Florida Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard, Jr.
Secretary

August 24, 2012

Sent by Electronic Mail – Received Receipt Requested

Matthew Raffenberg
Director of Environmental Licensing
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408

RE: Cape Canaveral Energy Center (PA08-53)
Amendment Request (AM12-031)
Aquatic Organism Return Pipe & Change in Certified Boundary

Dear Mr. Raffenberg:

On July 30, 2012, the Florida Department of Environmental Protection (Department), Siting Coordination Office received a request from Florida Power & Light Company (FPL) for an amendment to the Cape Canaveral Energy Center (CCEC) Site Certification. The amendment request is for the construction of a new aquatic organism return pipe in the Indian River Lagoon in association with the Aquatic Organism Return System required by the facility's existing NPDES Permit FL0001473, and for the expansion of the certified boundary to include the area where the pipe will be located.

Based on a review of the information submitted on July 30, 2012, the Department has determined that this proposal is an amendment to CCEC's Site Certification pursuant to subsection 62-17.205(1), Florida Administrative Code (F.A.C.). The Department's ERP section notes that the activity is located on submerged lands owned by the State of Florida. It therefore requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, Florida Statutes (F.S.).

The Department has no objections to the proposed activity and hereby approves the amendment request provided that FPL:

- Continues to comply with the existing Conditions of Certification for CCEC;
- Submits a survey map delineating the boundaries of the certified area pursuant to Section A, Condition I.D. of the CCEC Conditions of Certification; and
- Obtains a modification to the existing public easement (Attachment E to the Conditions of Certification) pursuant to the attached Sovereignty Submerged Lands Authorization.

The modified public easement, once executed, will replace the existing easement as Attachment E to the Conditions of Certification for CCEC.

The Department's order shall become final unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, F.S., within **21** days of receipt of this order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this order have the following options:

If you choose to accept the above decision by the Department concerning the postcertification amendment you do not have to do anything. This order is final and effective as of the date on the top of the first page of this order.

If you disagree with the decision, you may do one of the following:

1. File a petition for administrative hearing with the Department's Office of General Counsel within **21** days of receipt of this order; or

2. File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within **21** days of receipt of this order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to Section 120.573, F.S., is not available.

<u>How to Request an Extension of Time to File a Petition for Hearing</u>

For good cause shown, pursuant to subsection 62-110.106(4), F.A.C., the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this order. Petitioner, if different from the addressee, shall mail a copy of the request to the addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

<u>How to File a Petition for Administrative Hearing</u>

A person whose substantial interests are affected by this order may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this order. Petitioner, if different from the addressee, shall mail a copy of the petition to the addressee at the time of filing. Failure to file a petition within this

time period shall waive the right of anyone who may request an administrative hearing under Sections 120.569 and 120.57, F.S.

Pursuant to Sections 120.54(5)(b)4 and 120.569(2), F.S. and Rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the DEP certification number for the facility, and the name and address of the facility;

b) A statement of how and when each petitioner received notice of the Department's action or proposed action;

c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;

d) A statement of the material facts disputed by the petitioner, or a statement that there are no disputed facts;

e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;

f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and

g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This order is final and effective as of the date on the top of the first page of this order. Timely filing a petition for administrative hearing postpones the date this order takes effect until the Department issues either a final order pursuant to an administrative hearing or an order responding to supplemental information provided to the Department pursuant to meetings with the Department.

Judicial Review

Any party to this order has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department (see below).

Questions

Any questions regarding the Department's review of this amendment request should be directed to Jessica Dalton at (850) 245-2004. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2257. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

Sincerely,

Cindy Mulkey
Administrator,
Siting Coordination Office

Enclosure: Sovereignty Submerged Lands Authorization

CC by email:
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FILING AND ACKNOWLEDGMENT

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

Clerk

8/24/12
Date

Service List: CC by email (return receipt requested)

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