

**STATE OF FLORIDA
DEPARTMENT
OF
ENVIRONMENTAL PROTECTION**



Draft Conditions of Certification

**Florida Power & Light Company
Lauderdale Repowering Project**

PA 86-26G

Modified XXX XX, 2012

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SECTION A: GENERAL CONDITIONS

SECTION A: GENERAL CONDITIONS

A. SCOPE [New]

A. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501-518, Florida Statutes (F.S.), and Chapter 62-17, Florida Administrative Code (F.A.C.), this certification is issued to Florida Power & Light Company (FPL) as owner/operator and Licensee of the Lauderdale Repowering Plant (LRP). Subject to the requirements contained in these Conditions of Certification (Conditions), FPL will operate two nominal 430 megawatt (MW) oil/natural gas-fired combine cycle units (Units 4 and 5) each consisting of two combustion turbines and associated heat recovery steam generators and one single-reheat turbine generator, and associated facilities as described in the site certification application (SCA). The electric generating units and associated facilities are located on a 392-acre site at 4300 SW 42nd Avenue in Ft. Lauderdale, Broward County, Florida. The UTM coordinates are: Zone 17,580.2 km East, 2883.3 km North; and the latitude/longitude coordinates are: 26°04'05" North/80°11'54" West. The Department does not intend, solely by the incorporation of these General Conditions, to require the retrofitting of existing certified facilities.

B. The Certified Facility includes but is not limited to the following major associated facilities;

- Water Treatment Plant, including Acid & Caustic Tanks, Reverse Osmosis equipment and Neutralization Tank, and the condensate and service water tanks
- Power block (Combustion Turbines 4a, 4b, 5a, 5b and associated building, but excluding existing steam units)
- Wastewater Treatment Plant including Equalization Basin, Oily Basin, Acid and Caustic Tanks and water treatment equipment including Oil-water Separator, Flocculation Tank, Monoscour Tanks
- Storm water runoff/retention pond on south side of the plant
- Construction lay down areas: west lay down area, east lay down areas
- East construction parking

C. These Conditions, unless specifically amended or modified, are binding upon the Licensee and shall apply to the construction, operation and maintenance of the certified facility. If a conflict should occur between the design criteria of this certified facility and the Conditions, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions, the more specific condition governs. [Partially Replaces Existing Condition XXIII. Effect of Certification]

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

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

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

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

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

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

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

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II. APPLICABLE DEPARTMENT RULES [Replaces Existing Condition I.B. Applicable Rules]

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

Florida Statutes:

- Chapter 120 (Administrative Procedure Act)
- Chapter 163 (Intergovernmental Programs)
- Chapter 252 (Emergency Management)
- Chapter 253 (State Lands)
- Chapter 258 (State Parks & Preserves)
- Chapter 267 (Historical Resources)
- Chapter 373 (Water Resources)
- Chapter 376 (Pollutant Discharge Prevention and Removal)
- Chapter 379 (Fish and Wildlife Conservation)
- Chapter 380 (Land & Water Management)
- Chapter 469 (Asbestos Abatement)
- Chapter 403 (Environmental Control)
- Chapter 487 (Pesticide Regulation and Safety)
- Chapter 556 (Underground Facility Damage Prevention and Safety)

Florida Administrative Codes:

- 18-2 (Management of Uplands Vested in the Board of Trustees)
- 18-14 (Administrative Fines for Damaging State Lands)
- 18-21 (Sovereign Submerged Lands Management)
- 62-4 (Permits)
- 62-17 (Electrical Power Plant Siting)
- 62-25 (Regulation of Stormwater Discharge)
- 62-40 (Water Resource Implementation Rule)
- 62-150 (Hazardous Substance Release Notification)
- 62-160 (Quality Assurance)
- 62-204 (Air Pollution Control-General Provisions)
- 62-210 (Stationary Sources-General Requirements)
- 62-212 (Stationary Sources-Preconstruction Review)
- 62-213 (Operation Permits for Major Sources of Air Pollution)
- 62-214 (Requirements for Sources Subject to the Federal Acid Rain Program)
- 62-256 (Open Burning)
- 62-296 (Stationary Sources-Emission Standards)
- 62-297 (Stationary Sources-Emission Monitoring)
- 62-301 (Surface Waters of the State)
- 62-302 (Surface Water Quality Standards)
- 62-304 (Total Maximum Daily Loads)
- 62-312 (Dredge and Fill Activities)
- 62-330 (Environmental Resource Permitting)

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62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)
62-341 (Noticed General Environmental Resource Permits)
62-343 (Environmental Resource Permit Procedures)
62-345 (Uniform Mitigation Assessment Method)
62-520 (Groundwater Classes, Standards and Exemptions)
62-528 (Underground Injection Control)
62-531 (Water Well Contractor Licensing Requirements)
62-532 (Water Well Permitting and Construction Requirements)
62-550 (Drinking Water Standards, Monitoring and Reporting)
62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems)
62-560 (Requirements for Public Water Systems That Are Out of Compliance)
62-600 (Domestic Wastewater Facilities)
62-601 (Domestic Wastewater Treatment Plant Monitoring)
62-604 (Collection Systems and Transmission Facilities)
62-610 (Reuse of Reclaimed Water and Land Application)
62-620 (Wastewater Facility and Activities Permitting)
62-621 (Generic Permits)
62-650 (Water Quality Based Effluent Limitations)
62-660 (Industrial Wastewater Facilities)
62-699 (Classification and Staffing of Water or Domestic Wastewater Treatment Plants and Water Distribution Systems)
62-701 (Solid Waste Management Facilities)
62-710 (Used Oil Management)
62-730 (Hazardous Waste)
62-737 (Management of Spent Mercury-Containing Lamps and Devices Destined For Recycling)
62-740 (Petroleum Contact Water)
62-761 (Underground Storage Tank Systems)
62-762 (Aboveground Storage Tank Systems)
62-769 (Florida Petroleum Liability and Restoration Insurance Program)
62-770 (Petroleum Contamination Site Clean-Up Criteria)
62-780 (Contaminated Site Clean-Up Criteria)
62-814 (Electric and Magnetic Fields)
64E-6 (Standards for Onsite Sewage Treatment and Disposal Systems)
40E-4 (Surface Water Management)
40E-40 (General Surface Water Management Permits)
40E-41 (Surface water Management Basin and Related Criteria)
Basis of Review for ERP Applications

III. REVISIONS TO DEPARTMENT STATUTES AND RULES [New]

A. The Licensee shall comply with rules adopted by the Department subsequent to the issuance of the certification under the PPSA which prescribe new or stricter criteria, to the extent that the rules are applicable to electrical power plants. Except when express variances, exceptions, exemptions, or other relief have been granted, subsequently adopted Department rules which prescribe new or stricter criteria shall operate as automatic modifications to the certification.

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

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

IV. DEFINITIONS [Replaces Existing Condition I.A. Definitions]

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

A. “Application” means the documents required by the Department to be filed to initiate a certification review and evaluation, including the initial document filing, amendments, and responses to requests from the Department for additional data and information. For purposes of this license, the site certification application shall also include materials submitted for post-certification amendments and petitions for modification to the Conditions of Certification, as well as supplemental applications.

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

C. “Certified Area” means the area within the site in which the certified facilities are located. For linear facilities this term shall mean the area encompassed by the boundaries of the certified easements and/or ROWs.

D. “Certified Facility” or “Certified Facilities” means the certified electrical power generation facilities and all on- or off-site associated structures including but not limited to: steam generating units, transformers, substations, fuel and water storage tanks, air and water pollution control equipment, storm water control ponds and facilities, cooling towers, and related structures. This term shall also mean linear and associated facilities, including but not limited to: transmission lines, natural gas pipelines, and compressor stations.

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

F. “DEM” shall mean the Florida Division of Emergency Management.

G. “DEP” or “Department” means the Florida Department of Environmental Protection.

H. “DHR” means the Florida Department of State, Division of Historical Resources.

I. “DOT” means the Florida Department of Transportation.

J. “Emergency conditions” or “Emergency reporting” means urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity.

K. “Feasible” or “Practical” means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.

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- L. “FWC” means the Florida Fish and Wildlife Conservation Commission.
- M. “ISO” shall mean International Organization for Standardization, ISO 3977-1978(E) standard conditions for gas turbines = 14.7 psia, 15°C, relative humidity 60 percent.
- N. “Licensee” means an applicant that has obtained a certification order for the subject project.
- O. “NPDES permit” means a federal National Pollutant Discharge Permit System permit issued by DEP in accordance with the federal Clean Water Act.
- P. “Port Everglades” means the FPL Port Everglades Plant in Broward County, Florida.
- Q. “PSD permit” means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.
- R. “ROW” means the right-of-way to be selected by the Licensee within the certified corridor in accordance with the Conditions of Certification and as defined in Section 403.503(27), F.S.
- S. “Site” means any proposed location within which will be located an electrical power plant's generating facility and onsite support facilities, or an alteration or addition of electrical generating facilities and onsite support facilities resulting in an increase in generating capacity, including offshore sites within state jurisdiction.
- T. “SFWMD” means the South Florida Water Management District.
- U. “Surface Water Management System” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms “surface water management system” or “system” include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.
- V. “Title V permit” means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.

V. DEPARTMENT PERMITS UNDER FEDERAL PROGRAMS

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

A. **Air** [Replaces Existing Condition II. Air]

All Air Construction Permits and Title V Air Operation Permits in force for the certified parts of facility ID 0110037 are incorporated by reference herein as part of these Conditions. The Air Construction and Title V Air Operation Permits can be found at this web link using the facility ID number listed above:

<http://appprod.dep.state.fl.us/air/emission/apds/default.asp>.

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

B. Water [Partially Replaces Existing Condition III. Surface Water Discharges; Condition V. Control Measures During Construction, Paragraph C. Construction Dewatering Effluent; and Condition XX. Review of Certification]

1. NPDES Industrial Wastewater Discharge

Licensee shall comply with all applicable provisions of NPDES Permit No. FL0001503 (attached as Appendix I) as well as any subsequent modifications, amendments and/or renewals.

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

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

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

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

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

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

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

Any storm water discharges associated with industrial activity on the site shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. For industrial activities at the site that result in a discharge of stormwater to surface waters of the State or into a municipal separate storm sewer system (MS4), and fall under any one of the 11 categories of industrial activities identified in 40 CFR 122.26(b)(14), a Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity (MSGP) shall be obtained as applicable.

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

4. NPDES Generic Permit for Discharge of Produced Ground Water from any Non-Contaminated Site Activity and from Petroleum Contaminated Sites.

Prior to discharge of produced ground water from any non-contaminated site activity which discharges by a point source to surface waters of the State, as defined in Chapter 62-620, F.A.C., the Licensee must first obtain coverage under the Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity. Similarly, if the activity involves a point source discharge of ground water from a petroleum contaminated site, the Licensee must obtain coverage under the Generic Permit for discharge from petroleum

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contaminated sites. Before discharge of ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed as required by Rule 62-621.300, F.A.C., to determine if the activity can be covered by either permit.

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

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

VI. DESIGN AND PERFORMANCE CRITERIA [Replaces Existing Condition XIX. Certified Site AND Partially Replaces Existing Condition XXIII. Effect of Certification]

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

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

VII. NOTIFICATION [Replaces Existing Condition XI. Noncompliance Notification AND Partially Replaces Existing Condition VIII. Toxic or Hazardous Materials]

A. If, for any reason, the Licensee does not comply with or will be unable to comply with any condition or limitation specified in this license, the Licensee shall immediately provide the appropriate DEP District Office with the following information:

1. A description of and cause of noncompliance; and
2. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The Licensee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this certification.

Notifications provided to the DEP District Office in writing, shall be additionally provided to the Siting Coordination Office (SCO) via email to SCO@dep.state.fl.us.

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

B. The Licensee shall promptly notify the appropriate District Office and SCO in writing (email acceptable) of any previously submitted information concerning the certified facility that is later discovered to be inaccurate.

[subsection 62-4.160(15), F.A.C.]

VIII. REPLACEMENT FOR RESTORATION OF SYSTEM INTEGRITY AND EMERGENCY CONDITIONS

The Department will use its enforcement discretion when evaluating violations that result from operating the certified facility under emergency conditions. During and after the

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emergency conditions, the Licensee must use due diligence to bring the facility back into compliance as soon as possible. In addition, the Licensee must use its best efforts and best management practices to minimize adverse environmental impacts. The Licensee shall notify the SCO and the appropriate DEP District Office when the emergency condition has ended. Furthermore, the Licensee must include all monitoring data, which would otherwise be required under normal operating circumstances, recorded during emergency conditions when submitting reports as required by these conditions. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought. **[New]**

Replacement of any portion of the Project constructed under this certification necessitated by emergency conditions shall not be considered a modification. A verbal report of any such emergency shall be made to DEP as soon as possible. Within 14 calendar days after correction of an emergency which would require the Licensee to perform an activity not in accordance with the conditions of certification, a report to the DEP shall be made outlining the details of the emergency and the steps taken for its temporary relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas, or alteration of archaeological or historical resources. **[Moved from Existing Condition XXI. Modification of Conditions, Paragraph C]**

[Sections 403.511, F.S.]

IX. CONSTRUCTION PRACTICES

A. Local Building Codes **[New]**

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

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

B. Open Burning **[New]**

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

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

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C. Vegetation [New]

For areas located in any Florida Department of Transportation (DOT) ROW, Chapter 7 of the Florida DOT *Utility Accommodation Manual* available on the DOT website (<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710020001/Chapter-7.pdf>) shall serve as guidelines for best management practices.

D. Existing Underground Utilities [New]

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

[Chapter 556, F.S.]

E. Electric and Magnetic Fields (EMF) [New]

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

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

F. Existing Wells [New]

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

[Rule 62-532.400 and subsection 62-532.500(5), F.A.C.]

G. Abandonment of Existing Septic Tanks [New]

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

[Chapter 64E-6, F.A.C.]

X. RIGHT OF ENTRY [Replaces Existing Condition XIV. Right of Entry]

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

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

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

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

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

XI. DISPUTE RESOLUTION [Replaces Existing Condition XXVIII. Dispute Resolution]

A. General

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

B. Modifications

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

C. Post-Certification Submittals

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

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

XII. SEVERABILITY [Replaces Existing Condition XVIII. Severability]

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

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XIII. ENFORCEMENT [Replaces Existing Condition XXV. Enforcement AND Partially Replaces Existing Condition X. Change in Discharge]

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

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

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

XIV. REVOCATION OR SUSPENSION [Replaces Existing Condition XV. Revocation or Suspension AND Partially Replaces Existing Condition XX. Review of Site Certification]

The certification shall be final unless revised, revoked or suspended pursuant to law. This certification may be suspended or revoked pursuant to Sections 403.512, F.S. This certification is valid only for the specific processes and operations identified in the SCA, approved in the final order of certification and indicated in the testimony and exhibits in support of certification, or approved in a subsequent amendment or modification of the certification. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the certified facility that are the cause of such action, and other portions of the certified facility shall remain unaffected by such action.

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

XV. REGULATORY COMPLIANCE [Partially Replaces Existing Conditions VI. Safety, Condition XVII. Property Rights, and Condition XXVII. Compliance]

As provided in Sections 403.087(7) and 403.722(5), F.S., the issuance of this certification does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This certification is not a waiver of or approval of any other Department license/permit that may be required for other aspects of the certified facility which are not addressed in this license. This certification does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of this certified facility, or from penalties therefore.

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

XVI. CIVIL AND CRIMINAL LIABILITY *[Replaces Existing Condition XVI. Civil and Criminal Liability]*

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

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

XVII. USE OF STATE LANDS *[Partially Replaces Existing Conditions XVII. Property Rights]*

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

B. If any portion of the certified facility is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the Licensee must comply with the applicable portions of Chapters 18-2, 18-20, and 18-21, F.A.C., and Chapters 253 and 258, F.S. If any portion of the certified facility is located on sovereign submerged lands, the Licensee must submit section G of the Joint Application for Environmental Resource Permits to the Department prior to construction. If any portion of the certified facility is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

C. If a portion of the certified facility is located on sovereign submerged lands or state-owned uplands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, then the proposed activity on such lands requires a proprietary authorization. Under such circumstances, the proposed activity is not exempt from the need to obtain a proprietary authorization. The Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Rules 18-2.018 or 18-21.0051, F.A.C.

D. The Licensee is hereby advised that Florida law states: “No person shall commence any excavation, construction, or other activity involving the use of sovereign or other state lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, F.S., until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

E. The terms, conditions, and provisions of any required lease or easement issued by the State shall be met. Any construction activity associated with the certified facility shall not commence on sovereign submerged lands or state owned uplands, title to which is held by the

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Board of Trustees of the Internal Improvement Trust Fund, until all required lease or easement documents have been executed.

[Chapters 253 and 258, and Section 403.511, F.S.; Chapter 3.1.1. of the B.O.R.; Chapters 18-2, 18-14, 18-21, 62-340, and subsections 62-343.900(1) and 62-4.160(4), F.A.C.; Upland Easement Application and Section G of the Environmental Resource Permit Application Form.]

XVIII. PROCEDURAL RIGHTS [New]

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

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

XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES [New]

Where a Condition requires post-certification submittals and/or notices to be sent to a specific agency, the following agency addresses shall be used unless the Conditions specify otherwise or unless the Licensee and the Department are notified in writing of an agency's change in address for such submittals and notices:

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

Florida Department of Environmental Protection
Southeast District Office
400 North Congress Ave., Ste. 200
West Palm Beach, FL 33401-2913

Florida Department of Economic Opportunity
Office of the Secretary
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

Florida Fish & Wildlife Conservation Commission
Office of Policy and Stakeholder Coordination
620 South Meridian Street
Tallahassee, FL 32399-1600

Florida Department of Transportation
District Administration
605 Suwannee Street
Tallahassee, FL 32399-0450

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Florida Department of Agriculture and Consumer Services
Division of Forestry
3125 Conner Boulevard
Tallahassee, FL 32399-1650

South Florida Water Management District
Office of General Counsel
3301 GunClub Road
West Palm Beach, FL 33406

Florida Department of State
Division of Historical Resources
500 S. Bronough Street
Tallahassee, FL 32399-0250

Broward County
Office of General Council
115 S. Andrews Ave.
Ft. Lauderdale, FL 33301

[Section 403.511, F.S.]

XX. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS [Replaces Existing Condition XXIX Post-Certification Submittals]

A. Purpose of Submittals

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

B. Filings

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

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

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C. Completeness

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

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

[subparagraph 62-17.191(1)(c) 2, F.A.C.]

D. Interagency Meetings

DEP may conduct an interagency meeting with other agencies that received a post-certification submittal. The purpose of such an interagency meeting shall be for the agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether compliance with these Conditions has been provided. Failure of DEP to conduct an interagency meeting or failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions nor to delay the timeframes for review established by these Conditions. At DEP's request, a field inspection shall be conducted with the Licensee and the agency representative in conjunction with the interagency meeting.

E. Determination of Compliance

DEP shall give written notification within 90 days, to the Licensee and the other agency/ies to which the post-certification information was submitted of DEP's determination of whether there is demonstration of compliance with these Conditions. If it is determined that compliance with the Conditions has not been provided, the Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall constitute a determination of compliance. A postcertification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

F. Commencement of Construction

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

G. Revisions to Design Previously Reviewed for Compliance

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

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

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XXI. POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY [New]

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

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

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

XXII. POST CERTIFICATION AMENDMENTS [New]

If, subsequent to certification, the Licensee proposes any material change to the SCA and revisions or amendments thereto, as certified, the Licensee shall submit a written request for amendment and a description of the proposed change to the SCA to the Department. Within 30 days after the receipt of a complete request for an amendment, the Department shall determine whether the proposed change to the application requires a modification to the Conditions.

A. If the Department concludes that the change would not require a modification to the Conditions, the Department shall provide written notification of the approval of the proposed amendment to the Licensee, all agencies, and all other parties to the certification.

B. If the Department concludes that the change would require a modification to the Conditions, the Department shall provide written notification to the Licensee that the proposed change to the SCA requires a request for modification pursuant to Sections 403.516, F.S.

[Section 403.5113, F.S.]

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XXIII. MODIFICATION OF CERTIFICATION [Replaces Existing Condition XXI. Modifications of Conditions AND Partially Replaces Existing Condition X. Change in Discharge]

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

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

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

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

E. Any anticipated facility change that results in a change to the Site Delineation or the Delineation of the Certified Area, attached hereto as part of Attachment A (Maps), must be accompanied by a map or aerial photo showing the proposed new boundaries of the site and/or certified area. Within 120 days after completion of construction of the approved facility change, the Licensee shall provide the information required by Section A. General Conditions, Condition I. Scope, paragraphs D, E, F, or G, as appropriate.

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

XXIV. INCORPORATION OF EXISTING STATE AND LOCAL PERMITS/LICENSES [Partially Replaces Existing Condition XXVII. Compliance]

The operation of the certified facility shall be in accordance with all applicable provisions of any state or local government regulation. All state and locally issued permits are intended to be incorporated herein, such that the Licensee shall comply with the substantive provisions and limitations set forth in those permits. The inadvertent omission of any state or locally issued permit/approval from these Conditions can be remedied by a modification of the Conditions to include provisions from the state or locally issued permit/approval.

At any time following certification, should the Licensee become aware of any state or locally issued permit/approval not included herein, the Licensee shall promptly notify the SCO for incorporation into these Conditions. Likewise, when the Department is made aware of any separately issued permits/approvals that were inadvertently not included in the Conditions, the Conditions will be modified to incorporate the substantive provisions and limitations of any such permit/approval.

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XXV. COASTAL ZONE CONSISTENCY [New]

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

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

XXVI. FINANCIAL RESPONSIBILITY [New]

The Department may require the Licensee to submit proof of financial responsibility and may require the Licensee to post an appropriate bond in those instances where the Department is authorized to require proof of financial responsibility or a bond pursuant to a law or Department rule that is applicable to the certified facility.

[Rule 62-4.110, F.A.C.]

XXVII. TRANSFER OF CERTIFICATION [New]

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

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

[Rule 62-17.211, F.A.C.]

XXVIII. LABORATORIES AND QUALITY ASSURANCE [New]

Chemical, physical, biological, microbiological and toxicological data collected as a requirement of these Conditions must be reliable, and collected and analyzed by scientifically sound procedures. Unless otherwise specified in these Conditions, the Licensee shall adhere to the minimum field and laboratory quality assurance, methodological and reporting requirements of the Department as set forth in Chapter 62-160, F.A.C. Standard Operating Procedures can be downloaded from the following website: <http://www.dep.state.fl.us/labs/qa/sops.htm>.

[Rule 62-160, F.A.C.]

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XXIX. ENVIRONMENTAL RESOURCES [New]

A. General

1. Submittals for Construction Activities

a. Prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the appropriate DEP District's Environmental Resource Permitting Section(s) for review, all information necessary for a complete *Joint Application for Environmental Resource Permit (ERP)*, DEP Form 62-343.900(1).

This form may: a) have been submitted concurrently with a SCA; b) be submitted as part of an amendment request or a petition for modification; or c) be submitted as a post-certification submittal following approval of a project through certification, modification or amendment. Such ERP submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapters 62-330, 62-341, and 62-343, F.A.C., as applicable unless otherwise stated in these Conditions.

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

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

b. Concurrent with submittal of the DEP form required in Subparagraph A.1.a. above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department approval. Available DEP-approved wetland and surface water delineations within the boundaries of a certified site or a portion thereof may be used and reproduced for this delineation submittal and verification.

[Chapter 62-340, F.A.C.]

[Section 373.416, F.S.; subsections 62-312, 62-343.070(2) and 62-346.070(2), paragraph 62-343.090(2)(b), and Form 62-343.900(1), F.A.C.]

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

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

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by Subparagraph A.1.a. above,

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including plans or other supporting documentation, shall not be considered binding on the Department unless a specific Condition of this Certification or a formal wetlands jurisdictional determination under Section 373.421(2), F.S., provides otherwise.

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

B. Surface Water Management

1. Information regarding surface water management systems (SWMS) will be reviewed for consistency with the applicable non-procedural requirements of Part IV of Chapter 373, F.A.C. following submittal of Form 62-343.900(1) to the appropriate office of the Department.

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

3. To allow for stabilization of all disturbed areas, immediately prior to construction, during construction, and for the period of time after construction of the SWMS, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the licensed work, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in *the State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007) unless a project-specific erosion and sediment control plan is approved as part of this License. If project-specific Conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in *the State of Florida Erosion and Sediment Control Designer and Reviewer Manual*. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

4. The Licensee shall complete construction of all aspects of the SWMS described in the ERP Application Form, submitted as part of a postcertification submittal, amendment, modification, or certification application including water quality treatment features,

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and discharge control facilities prior to use of the portion of the certified facility being served by the SWMS.

5. At least 48 hours prior to the commencement of construction of any new SWMS authorized by this certification, the Licensee shall submit to the Department a written notification of commencement using an "Environmental Resource Permit Construction Commencement Notice" (DEP Form 62-343.900(3), F.A.C.), indicating the actual start date and the expected completion date. When the duration of construction will exceed one year, the Licensee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (DEP Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

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

7. Within 30 days after completion of construction of any new portions of the SWMS, the Licensee shall submit to the appropriate DEP District's ERP Section, and copy the SCO, a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required "As-Built Certification by a Registered Professional" (DEP Form 62-343.900(5), F.A.C.). Additionally, if deviations from the approved drawings are discovered, the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

8. Any substantial deviation from the approved drawings, exhibits, specifications or Conditions, may constitute grounds for revocation or enforcement action by the Department. Examples of substantial deviations may include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.

9. Prior to converting a construction phase SWMS to an operation phase SWMS, the Licensee shall submit to the Department a "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (DEP Form 62-343.900(7), F.A.C.). The operation phase of any new SWMS approved by the Department shall not become effective until the Licensee has complied with the requirements of the Conditions herein, the Department determines the system to be in compliance with the approved plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system.

10. The DEP District ERP Section must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must be submitted to and approved by the Department prior to the dewatering event. Additional authorizations may be required for certain dewatering activities. **[Partially Replaces Existing Condition V. Control Measures During Construction, Paragraph C. Construction Dewatering Effluent]**

[Section 373.414, F.S.; Chapters 62-25, 62-302, 62-330, 62-343, and Rule 62-4.242, F.A.C.]

C. Wetland and Other Surface Water Impacts

1. All certified facilities shall be constructed in a manner which will eliminate or reduce adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent practicable or otherwise comply with substantive criteria for elimination or reduction.

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When impacts to wetlands will occur as a result of a future amendment, modification, or certification, and cannot be practicably eliminated or reduced, the Licensee may propose and the Department or Board shall consider mitigation to offset otherwise unpermittable activities under the Environmental Resource Permit review process pursuant to Condition A.1 above.

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

[Sections 373.413, 373.414, 373.4145, 403.511 and 403.814(6), F.S.; Chapters 62-330, 62-341 62-342, 62-343, and 62-345, F.A.C.]

XXX. THIRD PARTY IMPACTS [New]

The Licensee is responsible for maintaining compliance with these Conditions even when third party activities authorized by the Licensee occur in or on the certified area. Such third party activities authorized by the Licensee may include but are not limited to mining, hunting, and timbering.

[Sections 403.506(1) and 403.524(1), F.S.]

XXXI. FACILITY OPERATION [Replaces Existing Condition XII. Facilities Operation and Condition XIII. Adverse Impact AND Partially Replaces Existing Condition VI. Safety and Condition XXVI. Design and Performance Criteria]

The Licensee shall properly operate and maintain the certified facility and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with these Conditions, as required by the final order of certification, these Conditions, or a post-certification amendment or modification. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the final order of certification, these Conditions, or a post-certification amendment or modification. Further, the Licensee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.

[subsection 62-4.160(6), F.A.C.]

XXXII. RECORDS MAINTAINED AT THE FACILITY [New]

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

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

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

XXXIII. WATER DISCHARGES

A. Discharges [Partially Replaces Existing Condition III. Surface Water Discharges and Condition V. Control Measures During Construction, Paragraph C. Construction Dewatering Effluent]

1. The Licensee shall not discharge to surface waters wastes which are acutely toxic, or present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant locally occurring wildlife or aquatic species. The Licensee shall not discharge to ground waters wastes in concentrations which, alone or in combination with other substances, or components of discharges (whether thermal or non-thermal) are carcinogenic, mutagenic, teratogenic, or toxic to human beings (unless specific criteria are established for such components in Rule 62-520.400, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

2. All discharges and activities must be conducted so as to not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, 62-620, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;

3. All dewatering discharges must be in compliance with Rule 62-621.300, F.A.C.

[Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C., and Rule 62-621.300, F.A.C.]

B. Wastewater Incident Reporting [New]

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

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

a. Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,

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b. Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,

c. Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and

d. Any unauthorized discharge to surface or ground waters.

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

2. For unauthorized releases or spills of treated or untreated wastewater reported that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the Department by calling the STATE WARNING POINT NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the Licensee becomes aware of the discharge. The Licensee, to the extent known, shall provide the following information to the State Warning Point:

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

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

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

XXXIV. SOLID AND HAZARDOUS WASTE

A. Solid Waste [New]

The Licensee shall comply with all applicable provisions of Chapters 62-701, F.A.C., for any solid waste generated within the certified facility during construction, operation, and maintenance.

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

B. Hazardous Waste and Used Oil [New]

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

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

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

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

C. Hazardous Substance Release Notification [Partially Replaces Condition VIII. Toxic or Hazardous Materials]

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

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

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

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

D. Used Oil, Petroleum Contact Water and Spent Mercury [New]

The Licensee shall comply with all applicable provisions of Chapter 62-710, F.A.C., for any used oil including oil filters, Chapter 62-740, F.A.C., for any petroleum contact water, and Chapter 62-737, F.A.C., for any spent mercury containing lamps and devices generated within certified facility during construction and operation.

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

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E. Contaminated Site Cleanup [New]

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

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

[Rules 62-160.110, 62-160.240, 62-160.340, 62-701.510(9)(a), 62-710, 62-730.225 62-737, 62-740, and 62-780, F.A.C.]

XXXV. STORAGE TANK SYSTEMS [New]

Registration, construction, installation, operation, maintenance, repair, closure, and disposal of storage tank systems that store regulated substances shall be in accordance with Chapters 62-710, 62-761 and 62-762, F.A.C., in order to minimize the occurrence and environmental risks of releases and discharges. Mineral acid storage tank systems are subject only to Rule 62-762.891, F.A.C.

A. Incident Notification Requirements

Notification of the discovery of the loss of a regulated substance from a storage tank system exceeding 100 gallons on impervious surfaces, other than secondary containment, such as driveways, airport runways, or other similar asphalt or concrete surfaces, provided that the loss does not come in contact with pervious surfaces; or of the discovery of any other incident listed in subsections 62-761.450(2) or 62-762.451(2), F.A.C., shall be made to the County on Incident Notification Form 62-761.900(6) within 24 hours or before the close of the County's next business day.

B. Discharge Reporting Requirements

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

C. Discharge Cleanup

If a discharge of a regulated substance occurs at a certified facility, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable DEP rules (for example, Chapter 62-770, F.A.C., Petroleum Contamination Site Cleanup Criteria). The Licensees is advised that other federal, state, or local requirements may apply to these activities. If the contamination present is subject to the provisions of Chapter 62-770, F.A.C., corrective action, including free product recovery, shall be performed in accordance with that Chapter.

D. Out of Service and Closure Requirements

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

[Chapters 62-761, 62-762 and 62-770, F.A.C.]

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I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. *Environmental Control Program* [Moved from Existing Condition V. Control Measures During Construction, Paragraph B. Environmental Control Program]

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

2. Such program shall be undertaken as part of any modification of the site certification which entails construction at the project site.

B. *Design and Performance Criteria* [Moved from Existing Condition XXVI. Design and Performance Criteria]

The power plant may be operated at up to 115% of the maximum electrical output at ISO conditions projected from design information without the need for modifying these Conditions. Treatment or control facilities or systems installed or used to achieve compliance with the terms and conditions of this certification are not to be bypassed without prior DEP approval.

C. *Solid Waste Storage and Disposal* [Moved from Existing Condition IX. Solid Waste Storage and Disposal]

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

D. *Sanitary Wastes* [Moved from Existing Condition V. Control Measure During Construction, Paragraph A. Sanitary Wastes]

Disposal of sanitary wastes from construction toilet facilities shall be in accordance with applicable regulations of the DEP and Broward County health agency.

II. SOUTH FLORIDA WATER MANAGEMENT DISTRICT [Moved from Existing Condition IV. South Florida Water Management District]

A. *Applicable General Agency Standards*

1. General Conditions

a. Professional Engineer Certificate. The operational phases of the surface water management system authorized under this certification shall not become operational until an engineer practicing in the State of Florida in compliance with Section 471.003(2)(d), Florida Statutes, and with the appropriate experience in surface water

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management design, certifies, upon completion of each phase, that these facilities have been constructed in accordance with the design approved by the South Florida Water Management District (SFWMD). Within 30 days after completion of construction of each phase of the surface water management system, the Licensee shall submit the engineer's certification and notify the SFWMD that the facilities are ready for inspection and determination of compliance with this certification and applicable SFWMD non-procedural criteria.

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

c. Post-certification Information Submittals. Information submitted SFWMD subsequent to certification, in compliance with the conditions of this certification, shall be for the purpose of SFWMD determining the Licensee's compliance with the conditions of certification and the non-procedural, criteria contained in Chapters 40E-2 (Consumptive Use), 40E-4 (Surface Water Management), and 40E-6 (Utilization of District Works), Florida Administrative Code, as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity, covered thereunder.

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

e. Access. SFWMD representatives shall be allowed reasonable escorted access to the power plant site to inspect and observe any activities associated with the repowering project construction and/or the operation and/or maintenance of the surface water withdrawal pumps and/or surface water management system in order to determine compliance with the conditions of this certification. The Licensee shall not refuse immediate entry or access, under reasonable notice, to any SFWMD representative who requests entry for purposes of the above noted inspection and presents appropriate credentials.

f. Water Quality Monitoring. If water quality monitoring data is required by this certification for any water discharged from the project site or into surface waters of the state, it shall be submitted to SFWMD and the DEP. Parameters to be monitored may include those listed in Chapter 62-302, Florida Administrative Code. The Licensee shall provide such data to SFWMD as volumes of water discharged, including total volume discharged during periods of sampling and total discharges from the property or into waters of the state.

g. Construction, Operation, and Maintenance Responsibilities. The Licensee shall be responsible for the construction, operation, and maintenance of the surface water management system installed for the repowering project. All structures on SFWMD works or lands constructed by the Licensee shall remain the property of the Licensee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition and comply with all applicable federal, state and local safety standards. The SFWMD assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused others by any such failure. The SFWMD further assumes no duty to ensure that the permitted use complies with the safety standards of other governmental entities. The SFWMD is not responsible for any damages to installations located within its

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rights-of-way. The Licensee shall be responsible for the repair and/or replacement of existing facilities located within the SFWMD's rights-of-way. Canal right-of-way disturbed during construction, installation or maintenance of the authorized facility shall be restored to original or better condition.

h. Non-interference with District Operations. Except as may be authorized by this certification, the Licensee shall not engage in any activity regarding the authorized use which interferes with the construction, alteration, maintenance or operation of the works of the SFWMD, including, but not limited to:

- (1) discharging pollutants, debris or aquatic weeds into SFWMD works;
- (2) causing erosion or shoaling within SFWMD works;
- (3) planting trees or shrubs or erecting structures which limit or prohibit access by SFWMD equipment and vehicles.

The Licensee shall be responsible for any costs incurred by the SFWMD resulting from any such interference.

i. 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 4 E-21, Florida Administrative Code.

j. Enforcement. The SFWMD may take any and all lawful actions to enforce any condition of this certification that is based on the rules of that agency. Prior to initiating such action, SFWMD shall notify the Secretary of the proposed action. SFWMD shall seek modification of this certification for any change in any activity resulting from the SFWMD's enforcement of this certification which change will have a duration longer than 60 days.

2. Construction, Operation and Maintenance Conditions

a. The Licensee shall prosecute the work authorized under this certification in a manner so as to minimize any adverse impacts of the authorized works on fish, wildlife, natural environment values, and water quality. The Licensee shall institute necessary measures during the construction period, including necessary compaction of any fill materials placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.

b. Any off-site discharges during construction and development of the repowering project shall be made only through the discharge facilities authorized by this certification.

c. The Licensee shall be responsible for the correction of any sedimentation, turbidity, erosion, shoaling and/or other water quality problems that result from the construction, operation, and/or maintenance of the works authorized under this certification.

d. The Licensee may be required to incorporate additional water quality treatment methods into the surface water management system if such measures are shown to be necessary.

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e. It is the responsibility of the Licensee to ensure that adverse off-site water resource related impacts do not occur during construction.

f. The Licensee shall be responsible for mitigating any adverse impacts on existing legal uses caused by the surface water withdrawals authorized by this certification. If adverse impacts occur, or are imminent, the SFWMD reserves the right to curtail withdrawal rates. The adverse impacts can include:

(1) A reduction in well water levels that impairs the ability of an adjacent well to produce water (an adjacent well may be a domestic well, lawn irrigation well, public water supply well, etc.);

(2) A significant reduction in water levels in an adjacent water body such as a lake, pond, wetland, or canal system;

(3) Saline water intrusion or induction of pollutants into the water supply of an adjacent water user, resulting in a significant reduction in water quality; and/or

(4) A change in water quality that causes impairment or loss of use of a well or water body.

g. The Licensee shall be responsible for mitigating any adverse impacts on existing off-site land uses as a consequence of the surface water withdrawals authorized by this certification. If increased withdrawals cause an adverse impact on existing land uses, the SFWMD reserves the right to curtail future withdrawal rates. Adverse impacts can include:

(1) a significant reduction in water levels in an adjacent water body such as a lake, pond, wetland, or canal system;

(2) Land collapse or subsidence caused by a reduction in water levels;

(3) Damage to crops and other vegetation, causing financial harm to the landowner; and/or

(4) Damage to the habitat of rare, endangered or threatened species.

h. This project must be constructed in compliance with and meet all applicable non-procedural requirements set forth in Chapter 373, Florida Statutes, and Chapters 40E-2, 40E-4, and 40E-6, Florida Administrative Code.

B. Site Specific Standards.

1. Design Requirements

a. Surface Water Management

(1) The Licensee shall avoid impacting wetlands within the power plant site wherever practicable.

(2) Except is otherwise authorized by this certification and other permits issued for this project, no fill materials shall be obtained from excavated wetlands

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within the project site, unless in accordance with a mitigation plan submitted in compliance with the conditions of the certification.

(3) Discharge structures, where appropriate, shall include a baffle, skimmer or other mechanism suitable for preventing oil, grease, or other floatable materials from discharging to and/or from retention / detention areas.

b. Water Use

(1) This certification authorizes a maximum daily withdrawal of 368.64 MGD from the Dania Cut-off Canal for an industrial use.

(2) This Certification authorizes a maximum annual withdrawal of 134,922.2 MG from the Dania Cut-off Canal for an industrial use.

(3) Authorized withdrawal facilities are:

- i. 4 - 300 HP X 12,000 GPM surface water pumps with an intake elevation of -5.0' NGVD
- ii. 4 - 450 HP X 58,000 GPM surface water pumps with an intake elevation of -14.0' NGVD
- iii. 2 - 60 HP X 600 GPM surface water pumps with an intake elevation of -10.5 ft. NGVD
- iv. 2 - 100 HP X 3,000 GPM surface water pumps with an intake elevation of -10.5 ft. NGVD.

(4) Within five years after the commencement of plant operation, or by December 31, 1997, whichever occurs first, and every five years thereafter unless extended by mutual agreement between the Licensee and SFWMD, the Licensee shall submit to the SFWMD a report on the Project's consumptive water use which contains the information required by Chapter 40E-2, Florida Administrative Code, as in effect at that time.

(5) SFWMD retains the right to petition for a modification of the maximum annual withdrawal of surface water for consumptive use authorized by this certification, in accordance with the provisions of Section 403.516, Florida Statutes (1989). Any request for an increase in water withdrawals shall be made pursuant to the provisions of Section 403.516, Florida Statutes.

2. Informational Requests

a. General

(1) At least ninety (90) days prior to the commencement of construction of any portion of the repowering project, the Licensee shall submit to SFWMD staff, for a completeness and sufficiency review, any pertinent additional information required under the SFWMD's site specific standards and 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 will be presumed to be complete and sufficient.

(2) Within thirty (30) days of the determination by SFWMD staff that the additional information is complete and sufficient, the SFWMD shall determine and

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notify the Licensee in writing whether the proposed activities conform to SFWMD criteria, as required by Chapters 40E-2, 40E-4, and 40E-6, Florida Administrative code, and the conditions of the certification. If necessary, the SFWMD shall identify what items remain to be addressed. Construction activities which have surface water management impacts shall not 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.

(3) 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.

(4) If mutual agreement cannot be reached, then the matter shall be immediately referred to the Division of Administrative Hearing (DOAH) for disposition in accordance with the provisions of Chapter 120, Florida Statutes.

(5) Subsequent modifications to the drawings and supporting calculations submitted to the SFWMD which may alter the quantity and/or quality of waters discharged off-site shall be made pursuant to Section 403.516, Florida Statutes, and Rule 62-17.211, Florida Administrative Code. They shall also be submitted to the SFWMD for a determination that the modifications are in compliance with Chapters 40E-2, 40E-4, and 40E-6, Florida Administrative Code, prior to the commencement of construction.

(6) The SFWMD and the Licensee may jointly agree to vary the informational requirements.

b. Water Use

(1) Prior to the commencement of construction of those portions of the repowering project involving dewatering, a detailed plan for the proposed dewatering operations must be reviewed by the SFWMD for a determination of compliance with Chapter 40E-2 and 40E-4, Florida Administrative Code. The following information must be submitted unless the dewatering activities meet the requirements for a no-notice short term dewatering activity under Rule 40E-20, Florida Administrative Code:

- i. A detailed site plan which show the location(s) of the proposed dewatering area(s);
- ii. The method(s) of dewatering operations;
- iii. The maximum depth for each dewatering operation;
- iv. The location and specification for all proposed wells and/or pumps associated with each dewatering operation;
- v. The duration of each dewatering operation;
- vi. The discharge method, route, and location of receiving waters generated by each dewatering operation;
- vii. An analysis of the impacts of the proposed dewatering operations on any existing on and/or off-site legal users or wetlands.

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(2) Surface water withdrawal quantities, separated by source, as authorized by this certification for the reappearing project shall be submitted to the SFWMD on a monthly basis beginning with the month following issuance of this certification.

(3) Within six months of issuance of this certification, the Licensee shall develop and implement a saline intrusion monitoring program (SALT). A preliminary proposal shall be submitted to the SFWMD for review for compliance with the requirements specified in Chapter 40E-2, Florida Administrative Code, within three months of issuance of this certification. In developing the "SALT" program, the Licensee shall consider surface, water monitoring station localities, depth and method of well construction, types of well screens, method of chloride analysis, and frequency of data collection.

(4) Within six months of issuance of this certification, the Licensee shall submit to the SFWMD for review and concurrence a study regarding the feasibility of rerouting a portion or all of the water from the on-site cooling pond back into the Dania Cut-off Canal, rather than the current discharge route down the South Fork of the New River. This analysis should also address any potential impacts to the cooling pond, power plant operations, and surface water management system for the site.

c. Surface Water Management

(1) Prior to the commencement of construction of any portion of the repowering project which affects the movement of surface waters, all construction activities for that portion of the repowering project which may obstruct, divert, control, impound or cross waters of the state must be reviewed by the SFWMD for a determination of compliance with the nonprocedural requirements of Chapters 40E-2 and 40E-4, Florida Administrative Code. FPL has submitted detailed design information on the surface water management system for the project which SFWMD has reviewed and found acceptable except for the following information which must be provided and reviewed prior to the commencement of construction:

- i. Final paving, grading and drainage plans for the proposed project, including the relocated control structure in Sub-basin 4, which have been signed and sealed by a Florida Registered Professional Engineer;
- ii. Final cross-sections for the proposed control structure in Sub-basin 4 which demonstrate that the structure will include a baffle, skimmer or other mechanism suitable for preventing oil, grease or other floatable material from discharging from the detention area;
- iii. Clarification of the mechanism that will be used to control erosion that may be caused by high velocity runoff entering the dry detention area in Sub-basin 4;
- iv. Final cross-sections for the proposed internal drainage structure in Sub-basin 1 which clearly identify the baffle system for the structure;
- v. Revised stage-storage and other applicable calculations for all affected basins which do not include roof areas for storage.

(2) In undertaking any modification to the site certification, the Licensee shall comply with the provisions of SFWMD Specific Condition II.B.2.c. concerning the surface water management system. Any alteration to the previously approved surface water

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management system for the project shall be reviewed and approved by SFWMD prior to commencement of those alterations.

d. Wetlands

(1) Prior to the commencement of construction of that portion of the repowering project located in the southeast portion of the power plant site, a detailed site plan shall be provided for SFWMD review of those construction activities proposed in the vicinity of that wetland, which shall be avoided and protected during construction, including the staked and roped boundaries approved in the field by SFWMD and other agency staff.

e. SFWMD Lands

(1) The Licensee shall undertake any activities associated with the repowering project, the approvals of which are granted by this certification, which use, connect to or cross the properties or works of SFWMD in accordance with SFWMD Right-of-Way Permit No. 9234, issued September 13, 1990. At least 30 days prior to commencement of construction of any authorized works or activities of the repowering project on the SFWMD's right-of-way, the Licensee shall provide the following information for review by the SFWMD for a determination of compliance with Chapter 40E-6, Florida Administrative Code:

i. Proposed method of backfilling of the existing culvert connection to the South New River Canal;

ii. Detailed construction drawings and cross-section which demonstrate that the backfilled areas will be returned to the same bank slope and berm line and grade as the adjacent bank and berm.

(2) This certification does not affect the Licensee's obligation to obtain, modify or otherwise receive approvals from SFWMD for activities at the FPL Lauderdale Plant Site which are not associated with the repowering project which use, connect to or cross properties and works of the SFWMD.

(3) If, in the future, the Licensee proposes modifications and/or additions to any existing facilities associated with the repowering project that are located within the SFWMD's rights-of-way that were not anticipated in the Site Certification Application submitted, complete drawings showing the proposed and/or modified facility(ies) shall be submitted for review by the SFWMD for a determination of compliance with Chapter 40E-6, Florida Administrative Code, prior to the commencement of construction of any facilities which will cross over, on, under, or otherwise use the SFWMD's right-of-way. These drawings shall depict the proposed use in both plan and profile views and shall show, as a minimum:

i. For aerial electrical transmission/distribution crossings:

1. The canal right-of-way lines;
2. The top of the canal bank and its elevation;
3. The centerline of the levee and its elevation;
4. The canal maintenance berm and its

elevation at its highest point;

SECTION B: SPECIFIC CONDITIONS

5. The location at of any poles towers, access roads, pipelines, etc., located with the SFWMD's right-of-way;

6. The location of any anchor downguys or spanguys within the SFWMD's right-of-way;

7. The elevation of the lowest line, wire, or cable crossing over the SFWMD's right-of-way, given at the lowest point of sag in the span within the SFWMD's right-of-way;

8. The location and elevation of any buried facilities;

9. The location of the facilities in relation to a section line, major road, or other prominent well known landmark by which the facilities have been located in the field.

ii. For bridges and other pile supported crossings and arch, free span and subaqueous crossings (such as gas, fuel oil, water, sewage, communications lines, etc.)

1. The canal right-of-way lines;
2. The top of the canal bank and its elevation;
3. The width and elevation of any berms or levees;

4. The existing cross section of the canal taken at the centerline of the point of crossing plus one cross section each taken 50' upstream and 50' downstream of the faces of the proposed crossing. The cross sections will be taken at 10' intervals from top of bank to top of bank and shall be plotted on standards 10 x 10 cross section paper to the same horizontal and vertical scale using NGVD datum, if applicable, the ultimate design section for the canal shall also be plotted on the cross sections submitted;

5. If applicable, the locations at which the crossing shall enter and emerge from the banks or berms.

6. If applicable, the pile spacings measured center to center for any and all approach spans and measured face to face for the pile bents of the center span.

7. If applicable, the burial depth below the bank, berm and bottom elevation;

8. If applicable, the elevation of the bottom and top of any pipe, conduit or casing;

9. If applicable, the wall thickness or "schedule" of the pipe;

10. If applicable, any appurtenances such as fences, guardrails, security enclosures, paving, meters, valves, blow-off line, cathodic protection systems (whether buried or exposed), etc.;

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11. The location of the proposed facilities in relation to a section line, major road or other prominent well-known landmark by which the facilities have been located in the field;

12. If applicable, the locations of any existing facilities located within the SFWMD's right-of-way at proposed project site;

13. If applicable, the manner in which the SFWMD will be provided access to bridge approaches, including drop curbing, reinforced sidewalk section, guardrail openings, stabilized berm ramps having minimum top width of 15 feet with a maximum slope of 1 vertical to 10 horizontal.

iii. For general short-term construction activities on SFWMD right-of-way or where the use of the right-of-way is proposed for short or long-term access to the site:

1. If applicable, any work areas, spoil disposal or drying areas, materials storage areas, temporary construction or office trailer sites;

2. If applicable, any temporary or permanent ingress/egress routes to the work site;

3. The location of the proposed facilities in relation to a section line, major road or other prominent well-known landmark by which the facilities have been located in the field.

III. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION [New]

A. *Listed Species Survey.*

Before land clearing and construction activities within the certified area 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 (FWC) or those listed as endangered or threatened by U.S. Fish and Wildlife Service (USFWS). Resources that may be consulted in conducting this assessment are available through the "Florida Wildlife Conservation Guide" at: <http://myfwc.com/CONSERVATION/FWCG.htm>.

1. This survey shall be conducted in accordance with USFWS/FWC 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.

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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.

B. Listed Species Locations

Where any suitable habitat and evidence is found of the presence of listed species within the certified area, 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 SCO, the appropriate DEP District Office(s), the FWC's Office of Policy and Stakeholder Coordination, the appropriate WMD, the appropriate local government(s) and the USFWS.

2. *Listed Vegetation Species*: If listed vegetation species are found on public land or water, their presence shall be reported to the DEP SCO and the Florida Department of Agriculture and Consumer Services (DACS). 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 USFWS for listed wildlife species, and with the DACS for listed vegetation species on public land or water, to determine the steps appropriate for the species involved which are to be taken to avoid, minimize, mitigate, or otherwise appropriately address impacts within each agency's respective jurisdiction. For wildlife species, these steps shall be memorialized in a Wildlife Management Plan and submitted to DEP, FWC, and the appropriate local government.

[Chapter 379, F.S.]

IV. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES

[New]

A. Prior to new construction in areas not previously surveyed, the Licensee shall conduct a survey of sensitive cultural resource areas, as determined in consultation with the Department of State, Division of Historical Resources (DHR). A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the certified facility. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR. Upon completion of the survey, the results will be compiled into a report which shall be submitted to DHR. If feasible, sites considered to be eligible for the National Register shall be avoided during construction of the project and access roads, and subsequently during maintenance. If avoidance of any discovered sites is not feasible, impact

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shall be mitigated through archaeological salvage operations or other methods acceptable to DHR, as appropriate.

B. If historical or archaeological artifacts or features are discovered at any time within the certified area, the Licensee shall notify the appropriate DEP District office (s) and the DHR, R.A. Gray Building, 500 S. Bronough Street, Rm 423, Tallahassee, Florida 32399-0250, telephone number (850) 487-6333, and the Licensee shall consult with DHR to determine appropriate action.

[Sections 267.061, 403.531, and 872.02, F.S.]

V. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES [New]

Only herbicides registered by the U.S. Environmental Protection Agency and the Florida Department of Agriculture and Consumer Services shall be used at certified facilities. Herbicide applications will be in accordance with label directions and will be carried out by a licensed applicator, in compliance with all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.

[Chapter 487, F.S.]

VI. BROWARD COUNTY [Moved from Existing Condition XXX. Broward County]

A. FPL shall comply with the nonprocedural provisions of Chapter 27, Article XIV of the Broward County Code of Ordinances, as may be amended, regarding removal and protection of trees on the Repowering Project site.

B. The Licensee shall undertake the Lauderdale Repowering Project in accordance with the Final Site Plan as submitted to Broward County by the Licensee on August 30, 1990, (and as that plan may be lawfully amended in the future) and determined by Broward County to be in compliance with the Broward County Land Development and the nonprocedural requirements therein.

C. FPL shall provide to Broward County copies of the regularly scheduled annual compliance tests as submitted to DEP.

D. If in the opinion of Broward County, Broward County believes that the Conditions of Certification regarding NOx emissions are not being complied with as set forth in these Conditions, Broward County shall have the right to seek a modification of the certification pursuant to Section 403.516, Florida Statutes.

E. FPL shall comply with the following conditions to implement the site alterations contained in the August 18, 1992 modification request and shall comply with the provisions of the Broward County staff memos incorporated herein as Attachment D:

The proposed alteration of the Administration Building shall not substantially increase the number of employees from the current level. However, if the future use of the Administration Building is changed in such a manner so as to substantially increase the number of permanent employees, FPL and County agree to meet in order to determine whether the change of use has created a material negative impact on S.W. 42nd Avenue. If FPL and the County cannot agree on whether S.W. 42nd Avenue has suffered such a negative impact, FPL shall conduct a traffic count in accordance with Broward County standard procedures. The

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traffic count shall be conducted at a location acceptable to FPL and the County and shall be conducted for a continuous seven day period. If the traffic count demonstrates that the FPL related traffic on S.W. 42nd Avenue is more than 10% in excess of 400 vehicles per day, based on the average of the seven day period, the County administration and FPL shall meet to determine appropriate and reasonable remedial measures to mitigate the negative impact. If the County administration and FPL are unable to agree as to the mitigation measures, FPL shall have the right to an administrative appeal to the County Commission. The County Commission may then require such mitigation measures which are appropriate and reasonable based upon the impacts on the road caused by FPL's increased usage and the Broward County Land Development Code.

F. In the event congestion becomes a problem, FPL should cooperate with local traffic control personnel to keep traffic flowing. **[Moved from Existing Condition V. Control Measures During Construction, Paragraph D. Traffic]**

G. The Licensee shall provide screening of the site to the extent feasible through the use of aesthetically acceptable structures, vegetated earthen walls and/or existing or planted vegetation. **[Moved from Existing Condition VII. Screening]**

H. To mitigate the effects of noise produced by the steam blowout of steam boiler tubes, the Licensee shall conduct public awareness campaigns prior to such activities to forewarn the public of the estimated time and duration of the noise. Steam blowout shall be limited to the hours of 7:00 a.m. to 7:00 p.m. unless any steam blows conducted after 7:00 p.m. otherwise comply with these conditions of certification and the applicable Broward County noise regulations. **[Moved from Existing Condition XXIV. Noise]**

I. The plant and associated facilities shall be constructed in such a manner as to comply with the Broward County flood protection requirements, either by floodproofing or by raising the elevation of the facilities above the 100 year flood level. **[Moved from Existing Condition XXII. Flood Control Protection]**

HISTORY

Certification Issued 01/10/91; signed by Governor Chiles
Modification (A) 11/25/92; signed by Secretary Browner
Modification (B) 08/02/93; signed by Secretary Wetherell
Modification (C) 09/14/94; signed by Secretary Wetherell
Modification (D) 04/24/96; signed by Secretary Wetherell
Modification (E) 03/18/05; signed by Program Administrator Oven
Modification (F) 07/24/06; signed by Program Administrator Oven
Modification (G) XX/XX/12; signed by Program Administrator Mulkey