Appendix II–1
Public Service Commission Determination of Need

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.	DOCKET NO. 080203-EI
In re: Petition for determination of need for conversion of Riviera Plant in Palm Beach County, by Florida Power & Light Company.	DOCKET NO. 080245-EI
In re: Petition for determination of need for conversion of Cape Canaveral Plant in Brevard County, by Florida Power & Light Company.	DOCKET NO. 080246-EI ORDER NO. PSC-08-0591-FOF-EI ISSUED: September 12, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

APPEARANCES:

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On behalf of FLORIDA POWER & LIGHT COMPANY (FPL).

MARTHA CARTER BROWN, ESQUIRE and CAROLINE KLANCKE, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the FLORIDA PUBLIC SERVICE COMMISSION (Staff).

FINAL ORDER GRANTING PETITIONS FOR DETERMINATION OF NEED

BY THE COMMISSION:

BACKGROUND

On April 8, 2008, Florida Power & Light Company (FPL) filed a petition for determination of need for the proposed West County Energy Center Unit 3 (WCEC 3), pursuant

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to Section 403.519, Florida Statutes (F.S.), and Rule 25-22.080, Florida Administrative Code (F.A.C.). WCEC 3 will be a combined cycle unit with a summer capacity rating of 1,219 megawatts (MW), built on an existing generating site in Palm Beach County, Florida, with an in-service date of June 1, 2011.

On April 30, 2008, FPL filed two additional petitions for determination of need at its existing Cape Canaveral and Riviera plants. Both petitions involve converting two oil and natural gas fueled steam electric generating units built in the 1960s into efficient combined cycle power plants. The Cape Canaveral Conversion will convert two operating 400 MW dual-fired steam generating units into a combined cycle power plant with a summer capacity of 1,219 MW. The proposed commercial operation date of the Cape Canaveral Conversion is June 1, 2013. The Riviera Conversion will convert two operating 280 MW dual-fired steam generating units into a combined cycle power plant with a summer capacity of 1,207 MW. The proposed commercial operation date of the Riviera Conversion is June 1, 2014.

Public Testimony

In addition to the prefiled testimony submitted by FPL, we received mailed comments and heard live testimony from two public witnesses at the formal administrative hearing in Tallahassee on June 23, 2008. Topics of interest addressed by the public witnesses included: system reliability and integrity, reasonable costs for electricity, renewable energy, demand-side management, conservation and cost-effectiveness.

Other areas of interest that were discussed during the public testimony focused on subjects beyond the scope of this proceeding under Section 403.519, F.S., or our general regulatory jurisdiction. They included: environmental concerns about water supply becoming contaminated and unavailable, health concerns about drinking contaminated water, safety concerns regarding the plant and associated facilities being located near a blasting area.

Section 403.519, F.S., authorizes us to examine FPL's projected costs for environmental controls necessary to meet current state and federal environmental requirements. The public testimony regarding the environmental concerns and health issues falls under the Department of Environmental Protection's (DEP) jurisdiction.

While safety is not a specific issue in a need determination proceeding conducted under Section 403.519, F.S., we do have jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of public utilities pursuant to Section 366.04(6), F.S. We also have jurisdiction over natural gas pipeline safety pursuant to Sections 368.01-368.61, F.S., and we have implemented this jurisdiction in Chapter 25-12, F.A.C., "Safety of Gas Transportation by Pipeline." At the hearing for these dockets, in response to the public testimony and questions by the Commissioners, FPL witness Gnecco testified that the project and the related natural gas lateral met safety standards.

Our ability to address some of the issues raised in public testimony is limited by the scope of Section 403.519, F.S., and other statutes which establish our jurisdiction. However,

these concerns may be relevant in certification proceedings before DEP, the Division of Administrative Hearings, and the Governor and Cabinet, sitting as the Siting Board.

Factors for Consideration

Pursuant to Section 403.519(3), F.S., this Commission is the sole forum for the determination of need for an electrical power plant. In making our determination, we must take into consideration the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, the need for fuel diversity and supply reliability, whether the proposed plant is the most cost-effective alternative available, and whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.

This Order reflects our decision on the petitions for determination of need, and serves as our report under the Power Plant Siting Act, as required by Section 403.507, F.S. We have jurisdiction over the subject matter of this proceeding pursuant to Sections 403.519, 403.507, 366.01, 366.04, 366.05, 366.06, and 366.07, F.S. Our decision is explained in detail below.

DECISION

FPL has demonstrated a reliability need for additional resource capacity in 2013. Usually, when a company seeks to satisfy a need for additional resource capacity using natural gas facilities, a petition for need determination would be submitted approximately 3 years before the facility's in-service date. The company decided, however, that unique economic opportunities and site-specific circumstances made it more cost effective to build WCEC 3 for operation in 2011 and perform the conversions at Cape Canaveral and Riviera by 2013 and 2014. FPL contends that it will not be able to perform the conversions of Cape Canaveral and Riviera without approval of the proposed WCEC 3. FPL chose gas-fired combined cycle units as its resource option to meet its capacity needs. This decision was made primarily because coal and nuclear generation have longer construction times and would not be able to provide the additional capacity in the time needed. This approach will maintain FPL's reserve margin above 20 percent throughout the period.

FPL issued a Request for Proposals (RFP) for the WCEC 3 unit on December 13, 2007, according to the principles prescribed in Rule 25-22.082, F.A.C. (Bid Rule). FPL's analysis of the proposals revealed that WCEC 3 was more than $600 million in cumulative present value revenue requirements (CPVRR) less costly than the next best alternative. FPL requested an exemption from the Bid Rule for the conversion petitions under the provisions of subsection 18 of the Bid Rule. FPL claimed that the WCEC 3 RFP results could provide a measure of the cost-effectiveness of the conversions because the WCEC 3 RFP was conducted recently, and FPL did not believe that the results would be materially different from an RFP for the conversions.

As explained below, we approve the need for the new WCEC 3, the conversions of the Cape Canaveral and Riviera plants, and the exemption from the Bid Rule for the conversions.

The Requirements of the Bid Rule

FPL states that its RFP related to the WCEC 3 facility was consistent with the requirements of the Bid Rule, and that specific content required by the Bid Rule was included in the RFP. FPL compared the proposed WCEC 3 to five other proposed resource plans that were received in response to the RFP. FPL's analysis of the proposals showed that WCEC 3 in 2011 was more than $600 million CPVRR less costly than the next best alternative proposed in the RFP. An independent evaluator reviewed FPL's solicitation process and conducted his own evaluation of FPL's Next Planned Generating Unit and the proposals that were submitted in response to the RFP. As a result of his evaluation, the evaluator agreed with the results of the RFP.

The RFP evaluation was done using fuel and economic forecasts developed in 2007. FPL updated its fuel and economic forecast assumptions on March 13, 2008. Since all of the proposals were based on either natural gas or oil generation alternatives, the change in fuel and economic assumptions did not affect the relative rankings of proposals compared to constructing WCEC 3 in 2011.

We find that FPL has met the requirements of Rule 25-22.082, F.A.C. The record shows that WCEC 3 in 2011 is more than $600 million CPVRR less costly than any of the proposals received through the RFP.

Exemption from the Bid Rule

While FPL conducted an RFP consistent with the requirements of the Bid Rule for the WCEC 3 project, FPL has requested an exemption from the Bid Rule for the Riviera and Cape Canaveral Conversion projects. FPL asserts that the conversion of the Riviera and Cape Canaveral plants satisfies each of the three available bases for an exemption from Rule 25-22.082, F.A.C., by providing CPVRR savings to customers, providing highly reliable capacity, and serving the public welfare by reducing emissions and fossil fuel usage.

Subsection 18 of the Bid Rule provides:

> Upon a showing by a public utility and a finding by the Commission that a proposal not in compliance with this rule's provisions will likely result in a lower cost supply of electricity to the utility's general body of ratepayers, increase in the reliable supply of electricity to the utility's general body of ratepayers, or otherwise will serve the public welfare, the Commission shall exempt the utility from compliance with the rule or any part of it for which such justification is found.

FPL contends that if WCEC 3 is placed into service in 2011, the company will have the opportunity to convert the older, inefficient Riviera and Cape Canaveral plants into highly efficient combined cycle power plants. Together, the conversion projects are expected to result in customer savings of $457 million CPVRR. FPL used the December 13, 2007, RFP that was conducted for WCEC 3 to compare the conversion projects. FPL asserted that the proposals

received for the WCEC 3 RFP are similar to proposals that would likely have been received in response to an RFP for the conversions. An independent evaluator reviewed FPL's evaluation and determined that the plan with the conversion projects was $481 million CPVRR less expensive than the most economic resource plan using proposals received in response to the RFP. The conversion projects will be more cost-effective compared to using the purchased power proposals that were evaluated.

FPL has shown that its plan for WCEC 3 with conversions is more cost-effective than the plan that was compared to the RFP responses. We can infer from this evidence that the conversion projects will likely result in a lower cost supply of electricity, and therefore should be granted an exemption from the requirements of the Bid Rule. FPL has agreed to annually report the budgeted versus actual construction expenses for all three projects.

We grant FPL an exemption from the Bid Rule with respect to the Cape Canaveral and Riviera projects. FPL has shown that the conversion projects will result in a lower cost supply of electricity, increase the reliable supply of electricity.

Need for Electric System Reliability and Integrity

FPL contends that reliable forecasts show that, although growing at a slower rate, Florida's population is still on the rise. FPL asserts that the total growth in customers is the primary driver of its projected peak demand growth.

We have reviewed FPL's forecast assumptions, regression models, and the projected system peak demands, and find that this information is appropriate for use in this docket. The forecast assumptions were drawn from independent sources, which we have relied upon in prior cases. The regression models used to calculate the projected peak demands conform to accepted economic and statistical practices. Although slower customer growth could reduce actual peak demand from that forecasted, we find that the projected peak demands produced by the models used by FPL appear to be a reasonable extension of historical trends. FPL witness Morley's testimony indicated that FPL's forecasts accounted for the recent trend of a decreasing population growth rate.

FPL uses the University of Florida's Bureau of Economic and Business Research (BEBR) to develop its population projections. BEBR's population projections are normally updated every year, the most recent being in November 2007. Those projections show continued long-term growth in Florida, specifically, a 1.7 percent annual growth rate beginning in the 2008 through 2017 period. FPL also performed a sensitivity analysis using updated population projections from the University of Florida's BEBR dated February 2008. That analysis revealed that there will still be significant cost savings and other benefits realized with lower customer growth. Although slower customer growth could reduce actual peak demand from that forecasted, we find that the projected peak demands produced by the models used by FPL appear to be a reasonable extension of historical trends.

FPL's base case plan would add new combined-cycle generation in the years 2013, 2014, and 2016 in order to maintain a 20 percent reserve margin. If a 15 percent reserve margin

planning criterion is assumed, FPL's initial reliability need could be delayed until 2014. From 2011 through 2017, FPL has a need for 4,844 MW of additional generating capacity. WCEC 3 will supply approximately 1,219 MW of this need.

Under different circumstances, FPL would not file a petition for a determination of need for WCEC 3 until sometime in 2010. The decision to build WCEC in 2011, which is in advance of the identified reliability need, is driven by unique economic opportunities and site-specific circumstances. For example, the economic analytical results for WCEC 3 in 2011 show that costs of equipment, materials and labor are significantly lower than they would be if WCEC 3 were to be installed later, or at an alternative site. After the addition of WCEC 3 in 2011, FPL's reserve margin will be approximately 27.9 percent. FPL wishes to construct WCEC 3 in 2011 because it believes doing so will provide adequate generating capacity to allow for the removal from service of the existing Cape Canaveral and Riviera generating units in order to pursue the conversion of these facilities and not adversely impact system reliability. When the Canaveral and Rivera units are removed from service, FPL's reserve margin would drop to approximately 21.7 percent in the year 2011.

The table below summarizes the projected reserve margin for the scenarios mentioned previously:

Estimated Impact on Summer Reserve Margin (%)				
Year	**No Additions**	**Base Case**	**WCEC 3 in 2011 without Conversions**	**WCEC 3 in 2011 with Conversions following**
2011	22.3	22.3	27.9	21.7
2012	20.6	20.6	26.0	20.0
2013	18.7	24.0	24.0	23.4
2014	13.6	23.8	23.8	23.2
2015	11.1	21.1	21.1	20.5
2016	3.4	22.9	22.9	22.3
2017	1.1	20.1	20.1	19.5

FPL's need for additional capacity to meet rising electricity demands cannot be satisfied with additional purchased power from renewable generation. Additional DSM programs and renewables are not capable of deferring the need for the additional capacity. Renewable generation opportunities as well as DSM programs will be addressed below.

As discussed above, the conversion of the Riviera and Cape Canaveral units would add approximately 1,069 MW of incremental capacity to FPL's system. FPL's base case plan would add new combined-cycle generation in the years 2013, 2014, and 2016 to maintain a 20 percent reserve margin. If a 15 percent reserve margin planning criterion was assumed, FPL's initial reliability need could be delayed until 2014. Under different circumstances, FPL would not file a petition for a determination of need until sometime in 2010. The decision to convert the Rivera

generating unit is driven by unique economic opportunities and site-specific circumstances. After the addition of WCEC 3 in 2011, FPL's reserve margin will be approximately 27.9 percent. The construction of WCEC 3 in 2011 will provide adequate generating capacity to allow the existing Riviera generating unit to be removed from service during the conversion period without adversely impacting system reliability. When the Riviera and Cape Canaveral units are removed from service, FPL's reserve margin would drop to approximately 21.7 percent in the year 2011. If WCEC 3 were not added in 2011, and FPL continued to pursue the conversions of the Cape Canaveral and Riviera units, FPL's reserve margin would drop below 20 percent beginning in 2011 and beyond. The decision to convert the existing Riviera and Cape Canaveral units is more cost-effective than FPL's base case plan of adding new greenfield generation in 2013 and 2014.

We find that there is a need for the WCEC 3 project and the conversion of the Riviera plant and the Cape Canaveral plant, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, F.S. The evidence shows that FPL will have a need for approximately 4,844 MW of additional capacity beginning in the 2011 through 2017 period. FPL performed a sensitivity analysis using updated population projections from the University of Florida's BEBR, dated February 2008. That analysis revealed that there would still be significant cost savings and other benefits realized with lower customer growth. FPL has demonstrated a reliability need in the summer of 2013 based on maintaining a 20 percent reserve margin planning criterion. The construction of WCEC 3 in 2011 will provide adequate generating capacity to allow for the conversions of the existing Cape Canaveral and Riviera generating units and will not adversely impact system reliability.

Need for Adequate Electricity at a Reasonable Cost

FPL contends that constructing WCEC 3 in 2011 will take advantage of construction cost efficiencies and provide more cost certainty than building a unit at a greenfield site at a later time. Moreover, adding WCEC 3 in 2011 will save customers $137 to $735 million CPVRR compared to the other available self-build alternatives.

The total installed cost estimate for WCEC 3 is $864.7 million. FPL believes that the costs of WCEC 3 are reasonable and represent the most cost-effective option available. Compared to FPL's other self-build alternatives, FPL's original analysis revealed that the resource plan that included WCEC 3 in 2011 will save customers from $137 million to $460 million CPVRR. A later analysis was conducted using updated fuel and environmental cost forecasts. The results of that analysis depict savings increasing from $460 million CPVRR to $735 million CPVRR by the year 2040. The conversions will add approximately $457 million in additional savings for FPL's ratepayers.

We find that FPL's fuel price forecasts are reasonable for purposes of evaluating its expansion and conversion plans. Although FPL did not compare its fuel forecasts to published forecasts, FPL represents that its forecasts are based on recognized, independent sources of forecast information. We note that, for natural gas, FPL used a real escalation rate – 1.14 percent for WCEC Unit 3 and 2.0 percent for the updated conversion forecasts – based on the average annual escalation from 2020 to 2030 from EIA's Annual Energy Outlook February 2007 price forecast. FPL states the escalation rates are "industry-accepted." FPL further states that the

"fuel price forecasts reflect the projected supply, demand, and price for fuel oil, natural gas, coal, and petroleum coke, as well as the transportation of these fuels to the existing and proposed sites." According to witness Stubblefield, FPL is confident that there is enough natural gas to supply WCEC 3 and the conversion projects during their lifetimes.

Financial Assumptions

FPL's analysis for WCEC 3 assumes an overall cost of capital of 8.40 percent with the federal manufacturer's tax credit and 8.30 percent without the credit. A different discount rate was used for generation-related capital costs because the application of the federal production tax credit for new generating units results in a different effective tax rate for generation-related capital costs compared to other capital costs. These rates of return are based on a capital structure consisting of 55.8 percent equity at a cost rate of 11.75 percent and 44.2 percent debt at a cost rate of 6.43 percent. FPL applied the then current Allowance for Funds Used During Construction (AFUDC) rate of 7.42 percent. FPL used several of the same financial and economic assumptions for WCEC 3, such as the 2.50 percent escalation rate and the capital structure, that were used in the Company's need determination filings for capacity uprates at its four existing nuclear units approved in Order No. PSC-08-0021-FOF-EI[1] and the Turkey Point Units 6 and 7 approved in Order No. PSC-08-0237-FOF-EI.[2] There was no evidence presented in the record that disputes the reasonableness of FPL's financial assumptions. Based on this review, we find that the financial assumptions used for this evaluation are reasonable.

Generation Cost Estimates

The total cost of the proposed WCEC 3 is estimated at $864.7 million and will provide 1,219 MW of capacity. The Riviera conversion total cost is estimated at $1.3 billion, while the Cape Canaveral conversion total cost is estimated at $1.1 billion. The estimated total installed cost for WCEC 3 is $709/kilowatt. This cost estimate includes the benefits associated with utilizing an existing site and infrastructure. FPL has demonstrated that the cost of WCEC 3 is less than the cost of a new greenfield combined-cycle generating unit, which is estimated to be $1,076/kW. West County Units 1 & 2 are currently under construction and FPL would be able to use those construction crews on the WCEC 3 project. If the decision to build any new generation is delayed until 2013, the WCEC site may not be feasible for expansion due to cooling water costs and availability, as well as increased costs due to the need to re-mobilize construction crews.

The estimated total installed cost for the conversion of the Cape Canaveral and Riviera plants are $914/kw and $1,057/kw. The Riviera and Cape Canaveral Conversions will take

[1] Order No. PSC-08-0021-FOF-EI, issued January 7, 2008, in Docket No. 070602-EI, In re: Petition for determination of need for expansion of Turkey Point and St. Lucie nuclear power plants, for exemption from Bid Rule 25-22.082, F.A.C., and for cost recovery through the Commission's Nuclear Power Plant Cost Recovery Rule, Rule 25-6.0423, F.A.C.

[2] Order No. PSC-08-0237-FOF-EI, issued April 11, 2008, in Docket No. 070650-EI, In re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company.

advantage of existing sites and infrastructure, with less cost uncertainty than building units at a greenfield site. FPL's analyses show that the resource plan with the Riviera and Cape Canaveral Conversions is projected to save customers $457 million CPVRR.

Fuel Forecasts

The natural gas and oil price forecasts through 2020 are based on the forward curve for commodity prices and projections from PIRA Energy Group. After 2020, the prices are escalated for real price changes based on the Energy Information Administration's (EIA) long-term price forecast. Transportation costs are added to the commodity prices to obtain delivered prices. For WCEC 3, FPL's assumed gas transportation cost for evaluating the RFP responses is $1.165 per MMBtu. For the conversion projects, FPL's assumed transportation cost for evaluation purposes is $1.40 per MMBtu. For solid fuel, FPL used commodity price forecasts from JD Energy and added in marine and rail transportation costs and terminal charges. All fuel prices are converted to nominal dollars using the 2.5 percent annual escalation rate.

Environmental Costs

In preparing its economic analysis of WCEC Unit 3, FPL included a reasonable level of environmental compliance costs. The allowance costs used by FPL for WCEC Unit 3 were based on ICF International's report titled "U.S. Emission & Fuel Market Outlook, 2006 edition" (ICF's 2006 Report), as well as its updated version, "U.S. Emission & Fuel Market Outlook, 2007 edition" (ICF's 2007 Report). In particular, the mid-range ICF compliance cost forecast, namely ENV II, was used. This forecast is the same as what we recently reviewed and approved in Order No. PSC-08-0237-FOF-EI, for FPL's Turkey Point Units 6 & 7. The allocations of SO_2, NO_x, and H_g allowances were based on the Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR) rules developed by the Environmental Protection Agency. For CO_2, it was assumed that allowances would be purchased under a cap-and-trade system similar to an auction. Apart from the consideration of air emission costs, FPL has also included all equipment and associated operating costs required to comply with current environmental laws and regulations in the economic analysis of the WCEC 3 resource plan.

The same methodology mentioned in the previous paragraph regarding allowance costs was used to evaluate the economic benefit of its conversion plans. FPL used its medium-level natural gas cost forecast and its medium-level CO_2 compliance cost forecast (ENV II). FPL conducted a sensitivity economic analysis that used both the original and the updated high CO_2 compliance cost forecasts provided in ICF's 2006 Report and ICF's 2007 Report. We find that FPL has included a reasonable level of environmental compliance costs in its economic analysis of WCEC 3 and the conversion options of the Cape Canaveral and Riviera plants.

Water Costs

Reclaimed water will be the primary source of cooling and process water for WCEC Unit 3. FPL's witness Gnecco testified that the East Coast Regional Water Reclamation Facility of the Palm Beach County Water Utilities will provide reclaimed water to the WCEC site. Witness

Gnecco asserted that the East Coast Regional Water Reclamation Facility is a very reliable source of reclaimed water. The capital and Operation and Maintenance costs associated with construction, operation, and maintenance of the treatment facility and pipeline will be included in the County's monthly water charge to FPL. Costs associated with the monthly water fee have been included in the economic analysis of this case.

The conversion of the Cape Canaveral and Riviera plants will not use additional water sources or exceed existing water permit limits. Water from the Indian River Lagoon (Intracoastal Waterway) is and will continue to be used for once-through cooling water for the Cape Canaveral conversion. After the conversion, the amount of cooling water required will not exceed current permit limits. In the Riviera conversion, water from Lake Worth (Intra-costal waterway) is and will continue to be used for once-through cooling water for the Riviera conversion. After the conversion, the amount of cooling water required will not exceed current permit limits.

We find that there is a need for the construction of the WCEC 3 plant and the conversion of the Riviera plant and the Cape Canaveral plant, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, F.S. The cost information presented in the record demonstrates that the construction of WCEC 3 and the conversions of the Cape Canaveral and Riviera units will not only provide adequate electricity, but also ensure the most reasonable costs to ratepayers.

Need for Fuel Diversity and Supply Reliability

We review the need for fuel diversity in our evaluation of utility generation expansion plans as part of our annual Ten-Year Site Plan review process. In 2006, the Florida Legislature amended Section 403.519, F.S., to require that we specifically consider the need for fuel diversity on a utility's system when evaluating a petition for need.

The decision to build WCEC 3 is primarily driven by economic and environmental benefits. In addition, building WCEC 3 in 2011 will allow for the conversion of FPL's inefficient, 1960s-era Cape Canaveral and Riviera plants to highly efficient state of the art combined cycle units. Coal and nuclear generation have longer construction times and would not be able to provide the additional capacity in the time needed. Therefore, FPL's only available option for base load capacity is natural gas.

At the hearing, the question was raised whether there is an adequate supply of natural gas available to provide reliable service to customers. FPL asserts that there will be an adequate supply of natural gas available to fuel WCEC 3 for the life of the unit. FPL states that it was provided with projected natural gas supply and demand balance availability from the PIRA Energy Group. FPL asserts that those projections demonstrate the adequacy of natural gas supply.

We reviewed a document from the PIRA Energy Group, which contained information regarding the natural gas supply and demand balance. We agree with FPL that an adequate supply of natural gas will be available for the proposed WCEC and conversion projects.

FPL plans to supply WCEC 3 through existing capacity arrangements with the Gulfstream Natural Gas System's (Gulfstream) pipeline that now serves FPL's Martin and Manatee plants. Florida Gas Transmission will expand its pipeline system to begin serving the Martin and Manatee plants. For the conversions, FPL is in discussions with multiple pipeline companies regarding supply of gas to the Canaveral and Riviera plants. FPL expects to have firm transportation arrangements for these plants by late 2008.

FPL's generation mix is still predominately natural gas. The addition of WCEC 3 in 2011 will improve FPL's overall fuel efficiency by approximately 1.4 percent, resulting in a reduction of total oil and gas consumption by approximately 29 million MMBtu through 2017 compared to FPL's base case. Compared to the resource plan that includes WCEC 3 in 2011 without conversions, the addition of the conversions will improve FPL's system average heat rate by about 1.1 percent. The construction of WCEC 3 and the conversion of the Cape Canaveral and Riviera units will not change FPL's generation fuel mix as a percentage of net energy for load. Compared to FPL's base plan, adding WCEC 3 in 2011 followed by the conversion projects is projected to reduce total oil and gas consumption by approximately 87.8 million MMBtu through 2017 and is summarized in the table below:

Total Oil and Gas Usage		
Plan	Usage to 2017 (MMBtu x 1,000	2017 Differential from Base Case (MMBtu x 1,000)
Base Case	5,655,313	0
WCEC 3 w/o Conversions	5,625,803	-29,510
WCEC 3 w/ Conversions	5,567,464	-87,849

As discussed above, the conversions will improve FPL's overall fuel efficiency by approximately 1.1 percent. The conversion projects are projected to result in a reduction of total oil and gas consumption by approximately 58.3 million MMBtu through 2017, compared to a plan that adds WCEC 3 in 2011 followed by a greenfield generating unit in 2014. Compared to FPL's base plan, adding WCEC 3 in 2011 followed by the conversion projects is projected to reduce total oil and gas consumption by approximately 87.8 million MMBtu through 2017.

We find that there is a need for the WCEC 3 plant and the conversion of the Riviera plant and the Cape Canaveral plant, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, F.S. FPL has demonstrated that the addition of WCEC 3 and the conversions of the Cape Canaveral and Riviera plants will result in

a reduction of dependence on natural gas and fuel oil, because it will reduce FPL's total oil and gas consumption by approximately 87.8 million MMBtu through 2017. Building coal or nuclear generation by 2013 is not feasible because of the construction and permitting lead times for those types of generation. The addition of WCEC 3 and the conversions will also lead to an overall increase in system efficiency of 1.4 percent for WCEC 3 and 1.1 percent for the conversions for an overall system efficiency of 2.5 percent.

No Mitigating Renewable Energy Sources and Technologies or Conservation Measures

FPL contends that its forecasted need already accounts for all the cost-effective DSM identified through 2014 and projected through 2017, and available renewable resources, including the planned renewal of its existing firm renewable capacity purchase contracts and 126 MW of new renewable firm capacity.

In assessing the availability of DSM to meet its energy needs, FPL used the same assumptions that were used in the recently approved Turkey Point nuclear proceedings.[3] An estimated 5,513,458 residential customers have participated in FPL's DSM programs through 2007, along with approximately 178,203 commercial customers. In 2007, 165,575 residential DSM audits were performed by FPL. For commercial customers, 11,755 DSM audits were performed by FPL. FPL described its recent and continuing efforts to educate customers on the benefits of energy conservation via DSM programs, including its outreach and participation at events attended by FPL customers. Accounting for reserve margin requirements, FPL's DSM efforts through 2007 have eliminated the need to construct the equivalent of approximately 12 new 400 MW generating units. FPL's initial projection indicates a savings of 3,030 MW of summer demand from the year 2008 through the year 2017. This represents an expected increase in DSM savings of 1,122 MW from 2008 through 2017. FPL evaluates DSM programs based on performance against the rate impact measure and participant tests, and screens out measures that would have a payback period of less than two years for consumers.[4]

In April of 2007, FPL issued an RFP for renewable generation extending to 2015. The responding bids equated to 126 MW of capacity. The amount of capacity that resulted from the bids of the April 2007 RFP would not be able to mitigate the need for the proposed WCEC 3 or conversion projects. No contracts resulted from the RFP due to FPL's determination that the costs were excessive. In 2008, FPL again issued an RFP for renewable generation, receiving proposals for 262 MW. The deadline for the proposals was less than two weeks prior to the date of the hearing in this docket, which allowed insufficient time for FPL to evaluate the responses. However, even if all contracts were signed, it would still not defer the need for WCEC 3 and the Riviera and Cape Canaveral conversion projects.

Witness Sim testified that if the $3.26 billion of installed capital dollars that the proposed WCEC 3 and Conversion units are projected to cost were applied to a hypothetical installation of

[3] Order No. PSC-08-0237-FOF-EI, issued April 11, 2008, in Docket No. 070650-EI, In re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company.
[4] Order No. PSC-04-0763-PAA-EG, issued August 9, 2004, in Docket No. 040029-EG, In re: Petition for approval of numeric conservation goals by Florida Power & Light Company.

renewables, that dollar amount would result in an estimated 90 MW of incremental firm summer capacity from photovoltaics, or 220 MW of summer demand reduction from solar water heaters. Further, FPL indicated that the photovoltaic capacity purchased would require approximately 2,800 acres of land to install, whereas the proposed WCEC 3 and the two conversions would be constructed on land already dedicated to power plants, and thus would not require the purchase of additional land. The hypothetical photovoltaic facility would serve an estimated 56,000 customers compared to Witness Sim's estimation that the three generating units would serve approximately 2 million customers. The customers to be served by the hypothetical solar water heaters would total approximately 1.1 million; however, those customers would have only those costs offset that relate to water heating.

FPL has proposed to install renewable resources in addition to the proposed plants. FPL identified three planned commercial scale solar projects: (1) a 75 MW solar thermal installation at FPL's Martin facility on 600 acres of land to be completed by 2010; (2) a 25 MW photovoltaic installation on FPL property on 180 acres in DeSoto County to be completed by 2010; and (3) a 10 MW photovoltaic installation at NASA's Kennedy Space Center in Brevard County on 60 acres of land. FPL also plans to install up to six wind turbine generators on FPL's property on Hutchinson Island in St. Lucie County. Local, state, and federal permits and approvals have not been attained, which could affect the estimated in-service date of 2010. The St. Lucie Wind Project would total an estimated 13.8 MW on approximately 20 acres.

We find that there are no additional renewable energy sources and technologies or cost-effective conservation measures available that might mitigate FPL's need for the proposed WCEC 3 in 2011 and conversions of the Cape Canaveral and Riviera plants as this criterion is used in Section 403.519(4), F.S. FPL states that while it will continue to pursue renewable resource opportunities, both purchased and self-built, DSM and renewable resources will not be sufficient to meet FPL's future need for more than 4,800 MWs of new generating capacity through 2017.

Most Cost-Effective Source of Power

FPL contends that adding WCEC 3 in 2011 is more cost-effective than its other self-build options, and more cost-effective than all proposals received in response to its 2007 RFP. Adding WCEC 3 in 2011 will result in customer savings of about $460 million CPVRR compared to adding a similar unit at a greenfield site in 2013. If the conversion projects were added to the plan of the proposed WCEC 3 in 2011, FPL asserts that its customers would experience even greater cost savings. FPL states that if the environmental and fuel costs were higher, the economic benefits to customers would be greater.

The evidence in these proceedings demonstrates that the addition of WCEC 3 and the conversions is the most cost-effective optimization of FPL's required capacity additions. In order to optimize the base plan, FPL has strategically used the proposed WCEC 3 in 2011 followed by the conversions to reduce the amounts of fuel used and subsequent emission reductions to bring economic savings to its ratepayers.

FPL's fuel mix is still predominately natural gas. However, the addition of WCEC 3 and the conversions will improve FPL's overall fuel efficiency, resulting in a reduction of total oil and gas consumption by its customers. This in turn would lead to additional economic savings by displacing less efficient units with cleaner, more efficient generating units. In addition, WCEC 3 in 2011 would lead to a reduction of approximately 29,510 million MMBtu of oil and natural gas usage by year 2017. Including the conversions with WCEC 3 in 2011 would lead to additional savings and a reduction of approximately 87,849 million MMBtu of oil and natural gas over the same time period.

Compared to the base case, the addition of WCEC 3 in 2011 will reduce the overall emissions on FPL's system. The reduction in emissions will be even greater when including the conversions with the addition of WCEC 3 in 2011. Witness Silva testified that system fuel efficiency improvement achieved due to the conversion projects is the only way that FPL can significantly reduce CO_2 emissions until the new nuclear generating units are added to FPL's system in 2018. Witness Silva further testified that the conversions will also result in reduced emissions of SO_2 and NO_x. FPL states that the proposed WCEC 3 and the conversions will contribute significantly toward achieving the CO_2 emission targets reflected in the Governor's Executive Order 07-127. The following chart shows the emissions reductions associated with the proposed projects. The chart also reveals that, of the three gases emitted, NO_x, not CO_2, will have the greatest percentage emission savings:

Projected Emissions Analysis 2010-2017									
Plan	SO_2 (tons)	Diff. from Base	SO_2 % Diff.	NO_x (tons)	Diff. from Base	NO_x % Diff.	CO_2 (million tons)	Diff. From Base	CO_2 % Diff.
Base Case	453,874	0	0%	165,901	0	0%	493	0	0
WCEC 3 w/o Conv.	432,805	-21,069	-4%	154,346	-11,555	-7%	490	-3	0%
WCEC 3 w/Conv.	409,576	-44,298	-10%	134,713	-31,188	-23%	485	-8	-1%

FPL's fuel and environmental forecasts for WCEC 3 were based on 2007 forecasts. Those forecasts revealed that the addition of WCEC 3 in 2011 would result in customer savings of about $460 million CPVRR compared to adding a similar unit at a Greenfield site in 2013. FPL provided updated 2008 fuel and environmental cost estimates for the proposed WCEC 3 in 2011 using the updated March 13, 2008, forecasts. The results demonstrated that projected savings for WCEC 3 in 2011 increased to $735 million CPVRR. FPL's fuel and environmental forecasts for the conversion projects used the March 13, 2008 forecasts. The results revealed that the conversions alone would generate savings of $457 CPVRR for FPL's ratepayers. As a result of the new forecasts, the package containing WCEC 3 and the conversions would bring savings of approximately $1.2 billion CPVRR to FPL's ratepayers, compared to the base case.

The following chart addresses the financial assumptions that we analyzed regarding FPL's proposal. The chart shows that the savings to FPL's ratepayers will begin in the near term (2017) and become even greater through the projected life of the units (2040):

Projected Financial Assumptions thru 2040				
Plan	CPVRR (millions thru 2017)	Difference from Base (millions thru 2017)	CPVRR (millions thru 2040)	Difference from Base (millions thru 2040)
Base Case	$54,194	$0	$168,105	$0
WCEC 3 w/o Conv.	$53,887	$-307	$167,370	$-735
WCEC 3 w/Conv.	$53,771	$-423	$166,913	$-1,192

The construction of WCEC 3 and the conversion of the Riviera and Cape Canaveral plants are the most cost-effective alternatives available, as this criterion is used in Section 403.519, F.S. As discussed above, FPL's economic analyses utilized a reasonable range of fuel and environmental costs. As part of the discovery process, FPL provided an updated analysis based upon 2008 fuel and environmental costs estimates. When compared to adding greenfield units in 2013 and 2014, the updated analyses indicate that adding WCEC 3 in 2011 followed by the conversion projects would result in a reduction of approximately 44,298 tons of SO_2 (9.8 percent); 31,188 tons of NO_x (18.8 percent); and 8 million tons of CO_2 (1.6 percent) by the year 2017. In addition, the updated analyses indicate that adding WCEC 3 in 2011 followed by the conversion projects would save approximately 87,849 million MMBtu of oil and natural gas over the same time period. These environmental and fuel reduction benefits continue into the future and combine to result in an estimated savings to FPL's customers of approximately $1.2 billion in present value savings by the year 2040. Compared to the base case and WCEC 3 without conversions plans, the analyses show that the proposed WCEC 3 in 2011 with conversions is the most cost-effective alternative available to FPL and its ratepayers. In fact, updated environmental and fuel cost forecasts revealed even greater savings for FPL's ratepayers. Together, these three projects will result in the greatest savings for FPL's ratepayers.

Need for West County Energy Center Unit 3 and the Conversions of Riviera and Cape Canaveral

FPL asserts that the evidence presented demonstrated that WCEC 3 in 2011, as well as the proposed conversions, satisfies all criteria listed in Section 403.519, F.S. FPL further contends that when compared to other self-build alternatives, WCEC 3 in 2011 without the conversions is the most cost-effective choice available by $137 million to $735 million CPVRR. When combined, the proposed WCEC 3 and the conversions are estimated to save FPL's ratepayers approximately $1.2 billion by the year 2040. Furthermore, FPL argues that if the company were to delay the addition of WCEC 3 beyond 2011, it would not be able to move forward with its conversions of the Cape Canaveral and Riviera plants, thereby missing out on the benefits associated with those projects.

We find that the evidence in the record demonstrates that, based on maintaining a 20 percent reserve margin planning criterion, FPL will have a reliability need for additional capacity

in the summer of 2013. If WCEC 3 is built in 2011, FPL can remove the Cape Canaveral and Riviera plants from operation in 2010. FPL can then convert the steam electric generating units, which have been in operation since the 1960s, to high-efficiency combined cycle power plants, and return them to operation in 2013 and 2014. WCEC 3 is projected to be approximately $735 million less expensive than FPL's base case expansion plan. The acceleration of WCEC 3 allows for the conversion of Cape Canaveral and Riviera plants, which are projected to increase savings to FPL ratepayers of approximately $1.2 billion.

Annual Reporting of Costs

FPL has agreed that it will report, on an annual basis, budgeted and actual costs compared to the estimated total in-service cost of the proposed WCEC 3, Cape Canaveral, and Riviera units. The report shall be submitted to the Director of the Division of Economic Regulation. In addition, FPL also agreed that if a different combustion turbine design from the one presented in these proceedings is chosen, FPL will report to us regarding the comparative cost advantage of the alternate design chosen. Such a selection would only be made if the projected cost to FPL's customers would be lower as a result of the use of an alternate design.

CONCLUSION

FPL has demonstrated that its plan to build WCEC 3 and convert its existing Cape Canaveral and Riviera plants meets all of the requirements of Section 403.519, F.S. The new and converted units will provide nearly 2,300 MW of capacity needed through 2017, and ensure a 20 percent reserve margin. The assessments of various combinations of timings and generating resources used reasonable assumptions in demonstrating the proposed projects would provide adequate electricity at reasonable cost and, in fact, were the most cost-effective alternative. FPL demonstrated that use of all identified cost-effective conservation and reasonably available renewable generation will not provide the capacity or demand reduction necessary to mitigate the need for these projects.

Therefore, we approve the three need determinations and exemption from the Bid Rule for the two conversions. FPL shall report annually to the Director of Economic Regulation the budgeted and actual costs compared to the estimated total in-service cost of the proposed WCEC 3, Cape Canaveral Conversion and Riviera Conversion.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the three petitions for determination of need, filed by Florida Power & Light Company, are hereby granted as set forth herein. It is further

ORDERED that Florida Power & Light Company is granted an exemption from Rule 25-22.082, F.A.C., for the conversions of the Riviera and Cape Canaveral Plants. It is further

ORDERED that Florida Power & Light Company shall report, on an annual basis, budgeted and actual costs compared to the estimated total in-service cost of the West County Energy Center Unit 3, Cape Canaveral, and Riviera units, as set forth herein. It is further

ORDERED that these dockets shall be closed when the time for filing an appeal has run.

By ORDER of the Florida Public Service Commission this 12th day of September, 2008.

ANN COLE
Commission Clerk

(SEAL)

MCB/CMK

DISSENT BY: COMMISSIONER SKOP

COMMISSIONER SKOP, dissenting:

I respectfully dissent with the majority view on Issue 9 and Issue 17, to the extent that I am not comfortable waiving Section (15) of Rule 25-22.082 (Bid Rule), Florida Administrative Code for the two conversion projects.[5]

In relevant part, Section (15) of the Bid Rule requires that:

> "If the public utility selects a self-build option, costs in addition to those identified in the need determination proceeding shall not be recoverable unless the utility can demonstrate that such costs were prudently incurred and due to extraordinary circumstances."

From my perspective, it makes no sense to waive the requirement of a Commission rule that is directly on point, and which was clearly intended to protect consumers from cost overruns.[6]

[5] FPL remains bound to the "self-build option" requirement of Rule 25-22.082(15) for the WEC-3 unit.

[6] If changes to the existing rule are warranted, I would respectfully suggest that the Commission would be better served by revising the rule through the rulemaking process.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within five (5) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Appendix II-2
South Florida Water Management District Agency Report

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RESOLUTION NO. 2009- 701

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AUTHORIZING TRANSMITTAL OF THE DISTRICT'S AGENCY REPORT ON THE FLORIDA POWER AND LIGHT (FPL) RIVIERA BEACH ENERGY CENTER TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; PROVIDING AN EFFECTIVE DATE (PALM BEACH COUNTY).

WHEREAS, Pursuant to the Florida Electrical Power Plant Siting Act (Sections 403.501, Florida Statutes, et seq.), Florida Power & Light (FPL) filed with the Department of Environmental Protection (DEP) an application for site certification to convert its existing ±46-acre Riviera Beach power plant into a new combined cycle power plant (1,250 MW proposed vs. 600 MW existing); and

WHEREAS, FPL is requesting approval to construct the entire project (1,250 MW) at this time; and

WHEREAS, the proposed application includes a request to continue to withdraw 6.169 MGM/37.318 MGY from the Surficial aquifer for landscape irrigation and water pump bearing cooling water; and

WHEREAS, the existing Surficial aquifer withdrawals have been permitted by the District under Permits 50-04187-W and 50-04188-W; and

WHEREAS, process, service, and potable water will continue to be provided by the City of Riviera Beach; and

WHEREAS, cooling water will continue to be obtained from the Intracoastal Waterway (Lake Worth Lagoon), which is exempt from the permitting requirements of Chapter 40E-2, F.A.C., since the chloride concentration is greater than the District's regulatory threshold for seawater (19,000 mg/l); and

WHEREAS, the District is required by Section 403.507, Florida Statutes, to prepare a report for submittal to DEP as to matters within its jurisdiction; and

WHEREAS, the District staff has reviewed the proposed application and has prepared the attached Agency Report for submittal to DEP, subject to Governing Board approval; and

WHEREAS, the Governing Board has determined that the Agency Report prepared by District Staff is appropriate and authorizes staff to submit the Agency Report to DEP; now therefore

BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

Section 1. The Governing Board of the South Florida Water Management District hereby approves the Agency Report to DEP recommending approval of FPL's request to continue to withdraw 6.169MGM/37.318 MGY from the Surficial aquifer for landscape irrigation and water pump bearing water, subject to certain conditions and restrictions.

Section 2. A copy of the agency report is attached hereto and made a part hereof.

Section 3. The District staff is authorized and directed to transmit this Agency Report to DEP.

Section 4. This resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 9 day of July, 2009

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

BY: _____
Eric Buermann, Chairman

SOUTH FLORIDA WATER MANAGEMENT DISTRICT BOARD OF GOVERNING STATE OF FLORIDA SEAL Established 1949

ATTEST:

_____
Jacki McGorty, Assistant Secretary

Approved as to form:

BY: _____
Carlyn Kowalsky, Office of Counsel

IMPACT ASSESSMENT REPORT

Prepared by

South Florida Water Management District

I PROJECT SUMMARY

Name:	Riviera Beach Energy Center
Applicant:	Florida Power and Light Company (FPL)
SFWMD ID No.:	PA09-54
Location:	Sections 3,4,33&34/Townships 42&43 South/Range 43 East, Palm Beach County
Existing Land Use:	Power Plant Facility
Size:	±46 acres
Proposed Land Use:	New Power Plant Facility
Power Generation Capability:	Nominal 1,250 Megawatts (MW)
Certification Threshold:	Mandatory (75 MW or greater) Optional (Less than 75 MW)

II POTENTIAL FOR ADVERSE REGIONAL IMPACTS SUMMARY

Category	Minimal	Significant	Major
District Lands	N/A		
Surface Water Management – Quantity	N/A*		
Surface Water Management – Quality	N/A*		
Wetlands/Other Surface Waters – Functions	N/A*		
Water Use	X		

*** Surface water management, wetlands and related Environmental Resource Permit (ERP) issues associated with the construction of the proposed power plant are being reviewed by Florida Department of Environmental Protection staff (DEP) staff, pursuant to the terms of the Operating Agreement Concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the DEP and the SFWMD.**

III GENERAL PROJECT-RELATED INFORMATION

A. PURPOSE OF ACT AND DISTRICT RESPONSIBILITIES

The purpose of the Florida Electric Power Plant And Transmission Line Siting Act (subsequently referred to herein as the "Siting Act"), Sections 403.501-403.539, Florida Statutes, is to certify the location, construction, operation, and maintenance of electrical power plant sites and electrical transmission lines, including associated facilities, through a centralized and coordinated planning and licensing process administered by the Florida Department of Environmental Protection (DEP). Authority to issue the Certification Order is assigned to the Governor and Cabinet sitting as the State Siting Board, or the Secretary of the DEP, after issuance of a Recommended Order by an Administrative Law Judge (the DEP or the applicant may request that the Administrative Law Judge cancel the certification hearing and relinquish jurisdiction to the DEP if all parties to the proceeding stipulate that there are no disputed issues of material fact to be raised at the certification hearing). This process is commonly referred to as one-stop permitting process.

The Siting Act process specifically pre-empts all other existing state, regional, and local permitting and approval processes normally required of new development, including the SFWMD's Right Of Way Occupancy Permit, Environmental Resource Permit (ERP), and Water Use Permit review processes (Note: Under the current Operating Agreement between the DEP and the SFWMD, the DEP is responsible for conducting the ERP-related review of the entire project). However, the Siting Act mandates that the Department of Community Affairs, affected water management district(s), affected local government(s), Florida Fish and Wildlife Conservation Commission, affected regional planning council(s), Department of Transportation, and Public Service Commission participate in the process, prepare an assessment report on matters within their jurisdiction, and grants each agency party status in the proceedings. Other affected agencies may also participate in the process at the request of the DEP or by filing for party status.

The certification process is the only opportunity that the SFWMD will have to review and "permit" the proposed activities. Through the required agency report, the SFWMD can assess the project's compliance with SFWMD non-procedural (i.e., technical) criteria and recommend approval or denial. The SFWMD recommended certification conditions then become the means by which the SFWMD is assured that all applicable SFWMD criteria has been applied and met in the design, construction, operation and maintenance of the proposed power plant or electrical transmission line and any associated facilities.

B. PROJECT PROPOSAL

The Licensee, the Florida Power and Light Company (FPL), is proposing to convert its existing ±46 acre Riviera Beach power plant, consisting of two nominal 300 MW conventional dual-fuel fired generating units that were constructed in the early 1960s, into a new combined cycle power plant using the latest combined cycle technology. The existing power plant site, located primarily in the City of Riviera Beach with a small portion located in the City of West Palm Beach, is bounded on the north by the Port of Palm Beach, on the east by the Intracoastal Waterway (Lake Worth Lagoon), on the south by 59th Street, and on the west by U.S. Highway 1 (see Exhibit 1).

The existing facility includes approximately 7 acres located west of U.S. 1 on which transmission lines are located.

The proposed new plant, the Riviera Beach Energy Center, is a "3 on 1" combined cycle power plant firing natural gas as a primary fuel and ultra low-sulfur light oil as a backup fuel. The new plant will be capable of producing over 100% more power than the existing plant (1,250 MW vs. 600 MW). The proposed new plant will be interconnected with FPL's existing electrical transmission line network through two onsite switchyards. A manatee viewing center open to the public will be constructed in the southern portion of the project site. The new plant is scheduled for operation in June, 2014.

The proposed source of cooling water for condenser and auxiliary cooling for the new generating facilities will continue to be the Intracoastal Waterway (Lake Worth Lagoon), which will provide once-through cooling water. This will also be the source of intake screen wash water. This source is exempt from the permitting requirements of Chapter 40-2, F.A.C., since the chloride concentration is greater than the SFWMD's regulatory threshold for seawater (19,000 mg/l). The proposed source of process and service water for combustion turbine inlet air cooling, nitrogen oxide injection, steam cycle makeup, and fire protection, as well as potable water for employee use, will continue to be the City of Riviera Beach Utilities Department. The proposed source of water for landscape irrigation and water pump bearing cooling will continue to be the existing on-site Surficial aquifer wells. The existing withdrawals have been permitted by the SFWMD under permits 50-04187-W and 50-04188-W.

Additional details concerning the proposed project can be found in the attached Water Supply and Development checklist and footnotes on pages 13 and 14 of this report. The checklist and footnotes evaluate the potential water use impacts associated with the siting, construction, operation, and maintenance of the proposed project.

IV CONCLUSIONS AND RECOMMENDATIONS

This report contains the SFWMD's conclusions and recommendations to the Florida Department of Environmental Protection (DEP) regarding the Certification of the proposed Riviera Beach Energy Center project for inclusion in the DEP Report required by Section 403.507(2)(a)3, F.S., and Rule 62-17.133, F.A.C.

SFWMD staff has reviewed the Site Certification Application with respect to current SFWMD statutes and rules. Based on the information contained in the original application and the additional submittals, and assuming compliance with the intent of the SFWMD recommended certification conditions, staff is of the opinion that the proposed project can be constructed consistent with the applicable statutes and rules.

It is the recommendation of SFWMD staff that DEP incorporate the following conditions into the Recommended Conditions of Certification for the Riviera Beach Energy Center project. SFWMD staff will work with the DEP, the Licensee, and the other parties to reach agreement on a final set of recommended certification conditions. In addition, if the Licensee submits any of the

supplemental information required by certain of the recommended certification conditions prior to the Certification Hearing on this project, and SFWMD staff is able to make a determination of consistency with the appropriate SFWMD rules, SFWMD staff will provide DEP with a revised set of recommended certification conditions that reflect the results of the SFWMD's review of the additional information.

A. LEGAL/ADMINISTRATIVE CONDITIONS

1. GENERAL

a. Responsible Entity

The Licensee shall be responsible for compliance with the Certification Conditions. If contractual rights, duties, or obligations are transferred under this Certification, notice of such transfer or assignment, including the identification of the entity responsible for compliance with the Certification, shall immediately be submitted to the Florida Department of Environmental Protection and the SFWMD by the previous certification holder (Licensee) and the Assignee. Any assignment or transfer shall carry with it the full responsibility for the limitations and conditions of this Certification. The previous Licensee shall be responsible for informing the Assignee of all authorized facilities and uses and the conditions under which they were authorized. The previous Licensee shall remain liable for corrective actions that may be required as a result of any violations prior to transfer or assignment of any contractual rights, duties, or obligations under this Certification. Reference: Sections 373.044, 373.113, 373.223, and 373.342, 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, and 373.316, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.500-531.

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), and 40E-20 (General Water Use Permits), F.A.C.

d. Off-site Impacts

It is the responsibility of the Licensee to ensure that harm to the water resources does not occur during the construction, operation, and maintenance of the project. Reference: Sections 373.223 and 373.309, F.S.; Rules 40E-2.091, 40E-2.381, 40E-3.301(3), and 40E-3.301(4), F.A.C.

e. Liability

The Licensee shall hold and save the SFWMD harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment and/or use of any system authorized by this Certification, to the extent allowed under Florida law. Reference: Section 373.223, F.S.; Rules 40E-2.091, and 40E-2.381, F.A.C.

f. Construction, Operation, and Maintenance Responsibilities

The Licensee shall be responsible for the construction, operation, and maintenance of all facilities installed for the proposed project. Reference: Section 373.309, F.S.; Rule 40E-3.301, F.A.C.

g. Access

SFWMD representatives shall be allowed reasonable escorted access to the power plant site, the water withdrawal facilities and any associated facilities to 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 and 373.319, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.

h. Post Certification Information Submittals

Information submitted to the SFWMD subsequent to Certification, in compliance with the conditions of this Certification, shall be for the purpose of the SFWMD determining the Licensee's compliance with the Certification conditions and the non-procedural criteria contained in Chapters 40E-2, 40E-3, and 40E-20, 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 DEP to request DEP 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, 373.603, and 403.514, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.

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: Sections 373.219 and 373.342, 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, and 40E-20, 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 373.219 and 373.342, 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, and 373.342, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-3.461, 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, and 373.129, F.S.; Rule 40E-1.601, 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) and 40E-3.101(2), 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.

2. SITE SPECIFIC DESIGN AUTHORIZATIONS/REQUIREMENTS

a. Authorized Monthly Withdrawals

This Certification authorizes a maximum monthly withdrawal of 6.169 MGM from the Surficial aquifer for water pump bearing cooling water and landscape irrigation water.

b. Authorized Annual Withdrawals

This Certification authorizes an average annual withdrawal of 37.318 MGY from the Surficial aquifer for water pump bearing cooling water and landscape irrigation water.

c. Authorized Withdrawal Facilities

1 – 6" X 85' X 225 GPM WELL WITH UNKNOWN CASED DEPTH
1 – 6" X 100' X 225 GPM WELL CASED TO 84 FEET
1 – 6" X 175' X 225 GPM WELL WITH UNKNOWN CASED DEPTH

d. Emergency Withdrawals

Any withdrawals from 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.

e. 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.

f. 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.

g. 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.

h. Monitoring and Reporting Requirements

Prior to commencement of operation of the new plant, the Licensee shall install one (1) saline water intrusion monitoring well east of the existing Surficial aquifer production wells, pursuant to the Licensee's proposed Saline Water Intrusion Monitoring Plan. Prior to the use of any withdrawal facility authorized under this Certification, the Licensee shall equip each withdrawal facility with a SFWMD-approved operating water use accounting system and submit a report of calibration to the SFWMD, pursuant to Section 4.1 of the Basis of Review For Water Use Permit Applications. Recalibration reports for the water use accounting system for each water withdrawal facility (existing and proposed) authorized under this Certification shall be submitted to the SFWMD 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 quarterly reports shall include water levels in the monitoring well referenced to feet NGVD and conductivity, temperature, and chloride concentration for the monitoring and production wells. 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.

i. 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.

j. New Well Construction

Prior to construction of any new or replacement production or monitoring 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.

k. Water Conservation Plan

Prior to commencement of construction 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.

SUBJECT: **WATER SUPPLY AND DEVELOPMENT** - Riviera Beach Energy Center, PA09-54

Proposed Potable Water Source: City of Riviera Beach Utilities Department (CRB)
Permit No.: 50-000460-W
Expiration Date: Permit renewal application currently undergoing review
Current Usage: 204.2 MGM/2,403 MGY (based on January, 2009 data)
Permitted Allocation: 450.8 MGM Max/3,250 MGY Avg
Projected Demand: 0.131 MGM Max/0.526 MGY Avg

Proposed Non-Potable Water Sources: Lake Worth Lagoon/CRB/Surficial aquifer
Projected Demands: 599.33 MGD Peak/218,068 BGY Peak (Lake Worth Lagoon)
0.0014 MGD Max/0.525 MGY Avg (CRB)
0.199 MGD Max/37.318 MGY Avg (Surficial aquifer)

	ACCEPTABLE RESPONSE IN APPLICATION	RESOLVABLE THROUGH SITE SPECIFIC STANDARDS MINOR	RESOLVABLE THROUGH SITE SPECIFIC STANDARDS MAJOR	MAJOR REGIONAL ISSUES
I. PROJECTED DEMANDS OF PROJECT				
A. POTABLE WATER				
1. Use generation rates	X			
2. Conservation practices		X(1)		
B. NON-POTABLE WATER				
1. Use generation rates	X			
2. Conservation practices		X(1)		
3. Wastewater re-use	X			
II. WATER USE IMPACTS				
A. ON-SITE				
1. Proposed Sources				
a. Groundwater	X(2)	X(3)		
b. Surface water	X			
c. Wastewater re-use	N/A			
d. Reverse osmosis	N/A			
2. Resource capability	X			
3. Impacts				
a. Salt water intrusion	X(4)			
b. Pollution/contamination	X			
c. Environmental	X			
B. OFF-SITE				
1. Verification of availability from utility	X			
2. Resource capability	X			
3. Impacts				
a. Salt water intrusion	X			
b. Pollution/contamination	X			
c. Environmental	X			
d. Other legal users	X			

FOOTNOTES: See following page.

WATER SUPPLY AND DEVELOPMENT FOOTNOTES:

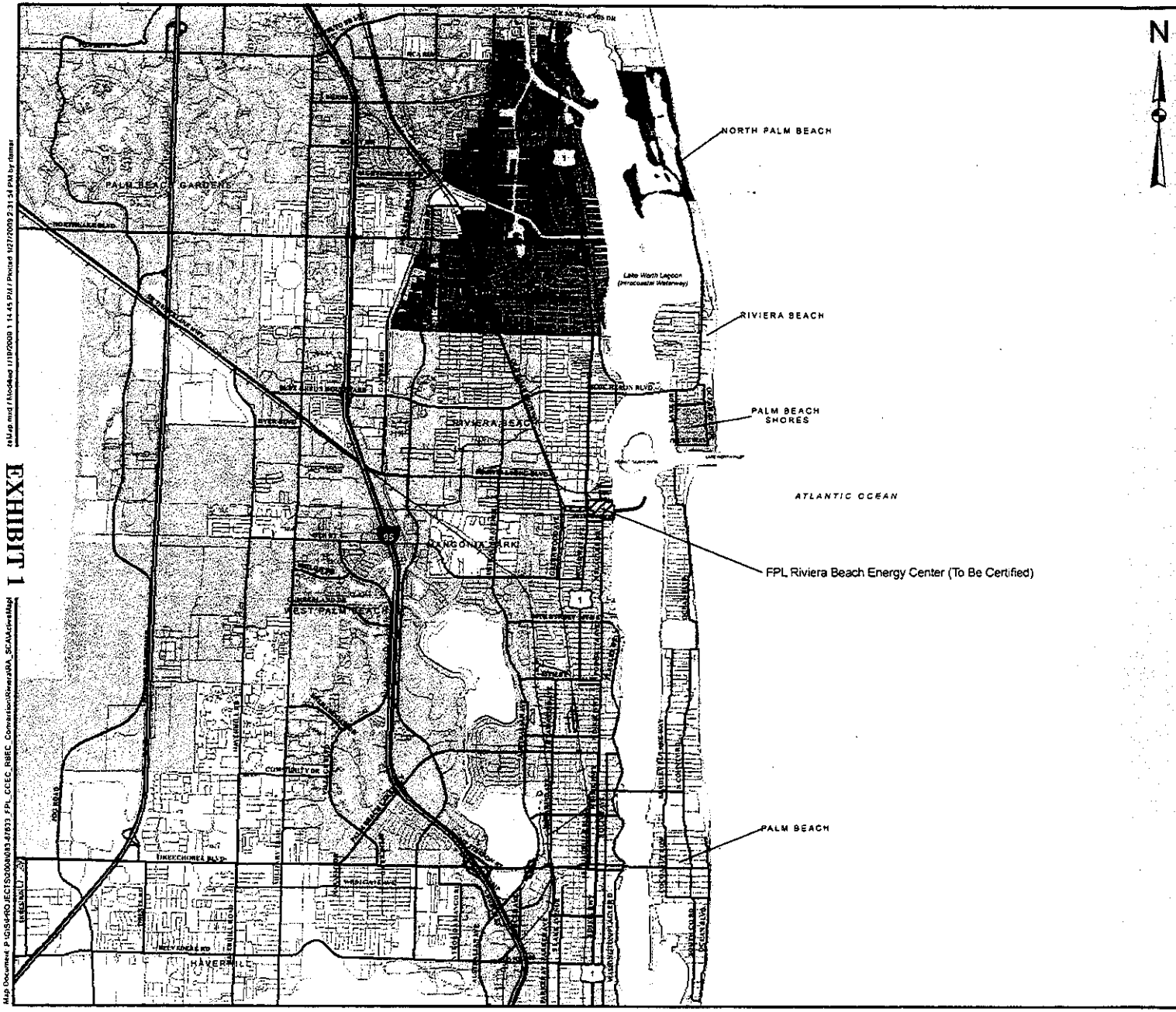
(1) The SFWMD is requiring submittal of a water conservation plan (see Recommended Certification Condition B.2.k)

(2) The ground water demands for the proposed new power plant are similar to the existing power plant. The Licensee is not proposing an increase in the existing permitted allocations. The authorized allocations and withdrawal facilities under existing Water Use Permits No. 50-04187-W (landscape irrigation) and 50-04188-W (water pump bearing cooling/other incidental industrial uses) will be incorporated into the Recommended Conditions of Certification (see Recommended Certification Conditions B.2.a, B.2.b, and B.2.c).

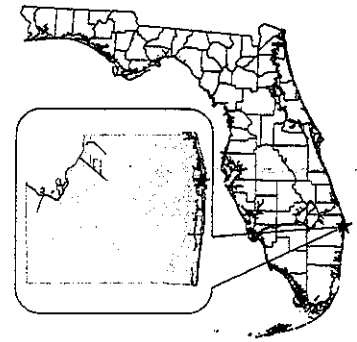
(3) Prior to the commencement of construction, the details of the proposed dewatering activities must be submitted for review and approval by SFWMD staff (see Recommended Certification Condition B.2.g)

(4) The existing Surficial aquifer wells are located approximately 1,400 feet from the Lake Worth Lagoon. The Licensee has provided a proposed Saline Water Intrusion Monitoring Plan (Plan) to observe the potential for the movement of saline water from this source. The Plan proposes the installation of one monitoring well located 500 feet east of the existing Surficial aquifer production wells. The Plan will be incorporated into the Conditions of Certification (see Recommended Certification Condition B.2.h).

EXHIBIT 1



AREA MAP



★ RBEC Site Location

LEGEND

- FPL Riviera Beach Energy Center (To Be Certified)
- Construction Parking & Laydown Area
- HIGHWAY
- LIMITED ACCESS
- MAJOR ROADS
- RAMP

REFERENCES

1. FPL Riviera Beach Energy Center (to be certified) FPL., 2009.
2. Construction Parking and Laydown Area, FPL, 2009.
3. Municipalities, Palm Beach County Planning, Zoning, and Building Departments, July 2008.

1 0.5 0 1 Miles

REV.	DATE	DES.	REVISION DESCRIPTION	GIS	CHK	RVW

PROJECT
FPL
RIVIERA BEACH ENERGY CENTER

TITLE
GENERAL EXISTING
RIVIERA PLANT SITE LOCATION

FPL

PROJECT No.	083-87633		FILE No.	0838763301RA021	
DESIGN	RGM	12/17/2008	SCALE: AS SHOWN	REV.	1
GIS	NRL	1/19/2009			
CHECK	RGM	1/27/2009	FIGURE 1.1.0-1		
REVIEW	KFK	1/27/2009			

Map Document: P:\GIS\PROJECTS\2008\083-87633_FPL_CCEC_RBEC_Conversion\Rev#0A_SCA\ArcMap\
ts\up.mxd | Modified 1/19/2009 1:14:45 PM | Printed 1/27/2009 2:31:54 PM by ramar

Appendix II-3
City of Riviera Beach Agency Report

CITY OF RIVIERA BEACH

DEPARTMENT OF COMMUNITY DEVELOPMENT
600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404
(561) 845-4060 FAX (561) 845-4038

OFFICE OF
COMMUNITY DEVELOPMENT

August 25, 2009

Ms. Cindy Mulkey
Engineering Specialist
Department of Environmental Protection
Siting Coordination Office
Mail Station 48
3099 Commonwealth Boulevard
Tallahassee, FL 32399

Re: Riviera Beach Energy Center Agency Report

Dear Ms. Mulkey:

Please allow this letter to serve as the Agency Report for the City of Riviera Beach. The Agency Report is submitted on the City's behalf pursuant to the Florida Electrical Power Plant Siting Act (Sections 403.501- 403.539, Florida Statutes). The City has reviewed the Site Certification Application for the Riviera Beach Energy Center (RBEC) and provides the following assessment.

1. The 39 acres of land within the city limits currently occupied by the existing Riviera Beach Power Plant and the future site of the RBEC has a Future Land Use designation of "Utilities" which allows for municipal water and sewer, electrical and communications uses. The use of the RBEC as an electricity producing power plant is consistent with this land use designation.

2. The location has a Zoning Designation of "U: Utilities District". This zoning category is intended to set aside an area restricted to the provision of utilities. This district is provided for large scale utility operations. The proposed RBEC is consistent with this zoning designation.

3. On October 1, 2008, the City Council of the City of Riviera Beach approved a preliminary site plan for the proposed RBEC with the following conditions:

    a. The site plan and approved use shall be vested for development upon the receipt of a Final Order granting certification pursuant to the Florida Electric Power Plant Siting Act (PPSA). FPL shall record a copy of the Final Site Plan approved by the Siting Board in the public records of the City of Riviera Beach prior to commencement of development.

b. FPL shall comply with the Florida Building Code for the construction of the administration portion of the administration/warehouse/control building.

c. At least thirty (30) days prior to recording the Final Site Plan, FPL shall submit a construction coordination plan to the City to address issues such as fire coordination, demolition coordination, traffic coordination and inspections.

d. The building permit and impact fees associated with the administrative portion of the administration/warehouse/control building shall be paid by FPL within thirty (30) days of recording the Final Site Plan.

e. FPL shall complete the landscaping on the site plan within ninety (90) days of the commercial operation date of the Riviera Beach Clean Energy Center.

f. All future advertising must state that the development is in the City of Riviera Beach. A fine of $500 per day will be levied against the property owner for violation of this condition.

Conditions of Certification

The City of Riviera Beach is committed to enhancing beautification throughout the city. The Transportation Element of the Comprehensive Plan includes the following policy which will aid in improving the overall appearance of the city:

> "**Policy 1.5.8:** By June 2004, the City shall require the burial of overhead utility lines for all new development as a means to ensure the health, safety, and welfare of the community and to enhance the visual aesthetics of the City."

As a condition of certification, the City of Riviera Beach is strongly requesting that all electrical power lines that are being rebuilt along State Road 5/US 1 (Broadway Avenue) to re-feed the RBEC, be placed underground. On May 4, 2009, FPL (in a separate but related projected) was issued a permit from FDOT, as permit #09-H-496-0126-93020 to upgrade existing overhead electrical facilities, which includes electrical facilities on US 1. Because the projects are related, the City would like for the Comprehensive Plan to be followed as placing the electrical power lines underground would also provide a significant visual and economic improvement to one of the City's major traffic corridors.

Summary of Public Comments

The City's Planning and Zoning Board held a public hearing on September 11, 2008, to review the site plan for the RBEC. The City Council reviewed the site plan on October 1, 2008. The public had the opportunity to comment at both meetings. Additionally, the City held an Informational Public Meeting on April 14, 2009, to provide the public with an update about the progress of the Riviera Beach Energy Center. Public comments generally centered on three main issues; 1) potential for increased electric bills; 2) safety and security: and 3) employment of local residents during construction.

Recommendation

Based on the City's review of the proposed RBEC, the conditions of approval included in the preliminary site plan approval, and the inclusion of the additional condition of certification being the burying of the electrical power lines along State Road 5/US Highway 1, the City would recommend approval of the Riviera Beach Energy Center.

Thank you in advance for reviewing the City's Agency Report. Please do not hesitate to contact me should you require additional information.

Sincerely,

Mary McKinney, AICP
Director of Community Development
City of Riviera Beach

CC: Attached Certification List by email only
Ruth C. Jones, City Manager, City of Riviera Beach
Pamala H. Ryan, City Attorney, City of Riviera Beach

FPL RIVIERA BEACH ENERGY CENTER
SERVICE LIST

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Hopping Green & Sams, P.A.
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Florida Public Service Commission
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Treasure Coast Regional Planning

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City of West Palm Beach
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Kimberly Menchion, Asst. Gen. Cnsl.
Department of Transportation
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Tallahassee, FL 32399-0450
Kimberly.Menchion@dot.state.fl.us

Appendix II-4
City of West Palm Beach Agency Report

The City of West Palm Beach

"The Capital City of the Palm Beaches"

OFFICE OF THE CITY ADMINISTRATOR
401 Clematis Street – 2nd floor
P.O. Box 3366 (33402)
West Palm Beach, Florida 33401

VIA ELECTRONIC MAIL ONLY
HARD COPY WILL NOT FOLLOW

September 23, 2009

Cindy Mulkey
Engineering Specialist
Department of Environmental Protection
Siting Coordination Office
3900 Commonwealth Blvd.
Tallahassee, FL 32399

RE: Riviera Beach Energy Center;
City of West Palm Beach Agency Report

Dear Ms. Mulkey:

The City of West Palm Beach has reviewed Florida Power & Light's application for the site certification for the Riviera Beach Energy Center. Pursuant to Section 403.507, Florida Statutes, the City hereby submits the attached Agency Report with proposed conditions of certification in connection with the certification of the proposed site and associated facilities. This Agency Report replaces the report submitted to FDEP by the City on August 26, 2009. The City represents that there are no City non procedural requirements not specifically listed in the application from which a variance, waiver, exemption or other relief is necessary in order for the proposed site and associated facilities to be certified except that submittal of the information necessary for a Class B Special Use Permit will be required prior to commencement of construction of the Manatee Viewing Center.

It is the City's understanding that the City has the right, in accordance with Section 403.511(4), Florida Statutes, to charge appropriate fees to FPL and to require that construction be in compliance with applicable building construction codes and that the obligation to pay such fees will be included in FDEP's General Conditions. Accordingly, the City is reserving the right to charge such fees.

Based upon the City's review and assessment of the application and the proposed conditions of certification, the City recommends approval of the Riviera Beach Energy Center.

If you have any questions or concerns, please contact Eric Schneider, the City's principal planner at (561) 822-1446, or Suzanne Payson, Assistant City Attorney, at (561) 822-1369.

Sincerely,

Edward Mitchell
City Administrator

cc: Attached service list by e mail only

CITY OF WEST PALM BEACH AGENCY REPORT
FOR THE RIVIERA BEACH ENERGY CENTER

The City of West Palm Beach recommends approval of the certification of the site and associated facilities proposed, subject to the following conditions, which conditions shall be binding on the applicant, any owner of the site property, or their assigns.

Assessment

The proposed use of the property included within the Riviera Beach Energy Center Site Certification that is located within the City of West Palm Beach falls into two separate Future Land Use and Zoning categories. The proposed use of the property located north of 59th Street and west of North Flagler Drive, which has a Single Family (SF) Future Land Use and a Single Family Low Density (SF7) Residential zoning designation, as a landscape buffer is not inconsistent with the City of West Palm Beach ordinances. The use of the property located on the east side of North Flagler Drive at the terminus of 59th Street, which has a Multifamily (MF) Future Land Use and a Multifamily High Density (MF32) zoning designation, as a Manatee Viewing Center requires approval equivalent to a Class B Special Use Permit prior to construction.

Conditions of Certification

1. Any contractor who will perform demolition or construction activity on property included within the Riviera Beach Energy Center Site Certification that is within the corporate limits of the City of West Palm Beach shall be registered to work in the City of West Palm Beach prior to commencing the demolition or construction activity. {Sections 18-3 and 22-101 of the City of West Palm Beach Code of Ordinances}

2. Any contractor or sub-contractor who will utilize the Construction Support Area shall register to work within the City of West Palm Beach prior to utilizing the Construction Support Area. {Sections 18-3 and 22-101 of the City of West Palm Beach Code of Ordinances}

3. The demolition, construction and operation of the Riviera Beach Energy Center, the Construction Support Area and the Manatee Viewing Center shall not create direct or indirect light exceeding 0.5 foot candles when measured in a residential district. {Section 94-310(d) of the City of West Palm Beach Code of Ordinances}

4. Florida Power & Light (FPL) shall provide a Construction Traffic Management Plan (Plan) to the City of West Palm Beach that addresses the impact of the construction traffic no later than 90 days prior to the commencement of site preparation work for the Construction Support Area on North Flagler Drive. The Construction Traffic Management Plan shall address the items listed in a. though f. below and shall provide for mitigation of the impacts of the construction traffic. The Plan will be reviewed by the City's Traffic Engineer and the Planning and Zoning Department Staff to ensure that the mitigation measures listed in the Plan are appropriate. If the City identifies additional mitigation measures or modifies the

proposed measures, these shall be incorporated into the Plan by FPL. {Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

a. Provide specifics on how the Construction Support Area and the Riviera Beach site and staging area will be accessed, to include hours, types and numbers of vehicles, access route, etc.
b. Provide information on who will park at the Construction Support Area and the plan to regulate the use of the parking.
c. Provide information on how FPL will prevent construction traffic from parking on the City of West Palm Beach local street network.
d. Provide information on how FPL will prevent construction trucks and equipment from driving on the local street network to access the construction support area or the south portion of the plant (Gate 9).
e. Provide an updated traffic study showing the impact/distribution of the vehicles using the Construction Support Area.
f. Provide the specification on the re-striped left turn lane on Broadway Avenue north of 59th Street and the specifics of how the new turn lane will function.

5. The Construction Support Area may not be used to support demolition activities at the Riviera Beach site.

6. No construction traffic, to include workers, deliveries, or construction vehicles, shall park on the City's local street network (North Flagler Drive, 58th and 59th Streets). {City of West Palm Beach Comprehensive Plan Transportation Element Map 7 "Future (2018) Roadway Functional Classification"; Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

7. No construction vehicles, including deliveries of fuel and materials, shall utilize the City's local street network (North Flagler Drive, 58th and 59th Streets). In the event that circumstances requires the temporary use of the local street network, FPL shall submit a written request to the City Administrator at least one week prior to the proposed use for approval by the City Administrator or designee. {City of West Palm Beach Comprehensive Plan Transportation Element Map 7 "Future (2018) Roadway Functional Classification; Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

8. No removal of demolition debris shall occur on the City's local street network (North Flagler Drive, 58th and 59th Streets). {City of West Palm Beach Comprehensive Plan Transportation Element Map 7 "Future (2018) Roadway Functional Classification; Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

9. No storage of construction vehicles or outdoor storage of building materials or debris is permitted on the Construction Support Area property. {Section 94-273(d)(74) of the City of West Palm Beach Code of Ordinances}

10. FPL shall install "Do not block intersection" signs at the intersection of Broadway Avenue and 59th Street at locations as approved by the Florida Department of Transportation in conjunction with the re-striping of Broadway Avenue or thirty (30) days prior to the use of

the Construction Parking and Laydown Area, whichever first occurs. {Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

11. The layout of the Construction Support Area, including trailer location, parking, drive aisles, buffering, ADA compliance, etc., shall conform to all City Codes and be submitted for review and approval as a Level I Site Plan (Informal Site Plan Review) at least 120 days prior to beginning site preparation work for the Construction Support Area. {City of West Palm Beach Comprehensive Plan Coastal Management Element Policy 1.1.1; Section 94-35 of the City of West Palm Beach Code of Ordinances}

12. A landscape buffer, including a hedge, shall be installed on the perimeter of any fence used to secure the Construction Support Area within five (5) days of the installation of the fence. {Section 94-443 of the City of West Palm Beach Code of Ordinances}

13. During active use of the Construction Support Area, FPL shall provide a six (6) foot high perimeter fence and 24 hour security monitoring, with lighting to illuminate the site, the fence perimeter and the parking area. {City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2}

14. At least sixty (60) days prior to beginning site preparation work for the Construction Support Area, FPL shall submit a Construction Site Security and Management Plan which shall include, but is not limited to, temporary lighting, security personnel, vehicle barriers, construction/visitor pass, reduce/minimize entry/exit points, encourage subcontractors to secure machinery, tools at end of work day, fencing with screening and or any other measure deemed appropriate to provide a safe and secure working environment for approval by the City of West Palm Beach Police Department CPTED official. {City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2}

15. After site clearing and placement of construction trailers, FPL shall immediately institute the security measures outlined in the Construction Site Security and Management Plan and maintain the measures throughout until the construction is complete. {City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2}

16. After site clearing and placement of construction trailers, FPL shall immediately post “No Trespassing” signs every 500 feet around the Construction Support Area. {City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2}

17. No burning may be used to remove the vegetation. {Section 38-44 of the City of West Palm Beach Code of Ordinances}

18. The large trees on the Construction Support Area shall be preserved in place so that they may be designed into the Manatee Viewing Center. The Tree Alteration Calculations are required for any non-invasive trees removed, and the mitigation plan for any lost canopy shall be provided at least 180 days prior to beginning site preparation work for the Construction Support Area. All non-native and invasive non-native vegetation shall be removed. {City of West Palm Beach Comprehensive Plan Coastal Management Element Policies 1.1.1 and 1.1.4; Sections 94-41 and 94-448 of the City of West Palm Beach Code of Ordinances}

19. FPL shall provide a Stormwater Pollution Prevention Plan for the set up and use of the Construction Support Area and construction of the manatee viewing area. The Stormwater Pollution Prevention Plan shall include the paving of the parking area, including all drive aisles and the access point, and a 20 foot sodded area surrounding all paved areas and structures, including the construction trailers. The parking area shall be paved as necessary to provide sufficient erosion and sediment control. The Stormwater Pollution Prevention Plan shall be submitted at least 180 days prior to beginning site preparation work for the Construction Support Area for review and approval by the City's Engineering Services Department {City of West Palm Beach Comprehensive Plan Utilities Element, Stormwater Management Sub-element Policy 1.1.1; Sections 90-201 to 90-207 and Section 94-450 of the City of West Palm Beach Code of Ordinances; Ordinance No. 4098-07)}

20. A site restoration bond shall be posted to the City's Engineering Services Department 30 days prior to the site preparation work for the Construction Support Area. {Section 94-450 of the City of West Palm Beach Code of Ordinances}

21. At least 90 days prior to beginning site preparation work for the Manatee Viewing Area, FPL shall assist the City in correcting the location of the drainage easement that exists on the property at the northeast corner of the intersection of 59th Street and Flagler Drive.

22. At least 180 days prior to beginning site preparation work for the Construction Support Area, FPL shall coordinate with the City regarding what may be constructed over the stormwater pipe located within the drainage easement.

23. No later than 60 days prior to the commencement of construction of the new facility, FPL and the City of West Palm Beach will agree on a drawdown schedule for the removal of the construction support trailers and other construction related items and structures that relate to the RBEC facility and restoration of the Construction Support Area . In any case, all construction support trailers that relate to the RBEC facility will be removed and the Construction Support Area restored no later than one year following the date upon which FPL provides written notice to the City that the RBEC is placed into commercial operations for purposes of regulatory recovery. {Section 94-273(d)(74) of the City of West Palm Beach Code of Ordinances, Section 94-450(e)(1)(f) of the City's Zoning and Land Development Regulations}

24. The layout of the Manatee Viewing Center parcel, including the building location, parking, drive aisles, landscape, ADA compliance, lighting levels, provision of overflow parking, bus access, preservation of on-site trees, signage, etc., shall conform to all City Code requirements and be submitted for review and approval as a Level I Site Plan (Informal Site Plan Review) at least 180 days prior to the start of construction of the Manatee Viewing Center parcel improvements. At least 30 days prior to the submittal of the Level I Site Plan for the Manatee Viewing Center to the City's Planning and Zoning Department, FPL shall present the proposed plan to the Northwood Harbor Neighborhood Association for neighborhood comment. The Planning and Zoning Department shall be notified at least seven (7) days prior to the meeting. {City of West Palm Beach Comprehensive Plan Coastal Management Element Policy 1.1.1; Section 94-35 of the City of West Palm Beach Code of Ordinances}

25. FPL shall begin construction of the Manatee Viewing Center parcel improvements as proposed by FPL in the Riviera Beach Energy Center Site Certification Application within one (1) year from the issuance of the commencement of commercial operations at the Riviera Beach Energy Center. FPL may request extensions of such commencement of construction date from the City's Planning Director provided that such extensions shall not exceed two (2) years from the commencement of operations at the Riviera Beach Energy Center. {City of West Palm Beach Comprehensive Plan Coastal Management Element Policy 1.1.19}

26. FPL shall get its potable water and wastewater service for all properties within the City of West Palm Beach's municipal boundary (59th Street landscape buffer and the North Flagler property) from the City of West Palm Beach. {Section 90-1 of the City of West Palm Beach Code of Ordinances}

27. After construction on the Riviera Beach Energy Center is complete, fuel trucks shall not access the new oil tank from 59th Street or North Flagler Drive. In the event that circumstances require temporary access for fuel trucks from 59th Street or North Flagler Drive, FPL shall submit a written request to the City Administrator at least one week prior to the proposed access for approval by the City Administrator or designee. {Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

28. After construction on the Riviera Beach Energy Center is complete only passenger vehicles may enter the site through Gate 9. In the event that circumstances require temporary access through Gate 9 for commercial vehicles, FPL shall submit a written request to the City Administrator at least one week prior to the proposed access for approval by the City Administrator or designee. {Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

29. After construction on the Riviera Beach Energy Center is complete, no FPL generated traffic, except passenger and security vehicles, may use 59th Street or North Flagler Drive. In the event that circumstances require temporary access for such vehicles from 59th Street or North Flagler Drive, FPL shall submit a written request to the City Administrator at least one week prior to the proposed use for approval by the City Administrator or designee. {Chapters 78 and 86 of the City of West Palm Beach Code of Ordinances}

30. FPL shall maintain an opaque wall at least six (6) feet high at the northern boundary of the 59th Street landscape buffer area. {Section 94-443 of the City of West Palm Beach Code of Ordinances}

31. FPL shall maintain the existing landscape in the 59th Street buffer in accordance with the material shown on the "Boundary and Topographic Survey, Riviera Plant Landscape Buffer Area: created by Avirom & Associates, Inc. and dated January 21, 2009. Any missing material shall be replaced within 14 calendar days of becoming evidence or if notified by the City of West Palm Beach. {Section 94-448 of the City of West Palm Beach Code of Ordinances}

32. Palm Beach County's Artificial Reef Program located on the North Flagler property shall be discontinued and all material and equipment removed from the site by September 1, 2011. {Section 94-272(d) of the City of West Palm Beach Code of Ordinances}

33. Unless the existing dock on the site is integrated into the Manatee Viewing Center, it shall be removed by the time the Construction Support Area is vacated. {Section 94-304(a) of the City of West Palm Beach Code of Ordinances}

34. At least 60 days prior to beginning site preparation work for the Construction Support Area, FPL shall submit to the City of West Palm Beach, for its review and approval, applicable construction documents which comply with the City's substantive non-procedural requirements demonstrating that the Construction Support Area structures and improvements that do not directly involve the generation, transmission or distribution of electricity, conform with all provisions of the City of West Palm Beach Code of Ordinances, to include Construction Services, Fire, Engineering and Land Development. {Section 18-32 of the City of West Palm Beach Code of Ordinances}

35. At least 60 days prior to beginning site preparation work for the Manatee Viewing Center parcel improvements that do not directly involve the generation, transmission or distribution of electricity, FPL shall submit to the City of West Palm Beach, for its review and approval, applicable construction documents which comply with the City's substantive non-procedural requirements demonstrating that the Manatee Viewing Center parcel improvements conform with all provisions of the City of West Palm Beach Code of Ordinances, to include Construction Services, Fire, Engineering and Land Development. {Section 18-32 of the City of West Palm Beach Code of Ordinances}

36. FPL shall request inspections in accordance with the requirements of the building permits issued for any structures or improvements that do not directly involve the generation, transmission or distribution of electricity for the property included within the Riviera Beach Energy Center Site Certification that is within the corporate limits of the City of West Palm Beach. {Section 18-32 of the City of West Palm Beach Code of Ordinances}

37. All activity, to include construction related activity, on property included within the Riviera Beach Energy Center Site Application that is within the corporate limits of the City of West Palm Beach shall adhere to the City of West Palm Beach Code of Ordinances. {Chapters 18, 22, 34, 38, 78, 86, 90 and 94 of the City of West Palm Beach Code of Ordinances}

38. Prior to construction of the Manatee Viewing Center, FPL shall submit to the City of West Palm Beach all of the necessary information to ensure compliance with the substantive requirements of a Class B Special Use Permit.

Appendix II-5
Florida Fish and Wildlife Conservation Commission Agency Report

Florida Fish and Wildlife Conservation Commission

Commissioners
Rodney Barreto
Chair
Miami
Kathy Barco
Vice-Chair
Jacksonville
Ronald M. Bergeron
Fort Lauderdale
Richard A. Corbett
Tampa
Dwight Stephenson
Delray Beach
Kenneth W. Wright
Winter Park
Brian S. Yablonski
Tallahassee

Executive Staff
Kenneth D. Haddad
Executive Director
Nick Wiley
Assistant Executive Director
Karen Ventimiglia
Deputy Chief of Staff

Office of Planning and Policy Coordination
Nancy Linehan
Director
(850) 487-3794
(850) 410-5265 FAX
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(850) 922-5679 FAX

Managing fish and wildlife resources for their long-term well-being and the benefit of people.

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32399-1600
Voice: (850) 488 4676
Hearing/speech impaired:
(800) 955-8771 (T)
(800) 955-8770 (V)
MyFWC.com

August 26, 2009

Mr. Mike Halpin, P.E.
Siting Administrator
Department of Environmental Protection
2600 Blair Stone Road, Mail Stop 48
Tallahassee, FL 32399-2400

Re: FPL Riviera Beach Energy Center Project, Palm Beach County

Dear Mr. Halpin:

The Division of Habitat and Species Conservation, Imperiled Species Management Section, of the Florida Fish and Wildlife Conservation Commission (FWC) has coordinated agency review of the referenced application for site certification in accordance with the Florida Electrical Power Plant Siting Act, Sections 403.52- 403.501, Florida Statutes.

The existing Florida Power and Light (FPL) Riviera Beach Plant consists of two nominal 300-megawat conventional dual-fuel fired steam boilers that will be converted into a modern, highly efficient, lower-emission next generation energy center. The project would use existing plant site boundaries, cooling water intake and discharge infrastructure, and transmission right-of-way. Construction parking and laydown would be staged on FPL-owned land. The existing FPL Riviera Beach Plant property is located on approximately 46 acres of flat, sandy area located mostly within the City of Riviera Beach, but with a small portion of the property located in the City of West Palm Beach in Palm Beach County, Florida. The site is transected by U.S. Highway 1, leaving 7 acres containing the transmission lines on the west side of the highway and 39 acres that are bounded on the west by U.S. Highway 1 and on the east by Lake Worth Lagoon. Both properties are immediately south of the Port of Palm Beach and north of 58th Street. The property is located in portions of Sections 33 and 34, Township 42 South, Range 43 East and portions of Sections 3 and 4, Township 43 South, Range 43 East. In addition, FPL maintains a 5.4 acre sovereignty submerge lands lease from Florida Department of Environmental Protection for the existing once-through cooling water discharge pipeline.

Due to the dependence of numerous manatees on the warm-water habitat provided by the RBEC, we are recommending permit conditions addressing the interim heating system and the temporary warm-water refuge. In addition, we are also recommending that FPL provide for monitoring of environmental and biological indicators that will play a substantial role in determining the status of the interim heating system during the conversion. These monitoring conditions will assist FWC's efforts to monitor the health status of manatees and provide an early warning system for cold stress complications and contingency planning to mitigate the potential loss of significant numbers of manatees if there is a failure in the interim warm-water heating system.

Please refer to the staff report and three attachments enclosed with this letter for more detail regarding the USFWS' position and our agency's recommendations to minimize impacts to the manatee. In their letter to FPL dated June 24, 2008 (attachment A), the USFWS raised concerns and provided their expectations that no "take" of manatees occur

during the plant's conversion. We believe that the recommendations in our report support the USFWS letter and significantly lower the risk of manatee loss due to cold stress during the plant's conversion. We recommend approval of the application if the applicant is to follow the attached agency conditions.

We look forward to working with FPL regarding protection measures, mitigation options, and habitat management for the proposed Riviera Beach Energy Center Project. If you or your staff would like to coordinate further on the issues contained in this report, please contact me at 850-410-5272, or email me at maryann.poole@MyFWC.com, and I will be glad to help make the necessary arrangements. If your staff has any specific questions regarding our comments, I encourage them to contact Carol Knox or Ron Mezich at (850) 922-4330 or by email at Carol.Knox@myfwc.com or Ron.Mezich@myfwc.com.

Sincerely,

Mary Ann Poole

Mary Ann Poole
Commenting Program Administrator

map/rm
ENV 2-11-3/3
Riviera Beach Energy Center_2129_082609_coverltr
Enclosures
cc: Cindy Mulkey, DEP, Tallahassee
Emily Norton, FWC, Tallahassee

FWC STAFF REPORT FOR FLORIDA POWER AND LIGHT COMPANY – RIVIERA BEACH ENERGY CENTER (RBEC)

Prepared by Carol Knox and Ron Mezich, Fish and Wildlife Biologists, August 26, 2009

This report summarizes the fish and wildlife resources that could be affected by changes to the existing power plant. It includes general recommendations for addressing these issues during the development. If you have any questions regarding the information in this report, please do not hesitate to contact Carol Knox or Ron Mezich at phone (850) 922-4330 or email at Carol.Knox@myfwc.com or Ron.Mezich@myfwc.com.

PROJECT DESCRIPTION

The existing Florida Power and Light (FPL) Riviera Beach Plant consists of two nominal 300-megawat conventional dual-fuel fired steam boilers that will be converted into a "modern, highly efficient, lower-emission next-generation energy center" (p. 1-1 of volume 1 of the application submittal). The project will use existing plant site boundaries, cooling water intake and discharge infrastructure, and transmission right-of-way. During the plant conversion an interim warm-water heating system will be used to maintain a warm-water refuge, at its current location, for the Florida manatees that have been using this site for decades. Construction parking and laydown will be staged on FPL-owned land adjacent to the existing Riviera Beach Plant. The existing FPL Riviera Beach Plant property is located on approximately 46 acres of flat, sandy soils located mostly within the City of Riviera Beach, but with a small portion of the property located in the City of West Palm Beach in Palm Beach County, Florida. The site is transected by U.S. Highway 1, leaving 7 acres containing the transmission lines on the west side of the highway and 39 acres that are bounded on the west by U.S. Highway 1 and on the east by Lake Worth Lagoon. Both properties are immediately south of the Port of Palm Beach and north of 58th Street. The property is located in portions of Sections 33 and 34, Township 42 South, Range 43 East and portions of Sections 3 and 4, Township 43 South, Range 43 East. In addition, FPL maintains a 5.4-acre sovereignty submerge lands lease from Florida Department of Environmental Protection (DEP) for the existing once-through cooling water discharge pipeline.

POTENTIALLY AFFECTED RESOURCES

Terrestrial wildlife

This RBEC proposal does not require any permanent increase of the footprints of the associated facilities. The proposed location for these activities contains flat, sandy soils in a mostly urban area. There are several species on the State's threatened list that occur near this area including the gopher tortoise, Florida scrub-jay, and the eastern indigo snake. The attached survey conditions will address our concerns in regards to those species if they are determined to be present.

West Indian manatee

The manatee is listed by both the State and the U.S. Fish and Wildlife Service (USFWS) as Endangered, and its use of the area surrounding the RBEC is well documented by aerial survey, mortality, and satellite telemetry data. The project site is characterized as a primary warm-water manatee refuge due to the presence of a warm-water effluent from power plant operations.

Between January 1974 and March 2009, 21 manatees have died from watercraft-related causes within a five-mile radius of the project location. In addition to the watercraft-related deaths, there have also been 3 human-other, 2 perinatal, 8 cold-stress, 12 natural (other), and 13 undetermined manatee deaths within the same radius.

Historically speaking, the majority of manatees on the east coast of Florida are believed to have been limited in their distribution during cold winters to the warmer sub-tropical waters south of the St. Sebastian River (Moore 1951). Because of their limited ability to conserve heat, manatees cannot survive exposure to water temperatures below approximately 68° F (20°C) for extended periods of time (Marine Mammal Commission 1988). In north and central Florida, water temperatures in winter periodically drop below 68° F. During these periods, manatees seek out warm-water sources and migrate to southern Florida. The power plants and other industries that discharge large volumes of warm water into Florida's coastal bays and estuaries provide manatees with warm-water refugia (Campbell and Irvine 1981, O'Shea et al. 1985).

The winter distribution of manatees in Palm Beach County is heavily influenced by the presence of the FPL Riviera Beach Power Plant. Winter aerial surveys have documented as many as 479 manatees during a single flight at the Riviera Beach Power Plant (Reynolds 2004). Aside from providing thermal refugia, the plant is situated near extensive foraging habitat within north Lake Worth Lagoon. Manatees will often move from thermal refugia during mild winter periods to nearby seagrass beds to feed (Deutsch et al. 2003). This occurs in Palm Beach County, where large numbers of manatees have been observed during synoptic surveys utilizing seagrass habitat close to the FPL facility. Other areas of the County may also be used during opportunistic foraging excursions. Manatees were relatively abundant within Jupiter Sound, approximately 20 km (12.5 mi) north of the FPL facility. Packard (1981) suggested that some manatees utilizing the power plant discharge may forage within this area during periods of mild weather.

Manatees will often use other minor sites as temporary thermal refugia during the winter (USFWS 2001). These secondary sites are typically deep canals or boat basins where warm water temperatures persist due to thermoclines or other physical conditions. Minor winter aggregations of manatees (at least four animals) occurred on a recurrent basis (at least three years) in three areas of Palm Beach County:

- Jupiter Sound finger canal
- C-18 Canal near Spillway S-46 (Southwest Fork of Loxahatchee River) and
- South Lake, a small dredged basin connected to the Earman River (C-17 Canal)

The conversion of the RBEC would result in the temporary discontinuation of the existing thermal discharge and manatee warm-water refuge; however, the construction of an interim heating system would allow for continuation of a warm-water refuge at its existing location. Due to the dependence of numerous manatees on the warm-water habitat provided by the RBEC, permit conditions addressing the interim heating system, that will be used to maintain the warm-water refuge are being recommended. In addition, the Florida Fish and Wildlife Conservation Commission (FWC) also recommends that FPL provide for monitoring of environmental and biological indicators that will play a substantial role in determining the status of the interim heating system during the conversion. These monitoring conditions will assist FWC's efforts to

monitor the health status of manatees and provide an early warning system for cold stress complications and contingency planning to help mitigate the potential loss of significant numbers of manatees if there is a failure in the interim warm-water heating system.

Conclusion - Manatees

Florida manatees have used the Riviera Beach plant's thermal discharge during the winter months for decades. The thermal discharge from this plant has been consistent and reliable, thereby allowing manatees to become dependent on it. At the time the Manatee Power Plant Protection Plan (MPPPP) was developed for this plant, the FWC, USFWS, and FPL agreed upon a 61°F ambient water trigger temperature based on a negotiation of several factors. This trigger temperature requires the plant to operate at least one unit to create a warm-water refuge for manatees during the winter months when ambient water temperatures reach the trigger temperature. The ambient water temperature that was selected was based on several criteria: 1) Base Load Operation, with the Riviera Beach Plant operating as a base load unit (running consistently and creating a dependable warm-water refuge); 2) economics (potential costs to FPL); and 3) manatee biology (how often and how long would manatees be subjected to temperatures between 68°F and 61°F). Two of these three factors have recently changed and will change even further during the conversion process. The warm water discharge at the Riviera Beach Plant has been less consistent in recent years, and the interim refuge may be even less dependable for manatees if operated at a 61° F trigger temperature. The reduced dependability of the warm-water refuge may increase the frequency of exposure of manatees to cold water and escalate the risk of disease and death due to cold stress since the proposed interim heating system has not been implemented previously.

The USFWS advised the licensee in August 2008 that take of manatees is not authorized during the proposed plant conversion at the RBEC (see Attachment A). As a result FWC has attempted to develop appropriate measures and conditions to prevent take of manatees during reconstruction of the plant, which includes the interim refuge. We have worked as closely as possible with the licensee to develop these conditions.

RECOMMENDATIONS

We recommend the following Conditions of Certification:

A. ***West Indian Manatee***

1. Interim Warm-Water Refuge Heating System

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

(1) Testing, monitoring, and evaluation of the interim heating system shall take place pursuant to the permit conditions found in the Environmental and Biological Monitoring sections 2 and 3.

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

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

(3) Licensee shall submit its BMP manual to FWC for review and comment by August 15 of the year when the RBEC conversion commences, which is expected to be 2011. Licensee will review, consider, and incorporate if practicable, comments from FWC that are received by September 15 of that year. A copy of the Licensee's BMP manual for the interim heating system shall be maintained at all times at the RBEC site and shall be made available upon request to authorized representatives of FWC and DEP.

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

(5) The interim warm-water refuge is described as the area located within the current warm-water refuge created by a portion of the plant's thermal discharge (see attachment B and C).

(6) The Licensee may request modification of applicable FWC conditions upon issuance by the Department of Environmental Protection, in consultation with the FWC, of Final NPDES permit modification FL0001546 if such requested modifications to the conditions herein have been adopted into the Final NPDES permit.

(7) Licensee shall provide written notification of the commencement of conversion to DEP and the FWC as soon as possible, but no later than June 15 of the year when the RBEC conversion commences, which is expected to be 2011.

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

2. Environmental Monitoring

a. The following monitoring requirements are applicable to the operation of the interim heating system during the conversion of the Riviera Beach Energy Center (RBEC):

(1) Evaluation of the interim heating system shall be conducted at RBEC during the winter months (November 15 through March 31) of 2009-2010. The evaluation of the interim heating system is intended to determine its ability to provide a sufficient manatee warm-water refuge (as described in Interim Heating System and Environmental Monitoring conditions V., A., 1. and 2. and the Licensee's Thermal Modeling Study) during the winter months shall take place prior to dismantlement of the current warm-water discharge. Evaluation of the system shall include empirical temperature data that will be collected and compared to the thermal modeling results to evaluate the performance of the interim heating system and the accuracy of the thermal model during cold fronts and varying tidal and wind conditions.

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

(2) By June 15 of the year when the RBEC conversion commences, which is expected to be 2011, the Licensee (Florida Power & Light Company) shall submit to the FWC, Florida Department of Environmental Protection (DEP)

Siting Office, and the USFWS an Environmental Monitoring Plan. The Environmental Monitoring Plan shall include, at a minimum, the following components:

i. Monitoring of the interim heating system and warm-water refuge during the conversion process (as described in Interim Heating System and Environmental Monitoring conditions V., A., 1. and 2. and the Licensee's Thermal Modeling Study) shall take place during the winter months (November 15 through March 31).

ii. Monitoring of the RBEC's interim warm-water refuge during the conversion shall consist of ambient air and water temperatures measured at multiple locations within the interim warm-water refuge. The number and configuration of temperature monitoring stations must be sufficient to provide a three-dimensional view, over time, of the thermal plume.

iii. Temperature monitoring stations will be deployed during the conversion phase in the interim refuge. As part of this Environmental Monitoring Plan as described in this Section 2., the Licensee shall include a plan to convey the data from the temperature monitoring stations to the appropriate agencies on a daily basis when the trigger is on and the heaters are running and on a weekly basis when the ambient temperature is greater than 65 degrees.

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

vi. The Environmental Monitoring Plan, including the proposed monitoring locations, shall be approved prior to implementation. FWC, in consultation with the DEP and USFWS, shall indicate its approval or disapproval of the submitted plan within 90 days of the originally submitted information. In the event that additional information from the licensee is necessary to complete and approve the Plan, FWC, in consultation with the DEP and USFWS, shall make a written request to the licensee for additional information no later than 30 days after receipt of the submitted information. A final plan shall be in place by September 1 of the year when the RBEC conversion commences, which is expected to be 2011.

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

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

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

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

3. Biological Monitoring

a. The following monitoring requirements for manatee distribution and abundance are applicable to the operation of the interim heating system during the conversion of the RBEC:

(1) By June 15 of the year when the RBEC conversion commences, which is expected to be 2011, the Licensee shall submit to the DEP Siting Office and FWC, a Biological Monitoring Plan. The Biological Monitoring Plan shall include at a minimum the following components:

i. Monitor the winter (November 15 through March 31) distribution and abundance of manatees during the time frame that includes the operation of the interim warm-water heating system.

ii. Biological monitoring shall be conducted through aerial surveys during the winter months (November 15 through March 31) beginning the first winter of the plant's conversion and continuing through the completion of the RBEC conversion process. However, the FPL will consult with FWC to determine the status of other aerial survey data collection efforts to determine the appropriate start date for these required aerial surveys.

iii. Specific aerial survey paths, sampling frequencies, and methodologies for aerial surveys. At a minimum, aerial survey flight paths shall encompass known manatee winter habitat including travel corridors and passive warm-water sites from Hobe Sound (Highway 707 bridge) to Boynton Inlet on a bi-weekly basis while the interim heating system is in operation during the winter months (November 15 through March 31).

iv. Aerial surveys shall be designed so the data collected will provide an evaluation of manatee abundance and distributional changes within the survey area (see V., A., 3., a.,(1), iii) in a statistically valid manner that is consistent with past aerial survey data.

v. The Biological Monitoring Plan shall be reviewed and approved prior to implementation. FWC, in consultation with the DEP and USFWS, shall recommend its approval or disapproval of the submitted plan to DEP within 90 days of the originally submitted information. In the event that additional information from the licensee is necessary to complete and approve the Plan, FWC, in consultation with the DEP and USFWS, shall make a written request to the Licensee for additional information no later than 30 days after receipt of the submitted information. A final plan shall be in place by September 1 of the year when the RBEC conversion commences, which is expected in 2011.

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

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

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

(5) The Licensee will prepare a biological monitoring report that includes all data (made available in written and electronic form) and statistical analyses completed as a result of the requirements set forth in the Biological Monitoring Plan. This report will be submitted yearly, by August 1 of each year, when the interim warm-water system is in operation during the construction period. Within 180 days of submittal of the final yearly biological monitoring report a summary of all biological monitoring reports shall be completed and submitted to the FWC and DEP Siting Office for review.

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

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

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

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

4. Contingency Plan

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

(1) If the observer (pursuant to biological monitoring conditions V., A., 3., a., (1), (2) and (3)) identifies manatees with apparent signs of cold stress disease, digital photographs should be taken of the animal(s) and the FWC shall be called as soon as possible on the day of the observations through the following methods. An FWC biologist can be reached via pager at 800-714-0620 (enter the caller's contact number followed by the code "03". A page will be returned within 30 minutes; if not, resend the page. For immediate

emergency situations FWC's Wildlife Alert number can also be called at 888-404-FWCC.

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

(3) The Licensee shall provide in-kind services and financial assistance, not to exceed $100,000 in total value, to FWC for manatee rescue or recovery in the event that there is a failure of the interim heating system resulting from Licensee's failure to comply with Condition V., A., 1., that causes death or identifiable cold stress to manatees in Palm Beach County. This condition would apply during the winter months (November 15 through March 31). The in-kind assistance and funds would only be used to address manatee-related cold stress issues in the area that the interim system affects.

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

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

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

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

5. Development of a Long-Term Manatee Strategy

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

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

(2) Within one year of the workshop held pursuant to Condition V., A., 5., a., (1), the Licensee shall provide the FWC and USFWS with a formal report of the workshop, including findings, conclusions, and recommendations.

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

(4) The Licensee shall work closely with the FWC and USFWS to evaluate progress toward achieving the vision and goals of the Warm-Water Action Plan and to develop adaptive changes to the Plan as needed to promote manatee recovery through participation in periodic workshops and/or conferences designed to accomplish such evaluation and adaptive changes.

(5) The FWC and USFWS must be notified, in writing, within 30 days of any sale, conveyance, or other transfer of the facility.

6. Manatee Construction Conditions For In-Water Work

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

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

c. At least one person shall be designated as a manatee observer when in-water work is being performed. That person shall have experience in manatee observation, be

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

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

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

7. Manatee Viewing Center

Once a public viewing venue is established at the manatee embayment, the licensee shall ensure that staff or trained volunteers are always present with the public to prevent manatee disturbance or harassment.

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

8. Force Majeure

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

B. ***Terrestrial Wildlife***

1. Listed Species Survey

a. Before land clearing and construction activities within the certified facility occur, the Licensee shall conduct an assessment for listed species which will note all

habitat, occurrence or evidence of listed species. Listed species to be included in this survey shall include those listed as endangered, threatened or of special concern by Florida Fish and Wildlife Conservation Commission or those listed as endangered or threatened by U.S. Fish and Wildlife Service.

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

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

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

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

2. Listed Species Locations

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

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

(2) *Listed Vegetation Species*: If listed vegetation species are found on public land or water, their presence shall be reported to the DEP Siting Coordination Office and the Florida Department of Agriculture and

Consumer Services. Listed wildlife species and listed vegetation species on public land or water shall not be disturbed, if feasible.

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

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

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2003. Final Report Prepared For FP&L Company, Juno Beach, FL. Order Number 4500004663: 48 pp.

United States Fish and Wildlife Service 2001. Florida Manatee Recovery Plan, (*Trichechus manatus latirostris),* Third Revision. Atlanta, Georgia. 144 pp. + appendices.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
6620 Southpoint Drive, South
Suite 310
Jacksonville, Florida 32216-0912

IN REPLY REFER TO:

June 24, 2008

Randall LaBauve, Director
Environmental Services
Florida Power and Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

Dear Mr. LaBauve:

The U. S. Fish and Wildlife Service (Service) appreciates Florida Power and Light Company's (FP&L) efforts to notify us, the Florida Fish and Wildlife Conservation Commission (FWC), and others about plans to repower the Canaveral and Riviera Beach power plants and company concerns regarding manatees known to use these sites.

Repowering efforts will involve closing the plants for extended periods of time during demolition and construction activities, a process that will ultimately extend the plant's operational lifespan, as well as the associated warm water discharges. The shutdowns will include temporarily eliminating the warm water discharges from each site during the winter when they are typically used by hundreds of manatees.

At present, there are no authorizations in place under either the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 for the incidental take of manatees and their critical habitat. Wintering habitat is the most important biological factor limiting manatee populations and is integral to the recovery of the species. Therefore, it is critical that you minimize impacts and take steps to avoid the loss of any manatees during your transition process, as well as insure that there is no loss of manatee wintering habitat in both the near and long term.

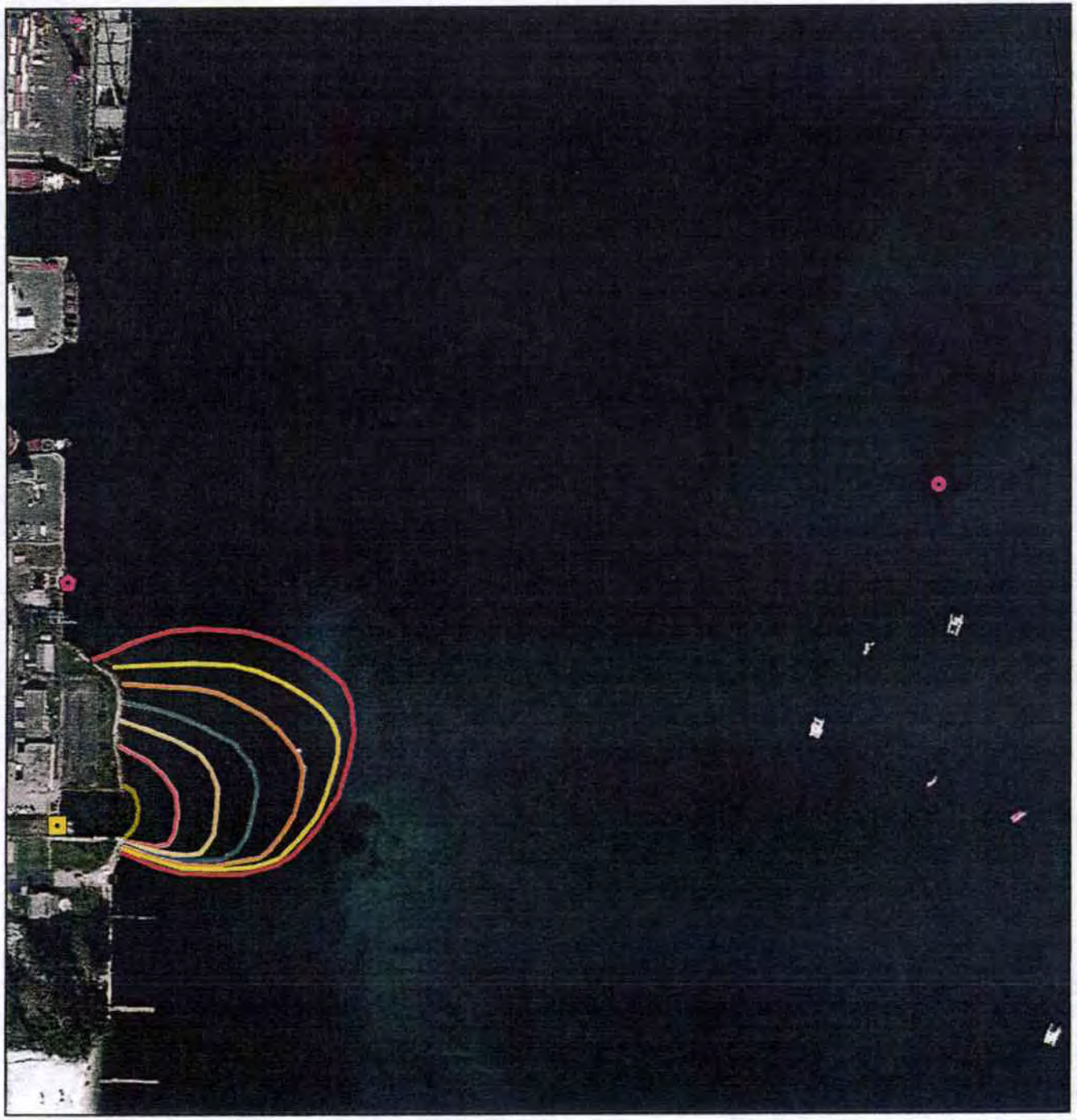
For planning purposes, we recommend that your plan designs include identifying baseline information about the extent of warm water habitat currently used by manatees at both plants. This could include measuring the areas of warm water habitat, discharge temperatures, discharge volumes, and other parameters. The same or similar quantities of habitat will need to be provided at or in close enough proximity to these sites, such that manatees are able to find and use it with minimal disruption. In addition, any locations should include protections from human disturbance, similar to those which are currently in place. Finally, contingency plans currently under development by FWC, the Service, FP&L and others, should be completed and operational during the transition in the event that manatees do not respond as expected.

FP&L is a valued partner in the conservation and recovery of the manatee and we are confident that you will make every effort to provide for manatees as you move ahead. We look forward to working with you on this important issue, and would appreciate an opportunity to meet with you to discuss this further. Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,

Dave Hankla
Field Supervisor

CC: Sam Hamilton, Regional Director, Atlanta, Georgia
Ken Haddad, Director, Florida Fish and Wildlife Conservation Commission, Tallahassee, Fl



LEGEND

Enclosed Temperature (degree F)

- 58
- 60
- 62
- 64
- 66
- 68
- 70
- Discharge
- Intake
- Point of Discharge – Offshore

NOTES

REFERENCE

1. Imagery, National Image Mosaics, WMS Service.
http://wo.usgs.gov/cgi-bin/mosms.exe?

0 150 300 600 Feet

SCALE AS SHOWN

PROJECT

FPL
RIVIERA POWER PLANT

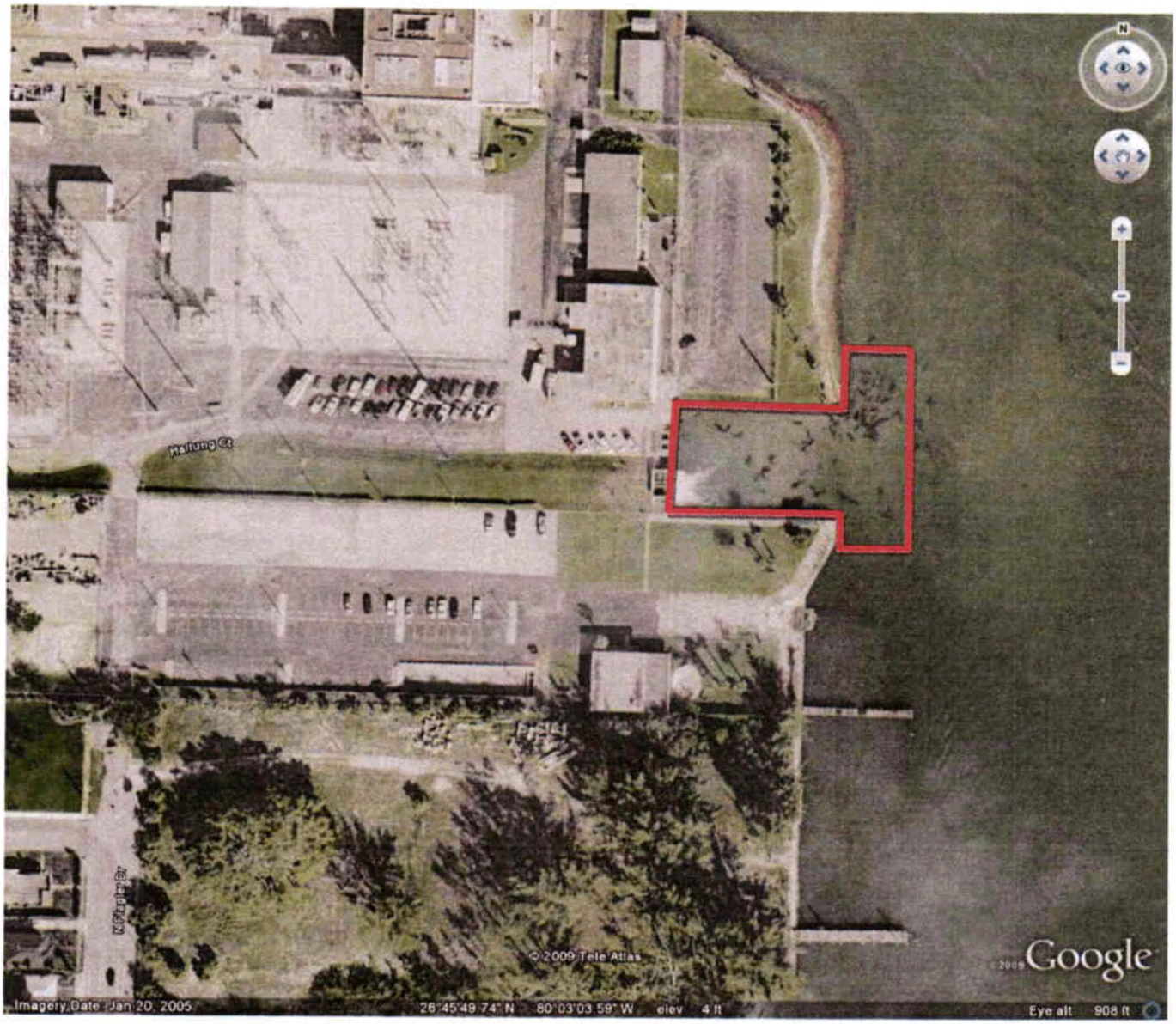
TITLE

Predicted Surface Isotherms for the Manatee Thermal Refuge

PROJECT No. 063-4763			Rev no.	REV 1
DESIGN	KK	12/19/2008		
GIS	KK	12/19/2008		
CHECK				
REVIEW				

FPL

FIGURE 10.9-13


Mallard Ct
Harper Dr
© 2009 Tele Atlas
Imagery Date: Jan 20, 2005
26°45'49.74" N 80°03'03.59" W elev 4 ft
Eye alt 908 ft
Google

Appendix II-6
Treasure Coast Regional Planning Council Agency Report

TREASURE COAST REGIONAL PLANNING COUNCIL

Final Agency Report
on the
Florida Power & Light Company
Riviera Beach Energy Center

July 17, 2009

Introduction

Pursuant to the Florida Electrical Power Plant Siting Act (Sections 403.501 – 403.539, Florida Statutes) Florida Power & Light Company (FPL) has submitted to the Florida Department of Environmental Protection (FDEP) a Site Certification Application for the Riviera Beach Energy Center (RBEC). The proposal is to convert the existing Riviera Plant in Palm Beach County to a modern facility. As the coordinating agency, FDEP has requested that Council review the application and submit a report to FDEP. Council's report is due by August 26, 2009.

Council's report is to contain recommendations that address the impact upon the public of the proposed electrical power plant, based on the degree to which the power plant is consistent with the applicable provisions of the Strategic Regional Policy Plan adopted pursuant to Chapter 186, Florida Statutes and other matters within its jurisdiction.

Summary of the Project

The existing FPL Riviera Plant is located primarily within the City of Riviera Beach with a small portion in the City of West Palm Beach. The existing site consists of approximately 46 acres. The main part of the facility is situated on about 39 acres bound by U.S. Highway 1 to the west, the Port of Palm Beach to the north, Lake Worth Lagoon to the east, and residential development to the south. An additional 7 acres of the site occupied by transmission lines is located to the west of U.S Highway 1.

FPL has operated a power plant at this site since 1946. Units 1 and 2 went into service in 1946 and 1953, respectively. Both units were dismantled, removed from the site, and replaced by Units 3 and 4, which went into service in 1962 and 1963, respectively. Each unit is approximately a 300 MW unit with conventional dual-fired steam boilers and steam turbine units. The primary fuel type is heavy oil and the backup fuel type is natural gas. Currently, oil is delivered by barge through the Port of Palm Beach and natural gas is delivered through a lateral from the Florida Gas Transmission Company pipeline, which runs north-south through the region near the Florida Turnpike.

Water from Lake Worth Lagoon is used for once-through cooling water. Water for cooling is withdrawn from a slip in the Port of Palm Beach via a 125-foot submerged culvert. After the cooling water is heated, it flows through two 90-inch buried pipes extending 1,941 feet to a discharge point at a depth of 16.58 feet below mean sea level in the middle of Lake Worth Lagoon. A portion of the heated cooling water is discharged

via a siphon at an embayment near the shoreline to provide a warm water refuge for manatees.

The RBEC project consists of converting the existing Riviera Plant into a 1,250 MW combined cycle power plant. The combined cycle unit will consist of three advanced combustion turbines and three heat recovery steam generators, which will utilize waste heat from the combustion turbines to produce steam to be utilized in a single steam turbine generator. The converted plant will be located in the existing site boundaries east of U.S. Highway 1. The portion of the site west of U.S. Highway 1 will be used for construction parking and a laydown area for construction equipment and materials. A new manatee viewing center open to the public will be constructed in the southeast corner of the project site, adjacent to the manatee embayment area. The number of employees at the converted plant will be similar to the existing plant. The new RBEC is expected to begin operation in 2014.

The combustion turbines will use natural gas as the primary fuel with ultra low-sulfur distillate light oil used as a backup fuel. FPL is proposing to deliver natural gas to the site via a natural gas pipeline. FPL has filed a proposal with the Florida Public Service Commission for the construction of a new underground natural gas pipeline, the Florida Energy Secure Line, which would include a lateral pipeline to the RBEC. The Florida Energy Secure Line will require separate review and certification by the state. Onsite storage of natural gas is not proposed on the RBEC site. Ultra low-sulfur light oil will be delivered to the site by truck or existing pipeline and stored in a new fuel oil tank with integral secondary containment. The existing tanks will be permanently retired and removed along with the existing equipment according to applicable regulations.

Primary water uses at RBEC will be for cooling water and process water. Cooling water is required for condenser cooling and auxiliary equipment cooling. Condenser cooling for the steam cycle portion of the converted plant will be accomplished using the existing once-through cooling water system intake and discharge structures. Process water is required for combustion turbine inlet air cooling, nitrogen oxides injection water, steam cycle makeup, service water, and fire protection. Minor uses will include intake screen wash water, potable water for employee use, and water for landscape irrigation.

The stormwater management system for the converted plant will be designed to handle a 25-year 72-hour storm event. Storm water runoff that comes in contact with the power block and equipment areas will be treated through an oil/water separator and routed to the onsite stormwater detention ponds. Stormwater from outside the power block will also be collected and routed to the stormwater ponds. The storm water management system is designed to meet all federal, state, regional, and local requirements. All areas used for construction will meet stormwater management requirements through Best Management Practices, which are described in the RBEC Site Certification Application.

The RBEC will connect to the FPL transmission network through the existing switchyards, which will be expanded and relocated on the site. No new transmission lines are required to connect the RBEC to the existing transmission network. However, the application indicates that FPL will upgrade the existing transmission line between RBEC and the FPL Ranch Substation within the existing FPL transmission right-of-way and will

install a new 230 kV transmission line between the Ranch and Cedar Substations within an existing FPL transmission right-of-way. FPL will modify transmission line routing within the existing right-of-way adjacent to the Ranch Substation and will upgrade the existing Ranch and Cedar substations within the fence lines to accommodate the additional generation from RBEC. In addition, FPL will install new distribution lines from existing rights-of-way to provide temporary electric service to RBEC during construction. Any individual permits or approvals required for these activities will be obtained separately from the Power Plant Siting Act certification process.

Evaluation

The RBEC will be constructed within the existing site boundaries of the current Riviera Plant. The proposed project will more than double the generating capacity (1,250 MW versus 600 MW) of the existing Riviera Plant. The project will convert the existing 1960s vintage oil-fired facility to an advanced, natural gas-fired combined cycle plant that minimizes air pollutant emissions by using the most efficient pollution-preventing technology. The converted plant will use at least 33 percent less fuel than the existing plant to produce the same amount of electricity. The converted plant will reduce regulated air emissions by over 90 percent and will reduce the rate of carbon dioxide emissions at the facility by about 50 percent compared with the existing Riviera Plant. This will result in significant annual emissions reductions and air quality benefits. The converted plant will have a lower profile because the stacks will be about 150 feet high compared with the stacks at the existing plant, which are about 300 feet high. The converted plant will continue to use the existing Plant's once-through cooling water intake and discharge structures for condenser and auxiliary cooling. The design of the intake flow of cooling water for RBEC will be the same as for the existing plant. Conversion of the existing plant will not increase the potential thermal loading to Lake Worth Lagoon compared to the potential thermal loading from the existing plant. The number of traffic trips by employees to the new RBEC is expected to be approximately the same as the number of traffic trips to the existing Riviera Plant.

Council has recommended for many years that the existing Riviera Plant be upgraded because of issues related to soot and emissions from the facility. In its final agency report on the West County Energy Center (WCEC), Council urged FPL and the State of Florida to make modernization of the Riviera Plant a priority. Council recommended the review of the Site Certification Application for the Riviera Plant upgrade be expedited by the State and all parties involved in the review process. Furthermore, in the WCEC conditions of certification, Council included a special condition that recommended: Upon issuance of an affirmative determination of need by the Florida Public Service Commission for the Riviera Plant modernization project, the licensee shall take all prudent and commercially reasonable actions to convert the Riviera Power plant to natural-gas combined cycle generating technology by December 31, 2015. The Site Certification Application for the RBEC is consistent with the intent of this recommendation.

Council strongly supports upgrading older less efficient and more polluting facilities before developing new power plants. However, Council remains very concerned about FPL's increased reliance on natural gas and other fossil fuels for their electrical

generating units. An increase in the reliance of natural gas as a fuel source makes the region more vulnerable to supply interruptions than if a more balanced approach to fuel sources were adopted by FPL. Council continues to urge FPL and the State of Florida to continue developing new programs to: 1) reduce the reliance on fossil fuels as future energy sources; 2) increase conservation activities to offset the need to construct new power plants; and 3) increase the reliance on renewable energy sources to produce electricity.

As part of this review, Council solicited comments from affected jurisdictions, including Palm Beach County, City of Riviera Beach, City of West Palm Beach, Town of Lake Park, Town of Mangonia Park, Town of Palm Beach, and Town of Palm Beach Shores. As of the date of this report, Council only received comments from the Town of Palm Beach (Exhibit 1). The Town is primarily concerned with potential impacts associated with the transport of fuel to the new power plant. Specifically, the Town would like to:

1. Prohibit the RBEC from receiving fuels from any water-based or subaqueous pipeline within the waters of, upon or below the seabed or beds of the Atlantic Ocean, the Palm Beach Inlet, and Lake Worth Lagoon to eliminate the possibility of significant environmental damage within the areas in question;

2. Prohibit the RBEC from receiving fuels from any offshore based terminal within the waters of the Atlantic Ocean, Palm Beach Inlet, and Lake Worth Lagoon for safety reasons and to eliminate the possibility of significant environmental damage within the areas in question from such terminal and associated pipeline; and

3. Prohibit the RBEC from receiving fuels from a liquefied natural gas tanker berthed at the Port of Palm Beach or at the RBEC facility to avoid having to deal with safety concerns with such vessels.

The Town of Palm Beach raises legitimate concerns with possible fuel deliver scenarios. However, none of the scenarios discussed by the Town are proposed by FPL in the RBEC Site Certification Application. These fuel delivery scenarios are not part of the proposed project. The potential impacts of these scenarios should be evaluated through the certification or permitting process if and when they are ever proposed. Council encourages FPL to meet with the Town of Palm Beach to clarify and discuss all fuel delivery options currently being considered for the RBEC. In addition, Council encourages FPL to work with the City of Riviera Beach and nearby communities to develop a plan to create and maintain beautified landscape buffers along the transmission line corridors connecting to the RBEC. Finally, Council encourages FPL to make a special effort to train and hire local residents for work on the project.

Conclusion

The RBEC Project is not in conflict or inconsistent with the goals, strategies, and policies contained in the Strategic Regional Policy Plan, provided that the project is constructed and operated in compliance with the conditions of certification approved by the State of Florida. Council recommends approval of the project.

EXHIBIT 1

TOWN OF PALM BEACH

Office of the Town Manager

June 26, 2009

RECEIVED
JUN 29 2009
TREASURE COAST
REGIONAL PLANNING COUNCIL

Ms. Cindy Mulkey
Engineering Specialist
Department of Environmental Protection
Siting Coordination Office
Mail Station 48
3900 Commonwealth Blvd.
Tallahassee, FL 32399

Re: FPL Riviera Beach Energy Center (RBEC); Town of Palm Beach Preliminary Statement of Issues

Dear Ms. Mulkey:

I am writing this letter containing a Preliminary Statement of Issues on behalf of the Town of Palm Beach as the Town's designated staff member to monitor the proposed RBEC. For the record, this letter is being sent to you pursuant to the requirements of Chapter 62-17.093, Florida Administrative Code.

The Town of Palm Beach, hereinafter referred as the "Town," disputes that there will be "significant" benefits associated with the RBEC Project without certain precautions being taken with the proposal in conjunction with the approval process. The Town does not dispute that there could be a substantial increase in electrical generating capacity from the RBEC, but questions the efficacy of FPL's position that there will be less environmental impact absent a Florida Department of Environmental Protection (FDEP) requirement for FPL to limit the transmission of the primary fuel(s) needed to operate the RBEC to land based transmission lines. While RBEC regulated air emissions may be reduced if RBEC runs primarily on natural gas, FPL has not accounted for the environmental impact that will occur if the fuel transmission mechanism FPL employs to transport the natural gas or light oil needed as fuel for the RBEC is on, within, or below the waters of the Atlantic Ocean, the Palm Beach Inlet or the Lake Worth Lagoon.

The Town's preliminary issues with the proposed RBEC are as follows:

1. The FPL proposed RBEC should be precluded from receiving its required fuels from any water based or subaqueous pipeline within the waters of, upon or below the seabed or beds of the Atlantic Ocean, the Palm Beach Inlet and the Lake Worth Lagoon to eliminate the possibility of significant environmental damage within the areas in question.

Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480
Telephone (561) 838-5410 • Facsimile (561) 838-5411
E-mail: townmanager@townofpalmbeach.com • Website: www.townofpalmbeach.com

RECYCLED PAPER

2. The FPL proposed RBEC should be precluded from receiving any fuel from any offshore based terminal within the waters of the Atlantic Ocean, the Palm Beach Inlet and the Lake Worth Lagoon for safety reasons and to eliminate the possibility of significant environmental damage within the areas in question from such terminal and associated pipeline.

3. The FPL proposed RBEC should be precluded from receiving any fuel from a Liquefied Natural Gas (LNG) tanker berthed at the Port of Palm Beach or at the RBEC facility to avoid having to deal with the many safety concerns with such vessels as they are easy targets for terrorist activities.

FPL is a subsidiary of FPL Group, Inc. In December 2004, another subsidiary of FPL Group announced that they had agreed with subsidiaries of the El Paso Corporation to combine development efforts and resources to bring a new supply of natural gas to South Florida. This combined effort by FPL Group was for a proposed pipeline to transport natural gas from a LNG terminal located on Grand Bahama Island in the Bahamas to the Florida mainland. The project ultimately became known as the Seafarer Pipeline System. This 162 mile, 26" pipeline would have traversed through international and U.S. waters. It was proposed to come on shore in Florida near the Port of Palm Beach and then travel 41 miles on shore with two delivery points; one a power plant and the other an existing gas transmission system known as the Florida Gas Transmission Pipeline.

The Seafarer Pipeline System would have had the capability of delivering 1.1 billion cubic feet a day of natural gas. The Seafarer Pipeline would have traversed over and/or under the off-shore reef system seaward of Palm Beach and the Palm Beach Inlet, potentially disrupting the operation of the Palm Beach Inlet Sand Transfer Plant, the fragile beds of the Atlantic Ocean, the Palm Beach Inlet, the Lake Worth Lagoon and, potentially, the usage, appearance and safety associated with the Peanut Island recreational area. Thereafter, the Seafarer Pipeline would have made landfall on FPL property just south of the Port of Palm Beach where the existing Riviera Beach Power Plant stands today and where the RBEC is proposed. The Town of Palm Beach, Palm Beach Shores and Palm Beach County strongly objected to the location of the Seafarer Pipeline through the Palm Beach Inlet. Environmental agencies had enumerable issues with the proposal and its impact on the fragile environment of the areas previously mentioned. Fortunately, in the latter part of 2006, El Paso Corporation cancelled the Seafarer Pipeline Project, which it had proposed in association with the FPL Group, without explanation.

Now comes FPL proposing to build a $1.5 billion, 300 mile underground natural gas pipeline called the Florida Energy Secure Line that will connect a new interstate pipeline in Bradford County in North Florida to FPL's Indiantown plant. Two other lines will connect the new pipeline with plants FPL is modernizing in Riviera Beach (RBEC Project) and Cape Canaveral. Two-thirds of the pipeline capacity would be used to bring natural gas to the plants. [1] In spite of

[1] Florida Trend, June 2009.

this recent announcement, FPL provides no nexus between its newly announced land based pipeline project and the RBEC in its Site Certification Application.

With this recent announcement by FPL to transport natural gas a more traditional way by utilizing land-based pipelines, it should not be a problem for FPL or its parent, FPL Group, to commit in an irrevocable form, as determined by legal counsel for FDEP, that neither FPL, FPL Group, or any of FPL Group's subsidiaries will support, promote or utilize a subaqueous natural gas pipeline of any kind to provide natural gas or other fuels to fuel RBEC. Palm Beach noted with concern that FPL did not specify in its response to a Florida Fish and Wildlife question about fuel sources and how fuel will be delivered to the proposed new facility that the pipeline would be land based, thereby leaving open the possibility for the pipeline to be subaqueous emanating from the water bodies due east of the RBEC. Palm Beach requests that FDEP impose upon FPL a land based pipeline delivery of natural gas for the RBEC to ensure that not only the reductions in carbon dioxide emissions that FPL promises will be realized, but to eliminate the potential for water pollution and severe environmental damage off shore, on, or below, the sea bed of the Atlantic Ocean, the bed of the Palm Beach Inlet, the bed of the Lake Worth Lagoon and the environs of the Peanut Island recreational area. Additionally, enumerable safety concerns caused by the potential for placing a volatile pipeline in a shipping channel in a predominately residential environment should be prohibited to the extent that any such pipeline is related to the RBEC.

There is also the possibility that operators of the RBEC will someday seek to utilize an off-shore terminal to download and transmit fuels to the RBEC. This option would also require use of the waters and/or beds of the Atlantic Ocean, the Palm Beach Inlet, or the Lake Worth Lagoon. This possibility should not be allowed and its prohibition ensured by making such a prohibition a condition of RBEC approval.

Lastly, there are far too many safety issues and security concerns associated with LNG tankers. To avoid these risks to the predominately residential land uses in this region it should be a condition of approval of the RBEC that the berthing of any LNG tanker at the Port of Palm Beach or at the RBEC facility to fuel the RBEC shall not be allowed. The Town noted with concern that the FPL RBEC application referenced FPL's intention to renew its Easement and Facilities Agreement with the Port of Palm Beach to use Port property to accommodate FPL underground pipelines to berth slips and to maintain FPL berthing rights at the Port of Palm Beach.[2]

Based upon the forgoing identified preliminary issues, the Town respectfully requests:

1. The Governor and Cabinet sitting as the Siting Board or the Secretary of the FDEP need to prohibit the FPL proposed RBEC from receiving its required fuels from any water based or subaqueous pipeline within the waters of, upon or below the seabed or beds of

[2] See the FPL Site Certification Application, Volume I of III, February 2009, Section 3.2.4.

the Atlantic Ocean, the Palm Beach Inlet and the Lake Worth Lagoon to eliminate the possibility of significant environmental damage within the areas in question.

2. The Governor and Cabinet sitting as the Siting Board or the Secretary of the FDEP need to prohibit the FPL proposed RBEC from receiving any fuel from any offshore based terminal within the waters of the Atlantic Ocean, the Palm Beach Inlet and the Lake Worth Lagoon for safety reasons and to eliminate the possibility of significant environmental damage within the areas in question from such terminal and associated pipeline.

3. The Governor and Cabinet sitting as the Siting Board or the Secretary of the FDEP need to prohibit the FPL proposed RBEC from receiving any fuel from a Liquefied Natural Gas (LNG) tanker berthed at the Port of Palm Beach or at the RBEC facility to avoid having to deal with the many safety concerns with such vessels as they are easy targets for terrorist activities.

The preliminary issues raised herein relate to the submerged lands of Florida and the waters of this state, both of which are the purview of FDEP. FDEP's concurrence with the concerns expressed herein and your efforts to impose the same on FPL are greatly appreciated.

Sincerely,

Thomas G. Bradford
Deputy Town Manager

TGB/ab
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cc: Mayor and Town Council
Peter B. Elwell, Town Manager
Sarah E. Hannah, Assistant Town Manager
John C. Randolph, Town Attorney
John S. Page, Director of Planning, Zoning and Building
John Lindgren, Planning Administrator
Robert Weisman, County Administrator, Palm Beach County
Robert Banks, County Attorney, Palm Beach County
Ed Mitchell, City Administrator, City of West Palm Beach
Claudia McKenna, City Attorney, City of West Palm Beach
Suzanne Payson, Asst. City Attorney, City of West Palm Beach
Sheila James, Paralegal, City of West Palm Beach
Cynthia Lindskoog, Town Administrator, Town of Palm Beach Shores
Maria V. Davis, Town Manager, Town of Lake Park
Gloria Shuttlesworth, Interim City Manager, City of Riviera Beach

Pamela H. Ryan, City Attorney, City of Riviera Beach
Lee Leffingwell, Town Manager, Town of Mangonia Park
Roger Saberson, Esq., Treasure Coast Regional Planning Council
Michael J. Busha, Executive Director, Treasure Coast Regional Planning Council
Peter G. Merritt, Regional Ecologist, Treasure Coast Regional Planning Council
Barbara Linkiewicz, Director of Environmental Licensing, Florida Power & Light
Jennifer Brubaker, Asst. Gen. Counsel, Florida Public Service Commission
Matthew G. Davis, Asst. Gen. Counsel, Dept. of Community Affairs
Emily North, Asst. Gen. Counsel, Fish & Wildlife Conservation Commission
Kimberly Menchion, Asst. Gen. Counsel, Dept. of Transportation
Ruth Holmes, Asst. Gen. Counsel, South Florida Water Management District

Appendix II-7
Department of Transportation Agency Report

Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

STEPHANIE C. KOPELOUSOS
SECRETARY

Mail Station 58
850/414-5265

August 26, 2009

Mr. Mike Halpin, Program Administrator
Florida Energy and Siting Coordination Office
Department of Environmental Protection
2600 Blair Stone Road, MS 48
Tallahassee, Florida 32399-2400

RE: Florida Power and Light Riviera Beach Energy Center
Power Plant Siting Application No. PA09-54
DOAH Case No.: 09-1003EPP
DEP Case No.: 09-0262

Dear Mr. Halpin:

Enclosed is the Florida Department of Transportation's Agency Report for the Florida Power and Light Riviera Beach Energy Center Power Plant Siting Application.

If you have any questions, please call me at 414-5294 or Connie Mitchell, Siting Coordinator, at 414-4572. Thank you.

Sincerely,

Kimberly C. Menchion
Assistant General Counsel

KCM/cm

cc: All Parties of Record
Connie Mitchell

FLORIDA DEPARTMENT OF TRANSPORTATION
RIVIERA BEACH ENERGY CENTER
AUGUST 2009

SECTION I. CORRIDOR LOCATION ISSUES

No outstanding issues.

SECTION II. OUTSTANDING SUFFICIENCY ISSUES

No outstanding issues.

SECTION III. VARIANCES TO STANDARDS

No variances requested.

SECTION IV. SPECIAL USE PERMISSIONS

No special use permissions requested.

SECTION V. RECOMMENDATION FOR CERTIFICATION

The Florida Department of Transportation recommends the certification of the proposed energy center. This recommendation is made contingent upon the conditions of Section VI being addressed/met.

SECTION VI. LEGAL AND ADMINISTRATIVE CONDITIONS

POST CERTIFICATION COMPLIANCE REVIEW

Pursuant to Rule 62-17.191, F.A.C, the licensee shall submit to FDOT site specific technical data for the purpose of the FDOT determining the Licensee's compliance with the Conditions of Certification and the non-procedural criteria contained in Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, Florida Administrative Code, Chapter 316, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code, Rule

Chapter 14-86, Drainage Connections, Florida Administrative Code, and conditions of certification, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder.

SECTION VII. PROPOSED CONDITIONS OF CERTIFICATION

7.1 REQUEST FOR RESTRICTED AREAS

No requests for restricted areas are necessary.

7.2 POST CERTIFICATION REVIEW ITEMS

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

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

Use of State of Florida Right of Way or Transportation Facilities: All usage and crossing of State of Florida right of way or transportation facilities will be subject to Rule Chapter 14-46, Utilities Installation or Adjustment, Florida Administrative Code; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual. U.S. 1 has been identified as a Florida Intrastate Highway System (FIHS) facility. The Department requests any information for the plant site plan specifically within Dixie Highway and U.S. 1 limits be coordinated with the Department's District Four office. If Florida Power and Light is specifically requesting to use the vacant right of way between Broadway and Greenwood Avenue adjacent to 59th Street, this parcel of land is designated as one of the Department's storage hurricane disposal sites for Palm Beach County. A general use and temporary access permit may be required if the site is utilized. The placement of the transmission line and pipeline should take into consideration the planned widening of these facilities. The cost of relocating or reconstructing the transmission line and pipeline will be borne by the applicant to the extent required by Section 337.403, Florida Statutes, and Rule Chapter 14-46, Florida Administrative Code.

Standards: The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Utility Accommodation Manual;

and pertinent sections of the Department of Transportation's Project Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

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

Use of Air Space: Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, Airspace Protection, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects Affecting Navigable Airspace, Subpart B, Notice of Construction or Alteration. Notification will be provided to FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or Alteration in accordance with instructions therein. A subsequent Determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C for any structure that is located within a 10-nautical-mile radius of the geographical center of a public-use airport or military airfield in Florida will be required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the site of the proposed structure. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for marking and/or lighting of the proposed structure are made mandatory by Florida law. For a site under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

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

SECTION VIII BEST MANAGEMENT PRACTICES

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

It is recommended that the applicant encourage transportation demand management techniques by doing the following:

- Placing a bulletin board on site for car pooling advertisements.

- Requiring that heavy construction vehicles remain onsite for the duration of construction to the extent practicable.

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

If the applicant uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the applicant should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

Appendix II-8
Port of Palm Beach Agency Report

BOARD OF COMMISSIONERS
BLAIR J. CIKLIN
JEAN L. ENRIGHT
GEORGE E. MASTICS
EDWARD R. OPPEL
WAYNE M. RICHARDS

EXECUTIVE DIRECTOR
MANUEL ALMIRA

AMENDED
Port of Palm Beach Agency Report
Riviera Beach Next Generation Clean Energy Center
Site Certification Application
September 1, 2009

Recommendation for Certification

Pursuant to State-Granted Charter (Chapter 7081, Law of Florida, 1915 and the various special acts that are supplementary and amendatory thereto), the Port of Palm Beach District ("Port") has jurisdiction to enact, adopt and establish rules and regulation for the complete and exclusive exercise of jurisdiction and control over all of the waters and harbors within the port district. (Article VIII, Section 6, et al.) The Riviera Beach Next Generation Clean Energy Center (RBEC) is within the Port District. Pursuant to Florida Statutes 403.526(1) the Port conducted a review of the Riviera Beach Next Generation Clean Energy Center (RBEC) Site Certification Application. The Port recommends approval of the RBEC Site Certification Application and certification of the project, **SUBJECT TO THE CONDITIONS OF CERTIFICATION LISTED BELOW CONCERNING CERTAIN ITEMS FOUND IN RBEC SCA SECTION 3.2.4., LEASES, EASEMENTS, TITLE, AGENCY WORKS.**

Conditions of Certification

I. PIPELINE EASEMENT:

At 3.2.4 FPL of the SCA (Excerpt Exhibit A), references an agreement with the Port regarding a fuel-line easement. At 3.2.4 FPL states "In this SCA, FPL seeks to make the terms of the Agreement perpetual". However, as of August 28, 2009 (Exhibit B), FPL only wishes to extend the pipeline easement through 2013. Dependent upon commercial terms satisfactory to the Port and agreed to at least ten (10) days prior to the Certification Hearing, the Port will agree to provide certain use rights in the form of a license or easement, commencing December 12, 2013. As FPL represents that the pipeline easement is required for the RBEC, the plant should not be certified without an agreement for a pipeline. Port believes that the pipeline may be primarily for other plants (Martin County) and not the RBEC, and may be attempting to bootstrap its Martin Plant needs through the RBEC Site Certification process.

Port proposes that before use of the pipeline is made after December 11, 2013, DEP should require FPL to excavate the pipeline, originally built in 1978, and test for adverse environmental conditions.

II. INTAKE EASEMENT:

At 3.2.4 of the SCA (Excerpt Exhibit A), FPL references an Intake Easement and represents that it is a "perpetual easement". The Port takes a contrary position. The easement does not have an express term, making its termination date a matter of legal interpretation. Dependent upon commercial terms satisfactory to the Port and agreed to at least ten (10) days prior to the Certification Hearing, the Port will agree to provide certain use rights in the form of a license or easement, commencing January 1, 2013. The plant should not be certified without an agreement for Intake rights, or a plan to relocate the Intake to another location off of Port property. Having the Intake on Port property is a convenience for FPL, not a necessity and International Commerce through the Port should not be burdened with establishing and maintaining vessel traffic restrictions to avoid interference with the Intake structure.

FPL's Once-Through Cooling System currently and is planned to exhaust into Lake Worth Lagoon, and draws water from Slip 3 at the Port of Palm Beach District. Since vessels operate at the Port of Palm Beach, and specifically in Slip 3, and vessel traffic has been and is expected to increase, plans for the Intake structure shall incorporate protection to prevent turbidity from entering the Intake and being exhausted into the Lake Worth Lagoon, particularly as FPL has indicated a desire to enlarge the Intake.

Wherever the Intake is located, the public and vessel operators crew and maintenance personnel should be warned of the dangers of being entrapped, drawn into, injured or killed.

III. DISMANTLEMENT:

FPL shall meet with the Port Director or the Deputy Port Director to review the proposed demolition plan in advance of finalizing the details of the dismantlement plan. FPL shall provide reasonable notice to the Port in advance of the scheduled dismantlement, so that Port ship traffic, other Port operations and Port construction can be scheduled so as to minimize interference.

1. Dismantlement: FPL shall meet with the Port Director or the Deputy Port Director to review the proposed dismantlement plan in advance of finalizing the details of the dismantlement plan. FPL shall provide reasonable notice to the Port in advance of the scheduled dismantlement.
2. Steam Blows: FPL shall review proposed steam cleaning techniques with the Port to demonstrate that the planned techniques will have limited impact on Port operations. FPL shall give the Port reasonable advance notice of the start of steam blows.
3. FPL shall be liable for all damage to property, real and personal, of the Port and Port's tenants that are a result of dismantlement and construction of the RBEC. FPL shall pay for the cost of installing equipment at four locations at the Port (and such other locations as FPL shall desire, without interfering with Port operations), as designated by the Port, to monitor vibration levels during dismantlement. The Port will be an additional named insured on all policies of FPL's principal dismantlement contractors and/or their subcontractors, including business interruption insurance.

4. Roads: Within 90 days following final completion of the RBEC, any damage caused solely by FPL or its contractors to the Loop Road shall be repaired. FPL or its contractors shall have the right to conduct an assessment of the physical conditions of the Loop Road before and after dismantlement. Use of the Loop Road will be coordinated in advance with the Port, with maintenance of traffic flow to be paid by FPL, such that interruptions to Port operations are minimized.
5. Port property shall not be used as a staging area for materials or equipment, nor shall any other use of Port property be made without compensation acceptable to the Port.
6. FPL will provide surveys of as-built easements, certified to the Port, within six months of commercial operation of the RBEC.

Port incorporates all objections and recommended Conditions to Certification of the Agency Reports of the following, to the extent that the concerns thereof are within the jurisdiction of the Port:

THE CITY OF RIVIERA BEACH

FDOT

FISH and WILDLIFE COMMISSION

TREASURE COAST REGIONAL PLANNING COUNSEL

THE CITY OF WEST PALM BEACH

Signed:

Port of Palm Beach District:

BY: Manuel Almira

Manuel Almira
Executive Director