 CFR 75 Appendix D. [Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]
30. Fuel Sulfur Records: The permittee shall demonstrate compliance with the fuel sulfur limits specified in this permit by maintaining the following records of the sulfur content.
- Natural Gas Sulfur Limit: Compliance with the fuel sulfur limit for natural gas shall be demonstrated by keeping reports obtained from the vendor indicating the average sulfur content of the natural gas being supplied from the pipeline for each month of operation. Methods for determining the sulfur content of the natural gas shall be ASTM methods D4084-82, D4468-85, D5504-01, D6228-98 and D6667-01, D3246-81, or more recent versions.
 - Distillate Fuel Oil Sulfur Limit: Compliance with the distillate fuel oil sulfur limit shall be demonstrated by keeping a sample, analyzing the sample for fuel sulfur, and reporting the results to each Compliance Authority before each startup. Sampling the fuel oil sulfur content shall be conducted in accordance with ASTM D4057-88 Standard Practice for Manual Sampling of Petroleum and Petroleum Products, and one of the following methods for sulfur in petroleum products: ASTM methods D540-90, D129-91, D155-90, D2622-94, or D4294-90. More recent versions of these methods may be used. For each subsequent fuel delivery, the permittee shall maintain a permanent file of the certified fuel sulfur analysis from the fuel vendor. At the request of a Compliance Authority, the permittee shall perform additional sampling and analysis for the fuel sulfur content.
- The above methods shall be used to determine the fuel sulfur content in conjunction with the provisions of 40 CFR 75 Appendix D. [Rules 62-4.070(3) and 62-4.160(15), F.A.C.]
31. Emissions Performance Test Reports: A report indicating the results of any required emissions performance test shall be submitted to the Compliance Authority no later than 45 days after completion of the last test run. The test report shall provide sufficient detail on the tested emission unit and the procedures used to allow the Department to determine if the test was properly conducted and if the test results were properly computed. At a minimum, the test report shall provide the applicable information listed in Rule 62-297.310(8)(c), F.A.C. and in Appendix SC of this permit. [Rule 62-297.310(8), F.A.C.]
32. Excess Emissions Reporting:

SECTION III - EMISSIONS UNITS SPECIFIC CONDITIONS

A. COMBINED CYCLE UNITS 1 AND 2 – GAS TURBINES (EUs 001, 002, 003, 004, 005, and 006)

- a. *Malfunction Notification:* If emissions in excess of a standard (subject to the specified averaging period) occur due to malfunction, the permittee shall notify the Compliance Authority within (1) working day of: the nature, extent, and duration of the excess emissions; the cause of the excess emissions; and the actions taken to correct the problem. In addition, the Department may request a written summary report of the incident.
- b. *SIP Quarterly Permit Limits Excess Emissions Report:* Within 30 days following the end of each calendar-quarter, the permittee shall submit a report to the Compliance Authority summarizing periods of CO and NOx emissions in excess of the BACT permit standards following the NSPS format in 40 CFR 60.7(c), Subpart A. Periods of startup, shutdown and malfunction, shall be monitored, recorded and reported as excess emissions when emission levels exceed the standards specified in this permit. In addition, the report shall summarize the CEMS systems monitoring available for the previous quarter.
- c. *NSPS Semi-Annual Excess Emissions Reports:* For purposes of reporting emissions in excess of NSPS Subpart GG, excess emissions from the gas turbine are defined as: any operating hour in which the CEMS 4-hr rolling average NOx concentration exceeds the NSPS NOx emissions standard identified in Appendix GG; and any monitoring period during which the sulfur content of the fuel being fired in the gas turbine exceeds the NSPS standard identified in Appendix GG. For purposes of reporting emissions in excess of NSPS Subpart Da, excess emissions from the gas turbine are defined as: NOx or PM emissions in excess of the NSPS standards except during periods of startup, shutdown, or malfunction; and SO2 emissions in excess of the NSPS standards except during startup or shutdown. Within thirty (30) days following each calendar semi-annual period, the permittee shall submit a report on any periods of excess emissions that occurred during the previous annual period to the Compliance Authority. This also includes reporting any periods of excess emissions applicable and defined by NSPS Subpart KKKK when the rule is finalized.

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

[Rules 62-4.130, 62-201.00, 62-210.00(6), F.A.C., and 40 CFR 60.7, and 60.332(j)(1)]

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

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

B. DISTILLATE FUEL OIL STORAGE TANK (EU 007)

This section of the permit addresses the following emissions unit.

ID	Emission Unit Description
007	Two Nominal 6.3 million gallon distillate fuel oil storage tanks

NSPS APPLICABILITY

1. NSPS Subpart Kb Applicability: The distillate fuel oil tanks are not subject to Subpart Kb, which applies to any storage tank with a capacity greater than or equal to 10,300 gallons (40 cubic meters) that is used to store volatile organic liquids for which construction, reconstruction, or modification is commenced after July 23, 1984. Tanks with a capacity greater than or equal to 40,000 gallons (151 cubic meters) storing a liquid with a maximum true vapor pressure less than 3.5 kPa are exempt from the General Provisions (40 CFR 60, Subpart A) and from the provisions of NSPS Subpart Kb. [40 CFR 60.110b(a) and (c); Rule 62-204.800(7)(b), F.A.C.]

The listed emission units shall comply with 40 CFR 60, Subpart Kb only to the extent that the regulations apply to the emission unit and its operations.

EQUIPMENT SPECIFICATIONS

2. Equipment: The permittee is authorized to install, operate, and maintain two 6.3 million gallon distillate fuel oil storage tank designed to provide ultra low sulfur fuel oil to gas turbines.
[Applicant Request; Rule 62-210.200(PTE), F.A.C.]

EMISSIONS AND PERFORMANCE REQUIREMENTS

3. Hours of Operation: The hours of operation are not restricted (760 hours per year).
[Applicant Request; Rule 62-210.200(PTE), F.A.C.]

NOTIFICATION, REPORTING AND RECORDS

4. Oil Tank Records: The permittee shall keep readily accessible records showing the dimension of each storage vessel and an analysis showing the capacity of each storage tank. Records shall be retained for the life of the facility. The permittee shall also keep records sufficient to determine the annual throughput of distillate fuel oil for each storage tank for use in the Annual Operating Report.
[Rule 62-203.70(5), F.A.C.]
5. Fuel Oil Records: The permittee shall keep readily accessible records showing the maximum true vapor pressure of the stored liquid. The maximum true vapor pressure shall be less than 3.5 kPa.
[62-4.000(2) F.A.C.]

{Permitting Note: An evaluation of several Material Safety Data Sheets (MSDS) by the Department and applicant demonstrated that the vapor pressure is much less than 3.5 kPa for ultralow sulfur fuel oil. Compliance with this condition may be demonstrated by using the information from the respective MSDS for the ultra low sulfur fuel oil(s) stored in the tanks.}

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

C. COOLING TOWER (EU 008)

This section of the permit addresses the following new emissions unit.

ID	Emission Unit Description
008	Two 26-cell mechanical draft cooling towers

EQUIPMENT

1. Cooling Tower: The permittee is authorized to install two new 26-cell mechanical draft cooling towers with the following nominal design characteristics: a circulating water flow rate of 306,000 gpm; design hot/cold water temperatures of 105° F/87° F; a design air flow rate of 1,500,000 cfm per cell; a liquid-to-gas air flow ratio of 1.045; and drift eliminators. The permittee shall submit the final design details within 60 days of selecting the vendor. [Application; Design]

EMISSIONS AND PERFORMANCE REQUIREMENTS

2. Drift Rate: Within 60 days of commencing operation, the permittee shall certify that the cooling tower was constructed to achieve the specified drift rate of no more than 0.0005 percent of the circulating water flow rate. *{Permitting Note: This work practice standard is established as BACT for PM/PM₁₀ emissions from the cooling tower. Based on this design criteria, potential emissions are expected to be less than 100 tons of PM per year and less than 5 tons of PM₁₀ per year. Actual emissions are expected to be lower than these rates.}* [Rule 62-212.400(BACT), F.A.C.]

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

D. AUXILIARY BOILERS AND PROCESS HEATERS (EU009 – EU 010)

This section of the permit addresses the following emissions units.

ID	Emission Unit Description
009	Two limited use gas-fueled auxiliary boilers (99.8 MMBTU/h and 85,000 lb/hr)
010	Two gas-fueled 10 MMBtu/hr process heaters

NESHAP APPLICABILITY

1. NESHAP Subpart DDDDD Applicability: These emissions units are subject to Subpart DDDDD, which applies to an industrial, commercial, or institutional boiler or process heater as defined in Sec. 63.7575 that is located at, or is part of, a major source of HAP as defined in Sec. 40 CFR 63.2.

The listed emission units shall comply with 40 CFR 63, NESHAP Subpart DDDDD only to the extent that the regulations apply to the emission unit and its operations (e.g. limited use gas-fueled or small gas-fueled categories).

[40 CFR 63, Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, or Institutional Boiler or Process Heaters]

NSPS APPLICABILITY

2. NSPS Subpart Dc Applicability: Each 99.8 MMBTU/hr (85,000 lb/hr) auxiliary boiler is subject to all applicable requirements of 40 CFR 60, Subpart Dc which applies to Small Industrial, Commercial, or Institutional Boiler. Specifically, each emission unit shall comply with 40 CFR 60.48c Reporting and Recordkeeping Requirements.

[Rule 62-204.800(7)(b) and 40 CFR 60, NSPS-Subpart Dc Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, attached as Appendix Dc].

EMISSIONS AND TESTING REQUIREMENTS

3. Auxiliary Boiler Boiler Emissions Limits:

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

4. Auxiliary Boilers Testing Requirements: Each unit shall be stack tested to demonstrate initial compliance with the emission standards for CO, NO_x and visible emissions. The tests shall be conducted within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after the initial startup of each combined cycle unit.

[Rule 62-297.001(7)(a)1, F.A.C. and 40 CFR 63.7]

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

Method	Description of Method and Comments
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	Determination of Carbon Monoxide Emissions from Stationary Sources {Notes: The method shall be based on a continuous sampling train.}

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

D. AUXILIARY BOILERS AND PROCESS HEATERS (EU009 – EU 010)

5. Annual CO Performance Test for Auxiliary Boilers: Pursuant to 40 CFR 63.7515(e) permittee shall conduct an annual CO test according to Sec. 63.7520. Each annual performance test must be conducted between 10 and 12 months after the previous performance test.

[40 CFR 63.7515 and Rule 62-204.800(11)(b)84. F.A.C.]

6. Natural Gas Fired Process Heaters BACT Emissions Limits:

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

7. Natural Gas Fired Process Heaters Testing Requirements: Each unit shall be tested to demonstrate initial compliance with the emission standards for CO, NO_x and visible emissions. The tests shall be conducted within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after the initial startup of each combined cycle unit. As an alternative, a Manufacturer certification of emissions characteristics of the purchased model that are at least as stringent as the BACT values can be used to fulfill this requirement.

[Rule 62-297.310(7)(a)1, F.A.C. and 40 CFR 60.8]

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

Method	Description of Method and Comments
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	Determination of Carbon Monoxide Emissions from Stationary Sources {Notes: The method shall be based on a continuous sampling train.}

EQUIPMENT SPECIFICATIONS

8. Equipment: The permittee is authorized to install, operate, and maintain two auxiliary boilers with a maximum design heat input of 99.8 MMBtu/hr (25,000 lb/hr) each to produce steam during start up of the CTs and two 10 MMBtu/hr process heaters for the purpose of heating the natural gas supply to the CTs. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]

PERFORMANCE REQUIREMENTS

9. Hours of operation: The hours of operation of each limited use gas-fueled auxiliary boiler shall not exceed 500 hours per year. The gas-fired process heaters are allowed to operate continuously (8760 hours per year). [Applicant Request; Rule 62-210.200(PTE), F.A.C. and 40 CFR 63.7575]

NOTIFICATION, REPORTING AND RECORDS

10. Notification: Initial notification is required for the two limited use 99.8 MMBtu/hr gas-fueled auxiliary boilers. Initial notification is not required for the two small gas-fueled 10 MMBtu/hr process heaters. [40 CFR 63.9, 40 CFR 63.7506(c) and Rule 62-204.800(11)(b) F.A.C.]
11. Reporting: The permittee shall maintain records of the amount of natural gas used in the heaters and auxiliary boilers. These records shall be submitted to the Compliance Authority on an annual basis or upon request. [Rule 62-4.070(3) F.A.C.]

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

EMERGENCY GENERATOR (011)

This section of the permit addresses the following emissions unit.

ID	Emission Unit Description
011	Four nominal 2,250 Kw Liquid Fueled Emergency Generators – Reciprocating Internal Combustion Engines

NESHAPS APPLICABILITY

1. NESHAPS Subpart ZZZZ Applicability: These emergency generators are Liquid Fueled Reciprocating Internal Combustion Engines (RICE) and are subject to 40 CFR 63, Subpart ZZZZ. They shall comply with 40 CFR 63, NESHAP Subpart ZZZZ only to the extent that the regulations apply to the emissions unit and its operations.

[40 CFR 63, Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (RICE) and Rule 62-210.800(11)(b)80, F.A.C.]

NSPS APPLICABILITY

2. NSPS Subpart IIII Applicability: These emergency generators are Stationary Compression Ignition Internal Combustion Engines (Stationary ICE) and are subject to 40 CFR 60, Subpart IIII. They shall comply with 40 CFR 60, Subpart IIII only to the extent that the regulations apply to the emission unit and its operations (e.g. non-road, emergency, displacement, capacity, model year series, etc.).

[40 CFR 60, Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines; Proposed Rule- Federal Register Vol. 70, No. 131, June 11, 2005. Pages 39869 – 39904].

EQUIPMENT SPECIFICATIONS

3. Equipment: The permittee is authorized to install, operate, and maintain four 2,250 Kw emergency generators. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]

EMISSIONS AND PERFORMANCE REQUIREMENTS

4. Hours of Operation and Fuel Specification: The hours of operation shall not exceed 160 hours per year per each generator. Each generator shall be allowed to use 0.0015% sulfur fuel oil. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]
5. Emergency Generators BACT Emission Limits:

CO	NO _x	Hydrocarbons ¹	SO ₂	PM/PM ₁₀
6.9 gm/bhp-hr	8.5 gm/bhp-hr	1.0 gm/bhp-hr	0.0015% S F.O.	0.4 gm/bhp-hr

Note 1. Hydrocarbons are surrogate for VOC.

{The Draft BACT limits are equal to the values corresponding to the Tier 1 values cited in the proposed rule 40 CFR 60, Subpart IIII. The Final BACT will be revised to comport with the final rule when issued.}

6. Emergency Generators Testing Requirements: Each unit shall be stack tested to demonstrate initial compliance with the emission standards for CO, NO_x and visible emissions. The tests shall be conducted within 60 days after achieving the maximum production rate at which the unit will be operated, but not later than 180 days after the initial startup of each combined cycle unit. As an alternative, an EPA Certification of emissions characteristics of the purchased model that are at least as stringent as the BACT values and the use of ULS fuel oil can be used to fulfill this requirement.

[Rule 62-297.310(7)(a)1, F.A.C.; 40 CFR 60.8 and 40 CFR 60.4211]

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

EMERGENCY GENERATOR (011)

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

Method	Description of Method and Comments
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	Determination of Carbon Monoxide Emissions from Stationary Sources {Notes: The method shall be based on a continuous sampling train}

NOTIFICATION, REPORTING AND RECORDS

7. Notifications: Initial notification are required pursuant to 40 CFR 63.6, 40 CFR 63.9, and 40 CFR 63.6590 (b) (i) for the four 2,250 Kw RICE units.
8. Reporting: The permittee shall maintain records of the amount of liquid fuel used. These records shall be submitted to the Compliance Authority on an annual basis or upon request. [Rule 62-260(3) F.A.C.].

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

EMERGENCY FIRE PUMP (012)

This section of the permit addresses the following emissions unit.

ID	Emission Unit Description
012	One nominal 300-hp emergency diesel fire pump engine and 500 gallon fuel oil storage tank.

NESHAP APPLICABILITY

1. NESHAP Subpart ZZZZ Applicability: This unit consists of one or more Emergency Fire Pump Engines that are also Liquid Fueled Reciprocating Internal Combustion Engines (RICE), subject to 40 CFR 63, Subpart ZZZZ. They shall comply with 40 CFR 63, NESHAP Subpart ZZZZ only to the extent that the regulations apply to the emission unit and its operations (e.g. Limited Use Emergency Fire Pumps).

[40 CFR 63, Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (RICE) and Rule 62-204.800(11)(b), F.A.C.]

NSPS APPLICABILITY

2. NSPS Subpart IIII Applicability: These fire pumps engines are Emergency Stationary Compression Ignition Internal Combustion Engines (Stationary ICE) and are subject to 40 CFR 60, Subpart IIII. They shall comply with 40 CFR 60, Subpart IIII only to the extent that the regulations apply to the emissions unit and its operations (e.g. fire pumps, horsepower, model year selected).

[40 CFR 60, Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines; Proposed Rule- Federal Register, Vol. 70, No. 1, July 11, 2005. Pages 39869 – 39904].

EQUIPMENT SPECIFICATIONS

3. Equipment: The permittee is authorized to install, operate, and maintain one diesel engine driven fire pump (approximately 300 hp) and an associated 500 gallon fuel oil storage tank.

EMISSIONS AND PERFORMANCE REQUIREMENTS

4. Hours of Operation: The fire pump shall operate in response to emergency conditions and 40 non-emergency hours per year for maintenance. [Applicable Rule 62-210.400 (PTE), F.A.C.]

5. Authorized Fuel: This unit shall fire fuel oil sulfur fuel oil (or superior fuel), which shall contain no more than 0.05% sulfur by weight. [Rules 62-210.400(PTE) and 62-212.400 (BACT), F.A.C.]

Compliance with the distillate fuel oil sulfur limit shall be demonstrated by taking a sample, analyzing the sample for fuel sulfur, and reporting the results to each Compliance Authority before initial startup. Sampling the fuel oil sulfur content shall be conducted in accordance with ASTM D4057-88, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, and one of the following test methods for sulfur in petroleum products: ASTM methods D5453-00, D129-91, D1552-90, D2622-94, or D4294-90. More recent versions of these methods may be used. For each subsequent fuel delivery, the permittee shall maintain a permanent file of the certified fuel sulfur analysis from the fuel vendor. At the request of a Compliance Authority, the permittee shall perform additional sampling and analysis for the fuel sulfur content.

SECTION III. EMISSIONS UNIT SPECIFIC CONDITIONS

EMERGENCY FIRE PUMP (012)

6. Fire Pump Engine BACT Emissions Limits:

The following limits apply based on the size category of fire pumps located at the facility.

Size (hp)	CO	NMHC+NO _x	PM
175 and greater	2.6	7.8	0.40

Note 1. Non-Methane Hydrocarbons (NMHC) are surrogate for VOC.

{The Draft BACT limits are equal to the values corresponding to the respective size class indicated above and cited in the proposed rule 40 CFR 60, Subpart IIII. The Final BACT will be revised to comport with the final rule when issued.}

7. Fire Pump Engine Certification: Manufacturer certification shall be provided to the Department in lieu of actual testing. [Rule 62-212.400 (BACT), F.A.C. and 40 CFR 60.411]

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