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**STATE OF FLORIDA
SITING BOARD**

MAY 26 2006

BUREAU OF AIR REGULATION

**IN RE: FLORIDA MUNICIPAL POWER)
AGENCY TREASURE COAST ENERGY)
CENTER POWER PLANT SITING)
APPLICATION NO. PA05-48.)**

**DOAH CASE NO.: 05-1492EPP
OGC CASE NO.: 05-0744**

**CONSOLIDATED SITING BOARD FINAL ORDER
ON LAND USE AND SITE CERTIFICATION**

On March 30, 2006, an administrative law judge with the Division of Administrative Hearings ("DOAH") submitted two Recommended Orders in this administrative proceeding. The Recommended Orders indicate that copies were served upon counsel for the Applicant, Florida Municipal Power Agency ("FMPA"), the Department of Environmental Protection ("DEP"), St. Lucie County, and other designated agencies. Copies of the Recommended Orders are attached hereto as Exhibits A and B. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final agency action under the Florida Electrical Power Plant Siting Act ("PPSA") embodied in §§ 403.501-403.518, Florida Statutes.

BACKGROUND

FMPA is a joint action agency created under Florida law and is comprised of twenty-nine municipal electric utilities across Florida. Within FMPA, the All-Requirements Project ("ARP") was formed in 1986 and currently has fifteen municipal members serving approximately 280,000 customers. Under the ARP, both generating and non-generating members are required to purchase all of their capacity and electrical energy needs from the ARP. Additionally, ARP members with generating plants commit their capacity to FMPA. FMPA will own Treasure Coast Energy Center ("TCEC") and act as the project manager for construction. The Fort Pierce

Utilities Authority ("FPUA") will operate the TCEC Unit 1 for FMPA.

The TCEC Unit 1 project will consist initially of one nominal 300-megawatt combined cycle electrical generating unit and ancillary facilities (the "Project"). The ancillary facilities include control and maintenance buildings, water treatment and storage facilities, ultra low-sulfur light oil storage tanks, cooling tower, and an electrical switchyard. An additional 900 megawatts of electrical generation facilities and ancillary facilities may be constructed on the Project site in the future, subject to subsequent approvals under the PPSA. Unit 1, and any additional units, will be primarily fueled by natural gas, with ultra low-sulfur distillate oil as a backup fuel.

The proposed Project location is at a greenfield site in the Midway Industrial Park in an unincorporated area of St. Lucie County approximately five miles west of Ft. Pierce and one-half mile east of the Florida Turnpike. The Project site, approximately 68.1 acres in size, is owned by the FMPA and is currently being used as pasture for cattle and horses. The lands surrounding the Project site are zoned for industrial uses. On July 27, 2005, the Florida Public Service Commission issued a final order determining the need for the 300-megawatt TCEC Unit 1 project pursuant to § 403.519, Florida Statutes.

At a meeting on November 1, 2005, the St. Lucie County Board of County Commissioners ("Commissioners") determined that the use of the Project site for electrical generating facilities was consistent with the County's Comprehensive Plan and granted a Conditional Use Permit and Major Site Plan Approval for use of the site for FMPA's proposed Project. With the agreement of FMPA, the Commissioners only gave approval at this November 1 meeting for two 300-megawatt units, thereby reducing the Project to an approved 600-megawatt project for purposes of St. Lucie County's land use plans and zoning ordinances.

However, the Commissioners did not disapprove of the two additional 300-megawatt units at the site, and FMPA agreed to obtain subsequent approvals from St. Lucie County prior to constructing these additional units.

On December 12, 2005, DEP issued its Staff Analysis Report. The Report contained analyses and comments by DEP and the other reviewing agencies and a set of proposed Conditions of Certification for the Project. DEP and the other reviewing agencies entered into a subsequent Stipulation stating that the agencies had no objection to the Project, subject to the inclusion of the Conditions of Certification recommended by these agencies.

After proper public notice, a consolidated land use and site certification hearing (“Hearing”) on the Project was held in Ft. Pierce on February 8, 2006. Testimony of expert witnesses and various exhibits, including a revised Staff Analysis Report dated February 3, 2006, (DEP Ex. 2) were presented at the Hearing by DEP and FMPA in support of the Project. St. Lucie County was the only other agency appearing at the Hearing. One member of the general public appeared at the Hearing and testified in support of the Project. No evidence in opposition to the Project was presented at the Hearing by any agency or member of the public.

RECOMMENDED ORDERS

Administrative Law Judge, Donald R. Alexander (“ALJ”), entered his Recommended Orders concerning the Project on March 30, 2006. The ALJ’s 13-page Recommended Order (Exhibit A) deals with the issue of whether the Project site is consistent and in compliance with the existing land use plans and zoning ordinances of St. Lucie County. Included in this Recommended Order is the ALJ’s key conclusion that the unrebutted evidence at the Hearing established that the Project and its site are consistent and in compliance with the County’s Comprehensive Plan and Land Development Code. The ALJ recommended that the Siting

Board enter a final order determining that the Project site, as described by the evidence at the final hearing, “is consistent and in compliance with existing land use plans and zoning ordinances and site-specific zoning approvals of the County.”

The ALJ’s 34-page Recommended Order (Exhibit B) deals with the issue of whether the Siting Board should issue a final site certification order authorizing construction and operation of the Project and approving an ultimate site capacity of 1,200 megawatts of steam electric generating capacity. In his Conclusion of Law 57, the ALJ concludes in part that:

Competent substantial evidence produced at the certification hearing demonstrates that FMPA has met its burden of proof to demonstrate that the [Project] meets the criteria for certification under the PPSA. Unrebutted evidence . . . demonstrates that the safeguards for construction and operation of the TCEC are technically sufficient to protect the public welfare of the citizens of Florida and . . . the Project will result in minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic environment . . . Further, certification of the Project will fully balance the increasing demand for electrical power plant location and operation in this State with the broad interests of the public that are protected by the PPSA.

The ALJ recommended that the Siting Board grant final certification for the location, construction, and operation of the Project, as described in the Site Certification Application and the evidence presented at the hearing, and subject to the Conditions of Certification contained in DEP Exhibit 2.

CONCLUSION

The record in this consolidated land use and site certification proceeding case does not contain any objections to the proposed Project or any requests by governmental agencies or members of the general public that site certification of the Project should be denied. Moreover, no Exceptions were filed by any party to this proceeding objecting to any of the factual findings, legal conclusions, or recommendations of the ALJ in the two Recommended Orders now on review before the Siting Board.

Having reviewed the matters of record and being otherwise duly advised, the Siting Board concludes that, if constructed and operated as described in FMPA's Site Certification Application and by the evidence presented at the final hearing, site certification of the Project will serve and protect the broad interests of the public and should be approved.

It is therefore ORDERED:

A. The two Recommended Orders attached hereto as Exhibits A and B are adopted in their entireties and incorporated by reference herein.

B. The site of the proposed Project is hereby determined to be consistent and in compliance with existing land use plans and zoning ordinances of St. Lucie County. However, FMPA shall obtain subsequent approvals from St. Lucie County before commencing construction of any additional electrical generating units at the site beyond the two 300-megawatt units currently approved by the County.

C. Site Certification of the TCEC Unit 1 Project, as described in the Site Certification Application and the evidence presented at the final hearing, is hereby APPROVED, subject to the Conditions of Certification in DEP Exhibit 2 incorporated by reference herein.


D. Certification of the Project site for an ultimate site capacity of up to 1200-megawatts of electrical generating power is hereby APPROVED, subject to subsequent necessary approvals under the PPSA for the construction and operation of any additional units other than Unit 1.

E. Authority to assure and enforce compliance by FMPA and its agents with all of the Conditions of Certification imposed by this Final Order is hereby delegated to DEP, except that any proposed modification to burn a fuel other than natural gas or ultra low-sulfur distillate oil shall be reviewed by the Siting Board.

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

DONE AND ORDERED this 16th day of MAY, 2006, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on MAY 16th, 2006.

THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



THE HONORABLE JEB BUSH
GOVERNOR

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



CLERK

5/25/06
DATE

CERTIFICATE OF SERVICE

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

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Tallahassee, FL 32314-6526

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Ann Cole, Clerk and
Donald R. Alexander, ALJ
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Sheauching Yu, Esquire
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and by hand delivery to:

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

this 25th day of May, 2006.

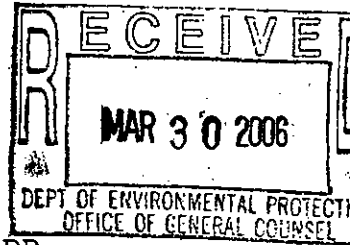
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS



IN RE: FLORIDA MUNICIPAL POWER)
AGENCY TREASURE COAST ENERGY)
CENTER POWER PLANT SITING)
APPLICATION NO. PA05-48.)

Case No. 05-1492EPP

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this matter on February 8, 2006, in Fort Pierce, Florida, before the Division of Administrative Hearings, by its assigned Administrative Law Judge, Donald R. Alexander.

APPEARANCES:

For Florida Douglas S. Roberts, Esquire
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For Department Scott A. Goorland, Esquire
of Environmental Department of Environmental Protection
Protection: 3900 Commonwealth Boulevard
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For St. Lucie Heather Young, Esquire
County: 2300 Virginia Avenue
 Third Floor Annex
 Fort Pierce, Florida 34982-5632

STATEMENT OF THE ISSUE

The issue to be resolved in this portion of the power plant site certification proceeding is whether the site for the proposed Treasure Coast Energy Center (TCEC) is consistent and

in compliance with the applicable land use plans and zoning ordinances of St. Lucie County (County), Florida, pursuant to Section 403.508(2), Florida Statutes (2005)¹.

PRELIMINARY STATEMENT

This proceeding was conducted pursuant to the Florida Electrical Power Plant Siting Act (PPSA), codified in Part II of Chapter 403, Florida Statutes, and Florida Administrative Code Chapter 62-17 to consider Florida Municipal Power Agency's (FMPA) application for power plant site certification of the TCEC Project. On April 14, 2005, FMPA filed with the Department of Environmental Protection (Department) an application for site certification for the Project. By agreement of the parties, this land use hearing was scheduled to be held on February 8, 2006, as part of the final certification hearing also held on the same date. However, separate Recommended Orders are being rendered as to the land use and certification portions of the hearing. This Recommended Order addresses the land use issues.

After appropriate notice by the Applicant and the Department, the consolidated land use and certification hearing was held on February 8, 2006, in Fort Pierce, Florida. The hearing was conducted, in part, for the purpose of receiving evidence as to whether the Project site was in compliance with the local land use plans and zoning regulations of the County.

On February 6, 2006, FMPA and the County filed a Stipulation addressing land use and zoning issues. The Stipulation indicated that the County and FMPA agreed that the site for the Project is consistent and in compliance with the County's future land use map designations and zoning ordinances and approvals.

At the hearing, FMPA presented four expert witnesses who offered testimony in the following areas: James Hay, Project overview; Stanley A. Armbruster, design of plant and associated facilities; J. Michael Soltys, Project site conditions; and Dennis J. Murphy, land use planning. Also, it offered FMPA Exhibits 1 through 15, which were received in evidence.

The Department presented Hamilton S. Oven, Jr., who is the Department Administrator for the Siting Coordination Office and was accepted as an expert. Also, it offered Department Exhibits 1 and 2, which were received in evidence.

A single set of exhibits was tendered and used at the hearing for both the land use and certification portions of the hearing; however, as noted above, separate Recommended Orders are being rendered.

The County presented no witnesses and no exhibits. No other party participated in this hearing.

Opportunity was afforded for members of the general public to appear. One member of the public, Elie J. Boudreaux, III, who is Director of the Fort Pierce Utilities Authority, offered sworn oral comments in support of the Project. No party or member of the public offered testimony or evidence contrary to the conclusion that the site for the Project is consistent and in compliance with local land use plans and zoning ordinances of the County.

Notice of the consolidated land use and site certification hearing was published by FMPA in the Fort Pierce Tribune, a local newspaper of general circulation, on December 22, 2005. Notice of the land use and certification hearing was also published by the Department on its Official Notices website on December 16, 2005, pursuant to Section 120.551, Florida Statutes.

The Transcript of the hearing was filed on March 1, 2006. On March 20, 2006, a Joint Proposed Recommended Order was filed by FMPA, the Department, and the County, and it has been substantially used in the preparation of this Recommended Order.

FINDINGS OF FACT

Based upon all of the evidence the following findings of fact are determined:

1. FMPA is a joint action agency created under Florida law and comprises twenty-nine municipal electric utilities across Florida. It was created to allow its member utilities to cooperate with each other on the basis of mutual advantage through the financing, construction, ownership, and operation of electrical generating resources. FMPA is governed by a Board of Directors consisting of one representative from each of the twenty-nine member cities. Within FMPA, the All-Requirements Project (ARP) was formed in 1986 and currently has fifteen municipal members serving approximately 280,000 customers. Under the ARP, both generating and non-generating members are required to purchase all of their capacity and electrical energy needs from the ARP. Additionally, ARP members with generating plants commit their capacity to FMPA. FMPA will own TCEC and act as the project manager for construction. The Fort Pierce Utilities Authority will operate the TCEC Unit 1 for FMPA.

2. FMPA filed with the Department a Site Certification Application (Application) for the TCEC on April 14, 2005. The Application seeks a certification under the PPSA for the construction and operation of a 300-megawatt natural gas-fired electrical generation facility, including accessory and ancillary facilities to be located in the County. The Application also seeks an ultimate site capacity determination

under the PPSA for 1,200 megawatts of electrical generating capacity on the proposed site.

3. TSEC is located in an unincorporated portion of the County. The site is located five miles southwest of Fort Pierce and eight miles northwest of Port St. Lucie and comprises approximately sixty-nine acres.

4. The site is a greenfield site currently used as active pasture for cattle and horses. It is located in the Midway Industrial Park near Fort Pierce. The site is bordered on the north and west by a rail line along Glades Cut Off Road, and to the south by an existing electrical transmission line right-of-way. Land to the east is the undeveloped industrial park. A wastewater treatment plant is proposed for a land parcel to the north of the site. Lands surrounding the site are zoned for industrial uses.

5. The TCEC will consist initially of one nominal 300-megawatt combined cycle electrical generating unit and accessory and ancillary facilities. These additional facilities include control and maintenance buildings, water treatment and storage facilities, ultra low-sulfur light oil storage tanks, cooling tower, and electrical switchyard. An additional 900 megawatts of electrical generation facilities and accessory and ancillary facilities may be constructed on the site in the future subject

to necessary approvals under the PPSA. The proposed units will be fueled primarily with natural gas with ultra low-sulfur fuel oil as a backup fuel.

6. The County has adopted its Comprehensive Plan (Plan) pursuant to the requirements of Chapter 163, Florida Statutes, and Florida Administrative Code Chapter 9J-5. That Plan has been determined to be in compliance with the requirements of Florida law. No portion of that Plan material to the Project and the site is subject to challenge in any proceeding.

7. The site has a future land use designation on the Plan's Future Land Use Map (FLUM) of Transportation/Utilities. Electrical generation facilities are an allowed use within that future land use designation.

8. The site is zoned Utilities under the Zoning District Use Regulations in the County's Land Development Code and is shown in the Utilities Zoning District on the official Zoning Map of the County. Electric generation plants are a Conditional Use in the Utilities Zoning District.

9. Conditional Uses are defined in Section 2.00.00 of the Land Development Code as a "use that is generally compatible with the use characteristics of a zoning district, but that requires individual review of its location, design, potential effect on nearby properties, and configuration in accordance

with Section 11:07.00 [of the Land Development Code] to determine the appropriateness of the use on any particular site in the district."

10. On November 1, 2005, by County Resolution 05-388, the St. Lucie County Board of County Commissioners (Commissioners) granted a Conditional Use Permit and Major Site Plan Approval for the site. That Resolution approved the use of the site for electrical generating facilities. As part of its approval of the Conditional Use Permit and Major Site Plan Approval, the Commissioners determined that the site and its use for electrical generating facilities were consistent with the adopted Plan, including the Future Land Use Element (FLUE) and accompanying FLUM.

11. During that same meeting, FMPA agreed to, and the Commissioners approved, a Conditional Use Permit and Major Site Plan Approval for only two of the originally proposed four units, thereby reducing the Project from a 1200-megawatt, four-unit Project to a 600-megawatt, two-unit Project for purposes of the County's zoning approvals. FMPA also agreed to obtain additional zoning reviews and approvals prior to the construction of the third and fourth units proposed at the site. By its zoning action, the Commissioners did not disapprove additional future units.

12. Resolution 05-388 contains certain conditions related to the Project and the site and a site plan for the use of the site. These conditions relate to an updated landscape plan, construction traffic mitigation plans, a limitation on the fuels to be used at the site without further approval by the Commissioners, and annual contributions by FMPA toward environmental protection in the County.

13. FMPA is able to design, construct, and operate the Project in full compliance with the conditions contained in the Conditional Use Permit and Major Site Plan Approval.

CONCLUSIONS OF LAW

14. The Division of Administrative Hearings has jurisdiction of the parties and the subject matter of this proceeding pursuant to Sections 120.569, 120.57 and 403.508(2), Florida Statutes.

15. In accordance with Chapter 403, Florida Statutes, and Florida Administrative Code Chapter 62-17, proper public notice was accorded all persons, entities, and parties entitled to such notice. All necessary and required governmental agencies, as well as members of the public, either participated in or had the opportunity to participate in the land use hearing.

16. The applicable land use plans and zoning ordinances for the Project and its site are those adopted by the County.

For purposes of the land use hearing, under Section 403.508(2), Florida Statutes, the applicable "land use plan" is the Plan's FLUE and the accompanying FLUM. The applicable zoning ordinances for the Project and its site are contained in the Land Development Code and in the Conditional Use Permit issued by the Commissioners.

17. Unrebutted evidence at the hearing demonstrates that the Project and its site are consistent and in compliance with the County's Plan and are consistent and in compliance with the Land Development Code. Additional zoning reviews will be necessary prior to the certification of generating capacity above the initial 600 megawatts.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Siting Board enter a final order determining that the Treasure Coast Energy Center Project and its site, as described by the evidence presented at the hearing, are consistent and in compliance with existing land use plans and zoning ordinances and site-specific zoning approvals of the County, pursuant to Section 403.508(2), Florida Statutes.

DONE AND ENTERED this 30th day of March, 2006, in
Tallahassee, Leon County, Florida.

Donald R. Alexander

DONALD R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
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Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of March, 2006.

ENDNOTE

1/ All subsequent references are to the 2005 version of the
Florida Statutes.

COPIES FURNISHED:

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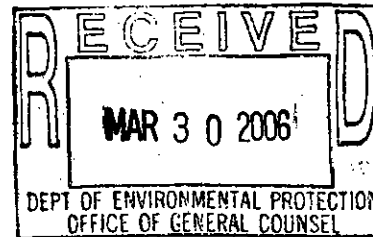
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NOTICE OF RIGHT TO FILE EXCEPTIONS

All parties have the right to submit written exceptions within 15 days of the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will render a final order in this matter.

RECEIVED
MAR 30 2006
DEPT OF ENVIRONMENTAL PROTECTION
OFFICE OF GENERAL COUNSEL

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS



IN RE: FLORIDA MUNICIPAL POWER)
AGENCY TREASURE COAST ENERGY)
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APPLICATION NO. PA05-48.)

Case No. 05-1492EPP

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on February 8, 2006, in Fort Pierce, Florida, before the Division of Administrative Hearings, by its assigned Administrative Law Judge, Donald R. Alexander.

APPEARANCES:

For Florida Municipal Power Agency: Douglas S. Roberts, Esquire
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For St. Lucie County: Heather Young, Esquire
2300 Virginia Avenue
Third Floor Annex
Fort Pierce, Florida 34982-5632

STATEMENT OF THE ISSUE

The issue to be resolved in this portion of the proceeding is whether the Siting Board should issue a final certification to the Florida Municipal Power Agency (FMPA) to construct and

operate the Treasure Coast Energy Center (TCEC) Unit 1 and an ultimate site capacity determination of 1,200 megawatts of steam electric generating capacity to be located at the TCEC, in accordance with the provisions of the Florida Electrical Power Plant Siting Act (PPSA).

PRELIMINARY STATEMENT

This site certification proceeding has been conducted in accordance with the PPSA codified in Part II, Chapter 403, Florida Statutes (2005)¹, and Florida Administrative Code Chapter 62-17 to consider FMPA's Site Certification Application (Application) for the TCEC Project (the Project). On April 14, 2005, FMPA filed with the Department of Environmental Protection (Department) its Application for site certification for the Project. That Application was also distributed to several reviewing agencies.

On July 27, 2005, the Florida Public Service Commission (FPSC) issued its Final Order determining the need for the Project pursuant to Section 403.519, Florida Statutes.

On December 12, 2005, the Department issued its Staff Analysis Report (Report) concerning the Project, as required by Section 403.507(4), Florida Statutes. That Report contains reports prepared by other reviewing agencies, along with a compiled set of proposed Conditions of Certification for the Project as proposed by the Department and other reviewing

agencies. On February 8, 2006, the Department submitted at the site certification hearing its Revised Staff Analysis Report as Department Exhibit 2 to update and correct various matters in the earlier version of its Report.

After proper public notice by both FMPA and the Department, a consolidated site certification hearing and land use hearing was held in Fort Pierce, Florida, on February 8, 2006, as required by Section 403.508(3), Florida Statutes. The purpose of the certification hearing was to receive oral, written, and documentary evidence concerning whether, through available and reasonable methods, the location and operation of the proposed Project would produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life in an effort to fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public. See § 403.502, Fla. Stat.

Prior to the hearing, FMPA and several reviewing agencies entered into Stipulations, including the Florida Department of Transportation (FDOT), the Florida Department of Community Affairs (DCA), the Florida Fish and Wildlife Conservation Commission (FFWCC), the South Florida Water Management District (SFWMD), the Treasure Coast Regional Planning Council (TCRPC), and the Department, indicating that those agencies did not

object to certification subject to inclusion of those agencies' recommended Conditions of Certification.

Notice of the consolidated land use and site certification hearing was published by FMPA in the Fort Pierce Tribune on December 22, 2005. Notice of the consolidated land use and site certification hearing was also published by the Department on its Official Notices website on December 16, 2005, pursuant to Section 120.551, Florida Statutes.

At the certification hearing, FMPA presented five expert witnesses who testified in the following areas: James Hay, FMPA organization and Project need; Stanley A. Armbruster, design of plant and associated facilities; Timothy M. Hillman, air quality permitting and environmental project management; J. Michael Soltys, managing, coordinating, and completing permitting and regulatory requirements; and Dennis J. Murphy, land use and transportation planning. Also, it offered FMPA Exhibits 1 through 15, which were received in evidence. Finally, by agreement of the parties, the prefiled written testimony and exhibits of those five witnesses, and eight other witnesses, Dr. Ralph E. Brooks, James M. Andersen, Brian J. Klausner, Girma Mergia, Michael J. Tuttle, Kenneth R. Weiss, John M. Wynne, and Roosevelt R. Huggins, were received in evidence as FMPA Exhibit 3.

The Department presented the testimony of Hamilton S. Oven, Jr., who is the Administrator for the Siting Coordination Office and was accepted as an expert. Also, it offered Department Exhibits 1 and 2, which were received in evidence.

A single set of exhibits was tendered and used by the parties for both the land use and site certification phases of the hearing; however, separate Recommended Orders are being rendered for each portion of the hearing.

St. Lucie County (County) presented no witnesses and no exhibits. No other party participated in this hearing.

Opportunity was afforded for members of the general public to appear. One member of the public, Elie J. Broudreux, III, who is director of the Fort Pierce Utilities Authority (FPUA), offered sworn oral comments in support of the Project. No party or member of the public offered testimony or evidence contrary to the conclusion that the Project should be granted certification under the PPSA, subject to the Department's recommended conditions of certification.

The Transcript of the hearing was filed on March 8, 2006. A Joint Proposed Recommended Order was filed by FMFA and the Department on March 20, 2006, and has been substantially used in the preparation of this Recommended Order.

FINDINGS OF FACT

Based upon all of the evidence, the following findings of fact are determined:

1. FMPA is a joint action agency created under the Florida Interlocal Cooperation Act of 1969 (Section 163.01, Florida Statutes) and the Joint Power Act (Part II, Chapter 361, Florida Statutes). FMPA comprises twenty-nine municipal electric utilities across Florida and was created to allow its member utilities to cooperate with each other on the financing, construction, ownership, and operation of electrical generating resources. FMPA is governed by a Board of Directors consisting of one representative from each of the twenty-nine member cities. Within FMPA, the All-Requirements Project (ARP) was formed in 1986 and currently has fifteen municipal members serving approximately 280,000 customers. Under the ARP, both generating and non-generating members purchase all of their capacity and electrical energy needs from the ARP. Additionally, ARP members with generating plants commit their capacity to FMPA. FMPA will own the TCEC and act as the project manager for construction. The FPUA will operate Unit 1 for FMPA.
2. FMPA's proposed TCEC will be located in the County, approximately five miles west of the City of Fort Pierce and eight miles north of the City of Port St. Lucie.

3. Much of the site's northwestern boundary is determined by a Florida East Coast Railroad line that parallels Glades Cut-Off Road. To the south, the site is bordered by the North St. Lucie River Water Control District's Canal 102 with a Florida Power and Light Company (FPL) electrical transmission line right-of-way across the southern part of property and adjacent to Canal 102. The parcel north of the proposed site is owned by the FPUA and is proposed for a mainland wastewater treatment plant. The land directly east of the site is largely undeveloped industrial park. The proposed plant site itself is located within the Midway Industrial Park. The site is approximately one-half mile east of the Florida Turnpike and one-half mile north of Midway Road.

4. The site contains approximately 68.1 acres. Land use and vegetation at the site consist primarily of pasture used for cattle and horses. Within the pasture land are areas of wet prairie, freshwater marsh, and Brazilian Pepper. The site was historically and most likely pine flatwoods or savannah, based on the characteristics of the surrounding vicinity. However, due to past clearing and agricultural activities, the site has been significantly altered from its natural state and has little native vegetation. Current vegetation reflects the disturbed condition of the site. There were no observations or indications of protected plant or wildlife species on the site.

5. The site is located in an area outside the 500-year flood plain as determined by the Federal Emergency Management Agency.

6. The future land use map in the County's Comprehensive Plan indicates no expected changes in the land use patterns for the site or the adjacent land area in the future, indicating that the site will continue to be compatible with the predominant land use in the immediate Project vicinity. As part of its land development approvals for the site, the St. Lucie Board of County Commissioners determined that the Project was compatible with surrounding land uses.

7. FMPPA proposes to construct a nominal 300-megawatt combined cycle electrical generating unit at the site known as Unit 1. FMPPA is also requesting an ultimate site capacity determination for a total of 1,200 megawatts of generating capacity to be located at the Project site. Any future electrical generating units after the first two units up to the proposed ultimate site capacity of 1,200 megawatts will require additional zoning review and approval and any other applicable County development authorization at the time those units are proposed for approval.

8. Unit 1 will be dual fuel, with natural gas as the primary fuel and ultra low sulfur diesel fuel oil as a backup fuel. The Project will be a "one-on-one" combined cycle unit.

Unit 1 will be comprised of a combustion turbine, a heat recovery steam generator (HRSG), and a single steam turbine generator.

9. In the combustion turbine, fuel is combusted in the form of hot gases which expand through the turbine. The combustion turbine spins the electrical generator that is directly connected, producing power. About half of the energy of the hot gases is extracted when expanded through the combustion turbine. The remainder of the heat is exhausted into a HRSG. These hot gases flow through the HRSG which turns water into steam. The steam flows into a steam turbine, spinning a second electrical generator. The steam is then exhausted into a condenser, where it is condensed back into water and pumped back to the HRSG.

10. The HRSG will also be equipped with duct firing to provide peak power by increasing the steam production in the HRSG, which increases the output from the steam turbine generator.

11. The Unit will also be able to operate in a steam turbine bypass operation where the combustion turbine and HRSG will operate normally but the steam will bypass the steam turbine. This mode of operation will be employed during startups and will also allow unit operation when the steam turbine/generator is not available.

12. Combined cycle generation technology is very efficient because it generates electrical energy from the fuel input, both directly through the combustion turbine and indirectly through capture of the energy in the combustion turbine exhaust gas in the HRSG. This captured energy is used to produce steam to drive the separate steam turbine electrical generator. By reheating the steam between sections of the steam turbine, additional improvements and cycle efficiency can be achieved. Combined cycle technology makes the most of the input fuel, achieving increased efficiency in the generation of electrical energy. It achieves efficiencies of 55 percent in converting fuel into electricity. For these reasons, the modern combined cycle power plant is one of the most efficient power cycles available. If properly maintained and operated, the life expectancy of a combined cycle unit is indefinite.

13. Combined cycle units operating on natural gas, such as Unit 1, are one of the cleanest sources of fossil generation. These units also use considerably less water than traditional steam turbine units, requiring approximately one-half the amount of water used by a steam cycle only unit with similar electrical output.

14. The ultimate site arrangement for the Project allows for the installation of three future similar-sized combined cycle units for an ultimate site certification capacity of

approximately 1,200 megawatts. FMPA will clear and develop the entire Project site during the construction for Unit 1.

15. A cooling tower used to cool the steam turbine condenser will be located to the north of Unit 1. The cooling tower will consume approximately 95 percent of all the water used by the Project. For this Project, reclaimed water will be supplied from FPUA's soon-to-be constructed water reclamation facility, which will be located just north of the site. The reclaimed water will be used as cooling tower makeup. Until the water reclamation plant comes online, the new Unit 1 will utilize water withdrawn from the Upper Floridan Aquifer for cooling. The cooling tower design will be a multiple cell, mechanical draft, counter flow cooling tower.

16. Access to the site will be over Energy Drive, which is an access road in the adjacent industrial park.

17. Unit 1 will be interconnected to the FPL electrical transmission system. A new electrical switchyard will be constructed on the site. Two new transmission lines will connect the site to an existing nearby FPL electrical substation and electrical transmission system. The new transmission lines will be installed on new structures for the entire length of each transmission line. Each of the two new lines will be approximately three miles long. One line will parallel Glades Cut-Off Road to the southwest and connect to the existing FPL

Midway/Turnpike transmission line. The second line will go west from the Project site, cross Glades Cut-Off Road parallel to an existing road and FPL transmission line, cross over the Florida Turnpike and Interstate 95, and then turn south into the FPL Midway electrical substation. Each corridor is one-fourth mile wide for most of its length. It is expected that a final right-of-way will be acquired parallel to Glades Cut Off Road for one transmission line and a final right-of-way will be acquired for the second transmission line parallel to the existing FPL right-of-way.

18. The new transmission line structures will be self-supporting concrete tubular steel or hybrid concrete-tubular steel poles or a combination of these options. The typical aboveground height of the transmission structures will be approximately one hundred feet. The structures will be placed approximately four hundred to eight hundred feet apart along the route. The lines will be designed to meet the clearance requirements of the National Electrical Safety Code for the minimum ground clearance of twenty-six feet. The two lines will also comply with the Department's electric and magnetic fields limits in Florida Administrative Code Chapter 62-814.

19. These two transmission line corridors were selected as the most direct means with the least impact for connecting into the FPL transmission network. The transmission lines are

located in areas zoned for commercial, industrial, and agricultural uses. No housing units will be moved as part of the Project and no residential areas will be impacted. The transmission lines will be constructed completely within or adjacent to existing rights-of-way which provide minimal ecological value.

20. A new natural gas pipeline up to sixteen inches in diameter is proposed to connect the site with the Florida Gas Transmission gas pipeline. This existing gas main is located approximately 3,700 feet southwest of the site, near the Florida Turnpike. A 1,320-foot wide corridor centered on Glades Cut Off Road from the Florida Turnpike to the site is proposed for certification. A seventy-five-foot wide temporary easement for pipeline installation and a permanent forty-foot right-of-way are anticipated. It is expected that the natural gas pipeline will be constructed within or adjacent to the existing Florida East Coast Railroad corridor or adjacent to Glades Cut Off Road. The pipeline will be manufactured according to American Petroleum Institute standards and will be built in accordance with United States Department of Transportation and FPSC safety requirements.

21. The proposed gas pipeline corridor is located in areas zoned for commercial and utility uses. No residential areas will be impacted during construction of the underground

pipeline. The existing railroad right-of-way is expected to be maintained as a transportation corridor and provides minimal ecological value. There will be minimal impacts to vegetation in the gas pipeline right-of-way as there will be only minor clearing required for construction. Disturbed lands will be returned to maintained right-of-way condition following construction.

22. Fuel oil for use in the unit will be delivered by truck. A complete fuel unloading, storage, and supply system will be installed at the site. The unloading station will be designed for containment of a fuel spill. Double-walled piping will be used for underground piping running through the unloading station to the storage tank and from the tank to the combustion turbine. A one-million gallon aboveground storage tank will be installed to provide approximately three days of fuel oil at full load operation for Unit 1. This will be a single wall tank fabricated from carbon steel and will be installed inside a dike containment area. The containment area will be provided with a synthetic liner sufficiently impermeable to ensure no oil can escape by infiltrating through the liner into the soil or into surface or groundwaters.

23. The major water use during operation of Unit 1 will involve cooling tower operation. This is the highest volume water consumer for the Project. The cooling system will use

approximately 2.52 million gallons per day of treated wastewater, most of which is evaporated to the atmosphere in the cooling process. Other plant non-cooling water uses will include the plant service water system. This system supplies fire water, miscellaneous process uses, and makeup water to the demineralizer system. The demineralizer system provides boiler makeup water and provides water for control of nitrogen oxides when firing oil in the unit.

24. Treated sewage effluent or reclaimed water will be used for cooling tower makeup water. This reclaimed water will be provided by the FPUA wastewater treatment plant proposed to be located north and adjacent to the site. This treatment plant is expected to be online in late 2009. The reclaimed water will be supplied via pipeline across the site. It will be necessary to utilize groundwater for cooling purposes until the wastewater treatment plant is online. Groundwater will also be used when the wastewater treatment is offline and unable to supply treated effluent in the future.

25. Three new onsite wells pumping from the Upper Floridan Aquifer will supply fire water and service water. The wells will supply water to the steam cycle and makeup treatment system and the evaporative cooling makeup. They will also provide a temporary water supply for cooling tower makeup. The wells will be sized so that two of the wells will be able to provide the

required water flow at full load with a third well as a backup. An average of 2.95 million gallons per day of groundwater will be used prior to the availability of reclaimed water. An average of approximately 129,000 gallons per day of groundwater will be needed under average annual conditions for non-cooling water needs of the plant.

26. Cooling tower blowdown from Unit 1 will be conveyed to the FPUA wastewater treatment plant for treatment and disposal. Approximately 586,000 gallons per day of cooling tower blowdown wastewater will be returned to the FPUA system for disposal. The cooling tower system will operate at three cycles of concentration when using groundwater, which is considered the maximum practical limit to prevent scaling of heat transfer systems within the cooling system. When reuse water is available, the cooling towers will operate at four cycles of concentration, which further minimizes the amount of water needed for cooling. The cooling system is also designed to minimize the amount of cooling tower blowdown and makeup that is required.

27. Potable water for the site will be provided through an extension from the FPUA municipal water system. This connection will also supply the evaporative cooler needs on the Unit and backup water supply to the plant service water system.

28. Water treatment and other water uses in Unit 1 will generate various process wastewaters. Wastewaters from the onsite demineralizer system, including filter backwash and reverse osmosis reject wastewater, will be routed to an onsite wastewater sump for disposal to the FPUA wastewater treatment plant. The HRSG and boiler piping will be chemically cleaned during commissioning of the new unit and the steam generators will be cleaned infrequently over the life of the unit. Chemical cleaning solutions will be neutralized onsite if required and transported offsite by a licensed waste disposal contractor. Sanitary wastewater will be routed to the FPUA municipal sanitary treatment system for treatment and disposal.

29. The TCEC design contains several features to minimize impacts of project wastewaters to surface and groundwaters. The cooling system design will minimize the amount of cooling tower blowdown and makeup required. There will be no process wastewater discharge to groundwater or surface waters at the plant site. All process and sanitary wastewaters will be returned to FPUA for final disposal. Further, the use of reclaimed and treated wastewater in the cooling system will reduce the quantity of wastewater that would otherwise have to be disposed of to surface and groundwaters. Groundwater consumption will also be reduced through the use of treated wastewater for cooling and by recovering and pumping blowdown

water from the HRSG to the cooling towers as makeup rather than sending the blowdown to the wastewater collection and disposal system.

30. Groundwater withdrawals during initial operation of Unit 1 are proposed from the Upper Floridan Aquifer for cooling tower makeup until future sources of treated wastewater become available for the Project to displace groundwater withdrawals. Analyses were performed to determine the impact of these groundwater withdrawals from the non-potable Upper Floridan Aquifer. A three-dimensional aquifer analysis computer model was developed to model these impacts. The computer model was one developed by the United States Geological Survey and approved by the SFWMD. The drawdown in the Floridan Aquifer was simulated for the condition of groundwater withdrawals for Unit 1 of 3.2 million gallons per day. This assessment indicates that the onsite pumping from the Upper Floridan Aquifer would have a small impact on existing legal groundwater users in the area. This modeling predicts that the additional two- and one-foot drawdowns in the Upper Floridan Aquifer due to the plant withdrawals at maximum withdrawal rates would occur at 1.8 and 5.8 miles, respectively, from the Project. This limited impact in drawdown of the Floridan Aquifer and the magnitude of the drawdown increase are not considered significant. The proposed groundwater pumping is not expected to cause salt water

intrusion into the Floridan Aquifer. Due to the presence of a 600-foot thick Hawthorne formation and the upward gradient from the Upper Floridan Aquifer to the land surface, no adverse effects to surface wetlands are expected. The SFWMD agreed with these conclusions as indicated in its report submitted to the Department. Impacts on the Upper Floridan Aquifer after the Project begins operation using reclaimed water will be significantly reduced and also cause no adverse impacts.

31. Project construction may require dewatering for placement of subsurface facilities, such as piping, electrical trenches, sumps, and foundations. Dewatering impacts for construction were estimated using site specific geotechnical information. Due to the short duration of the onsite dewatering, it will not affect existing users and will have a minimal and temporary impact on the surficial water table aquifer. No impact is expected to extend beyond the project site boundaries.

32. Of the 68.1-acre Project site, 11.96 acres constitute wetlands. Three onsite wetlands will be lost due to the site development, comprising 11.25 acres of wetlands. The onsite wetlands were delineated in accordance with state and federal guidelines for such delineations. These onsite wetlands are low quality herbaceous wetlands, mainly disturbed wet prairie and freshwater marshes. Cattle have access to the entire site

including these wetlands. Natural vegetation and wildlife have been largely eliminated from the Project site and much of the surrounding vicinity due to onsite grazing and past development activities, including residential, industrial, and commercial development. Based on these considerations, the loss of vegetation and associated wildlife habitat at the Project site will be insignificant.

33. FMPPA must mitigate for the unavoidable wetlands impacts due to site development. FMPPA has entered into a mitigation credit purchase and sale agreement with the Bluefield Ranch Mitigation Bank (located in the County) to compensate for those wetlands impacts subject to state jurisdiction.

34. There will be no impacts to surface waters from operation of the facility. The Project will not withdraw or discharge wastewaters to surface waters. The onsite stormwater management system will be designed to comply with all applicable state and local regulations regarding discharge into offsite surface waters. The stormwater management system will meet the water quality treatment requirements of the Department and SFWMD, as well as the standards of the County. Runoff originating from potentially contaminated areas, such as miscellaneous plant drains and drainage from oil containment areas, will be routed through an oil/water separator. Oil and grease will be removed from the contaminated stormwater, and the

treated effluent will be collected and discharged to the FPUA wastewater treatment plant. Captured oil and grease will be properly disposed offsite. Runoff from other potentially contaminated areas, such as storage tank containment areas, will be contained locally.

35. All runoff from the fenced site will be directed to the onsite stormwater detention basin for treatment and discharge in accordance with applicable stormwater rules. Peak stormwater discharges from the Project area are less than the peak stormwater discharges from the pre-Project site for the same storm event. Therefore, the potential for local flooding will not be affected by the Project.

36. During construction, a combination of silt fencing, straw bale sediment barriers, and a stormwater detention pond will be used to control erosion on the site and to reduce the potential for transport of loaded sediment offsite. Grading will be accomplished in phases and each graded area will be seeded and mulched after construction is completed. During operation, stormwater ditches will route stormwater to the onsite stormwater detention area. This basin will meet the stormwater treatment quality and quantity requirements of the Department, SFWMD, and County. Thus, there will be minimal adverse impact from the management and storage of surface waters on the site.

37. Air emissions from the Project are subject to review under federal and state regulations, primarily the Prevention of Significant Deterioration (PSD) permitting program. The Department regulates major air pollution facilities, such as Unit 1, in accordance with the PSD program under Florida Administrative Code Rule 62-212.400. The PSD pre-construction review is required in areas currently in attainment with the state and federal ambient air quality standards. The County is an attainment area for those air quality standards. The state PSD regulations are designed to assure that the air quality in existing attainment areas like the County does not significantly deteriorate or exceed the ambient air quality standards while providing a margin for future industrial and commercial growth.

38. The PSD regulations apply to major stationary sources and major modifications at major existing sources undergoing construction. A major stationary source is defined for PSD permitting purposes as any one of twenty-eight listed major source categories which emits or has the potential to emit one hundred tons per year or more of any regulated pollutant. The Unit 1 Project is one of the twenty-eight major listed category types, a fossil fuel-fired steam electric plant, and has the potential to emit greater than one hundred tons per year of at least one of the PSD regulated pollutants. Unit 1 also exceeds the PSD significant emission levels for several pollutants and

is thus subject to PSD review as a major stationary source. The emissions from Unit 1 subject to PSD review include nitrogen oxides (NOx), sulfur dioxide, carbon monoxide (CO), particulate matter (PM), particulate matter less than ten microns in aerodynamic diameter (PM10), and sulfuric acid mist.

39. The PSD review requires an analysis of best available control technology (BACT), an air quality impact analysis, and an assessment of the Project's impacts on general commercial residential and commercial growth, soils and vegetation, and visibility, as well as impacts to air quality in Class I areas.

40. BACT is defined as an air emission limitation based on the maximum degree of pollutant reduction for emissions, determined on a case-by-case basis, considering technical, economic, energy, and environmental factors, as well as other costs for the control of each pollutant. The facilities at the Project subject to BACT review include the combustion turbine, the fuel oil storage tank, a diesel driven fire pump and oil storage tank, a safe shutdown generator and storage tank, and the mechanical-draft cooling tower. A BACT analysis was performed for each of these emission sources. The analysis was conducted using the "top down" methodology described by the United States Environmental Protection Agency (EPA).

41. Based upon this analysis, best available control technologies for controlling NOx emissions from Unit 1 were

determined by the Department during its PSD review to be the use of dry low NOx burners within the combustion turbine and selective catalytic reduction (SCR) installed in the HRSG to achieve an emission limit of 2.0 parts per million of NOx when burning natural gas. The Department also determined during its PSD review that when burning fuel oil, BACT to control NOx emissions was the use of water injection with a SCR to achieve an emission limit of 8.0 parts per million. The Department agreed with FMPA's proposed NOx emission limit for this Project.

42. For carbon monoxide emissions, BACT control was determined by the Department during its PSD review to be good combustion controls and practices. Carbon monoxide is a product of incomplete combustion of carbon-containing fuels such as natural gas and fuel oil. Most combustion turbines incorporate good combustion practices based on high temperature and other techniques to minimize emissions of CO. The Department further determined during its PSD review that the BACT for CO was 4.1 parts per million for natural gas firing and 8.0 parts per million for fuel oil firing. A continuous limit of 8.0 parts per million CO on a twenty-four hours basis will also be implemented for both gas and oil firing with or without the duct burner in operation. In addition, an annualized limit of 6.0 parts per million of CO will also be included to recognize that Unit 1 will be operated in the normal natural gas-fired mode.

43. BACT for particulate emissions, both PM and PM10, was determined by the Department during its PSD review to be a fuel selection of natural gas and ultra low sulfur fuel oil and good combustion controls.

44. Sulfur dioxide and sulfuric acid mist control was determined by the Department in its PSD review to be the use of low sulfur fuels, including the limited use of ultra low sulfur diesel fuel.

45. The cooling tower can produce PM emissions in the small amounts of water entrained in the air passing through the cooling tower that can be carried out of the tower, known as "drift" droplets. These droplets contain impurities from the cooling water which can be classified as an emission. FMPPA proposed, and the Department accepted during its PSD review, that use of high-efficiency mist eliminators with a maximum guaranteed drift rate of 0.0005 percent constitutes BACT for these drift emissions. Modeling of the impacts of the emissions and plume from the cooling tower indicates that there would be no environmental impact.

46. Finally, the Department concluded during its PSD review that the use of ultra low sulfur fuel oil and limited hours of operations (five hundred hours or less) insures that emissions from both the onsite safe shutdown generator and the diesel engine fire pump will be minimal. An air quality impact

analysis was also conducted for the Project-related air emissions, in accordance with the Department's and EPA's air dispersion modeling guidelines. The ambient air quality impact analysis conducted for Unit 1 demonstrates that this Project will not have a significant impact on air quality near the Project site or in the nearest Class I air quality areas, including the Everglades National Park. There are no predicted air quality impacts greater than the PSD significant impact levels. Therefore, under the PSD program, no further air quality impact analysis was required for the Project.

47. The Project is not expected to cause any adverse impacts on vegetation, soils, or visibility in the Project area or at the nearest Class I areas.

48. The Project construction activities may produce air emissions during onsite construction of buildings and from construction equipment exhaust. Particulate matter would be the major source of air pollution during construction. These emissions are expected to be intermittent, short term, and composed of relatively-large particles. These particles tend to settle out quickly and will not generally leave the Project site. Particulate matter emissions will be controlled by watering and application of dust suppressants or ground covers as necessary in active work areas.

49. Construction and operation of the Project will result in significant economic benefits to the County, the region, and the State of Florida. No significant permanent adverse socioeconomic impacts are expected. The anticipated benefits of the Project include primarily the direct and indirect employment and earnings impacts that will be realized in the area from construction and operation. The Unit 1 construction will create approximately 286 temporary jobs, with an estimated payroll of \$23.6 million over a twenty-two-month period. It is expected that most of these jobs will be filled by workers already residing in or near the County. The in-migration of construction employees will be small and should not increase the demand for services from local governments and nearby service providers. Information gathered for the Project indicates that more than enough service capacity is available to accommodate the construction work force. Individuals temporarily relocating to the area during construction should not have a problem securing affordable housing. The indirect socioeconomic impacts from construction of the Project include the creation of service jobs in the area to accommodate construction workers. Using an accepted economic multiplier, it is expected that 762 additional jobs may be created as a result of the construction. Expenditure of the construction payroll in the local economy will be passed along to local businesses through spending by

construction workers and the governments in the form of taxes. Benefits from operation of the Project will occur from the sixteen operational personnel needed to operate the combined cycle units. The annual payroll for these employees is estimated to be \$1.38 million. It is expected that these employees will come from the existing FPUA work force. Since operational personnel tend to live near the facility they operate, the majority of the annual payroll will remain within the local economy. Indirect socioeconomic impacts will include the creation of up to sixteen additional fulltime indirect jobs as a result of the operation of the combined cycle project.

50. By its Order dated July 27, 2005, the FPSC found that there is a need for the proposed Unit 1, taking into account the need for electric system reliability and integrity. The FPSC found that Unit 1 was required to maintain FMPA's winter and summer reserve margins. The FPSC also found that Unit 1 will enhance the reliability and integrity of FMPA's electric system through the use of the highly efficient combined cycle technology with the ability to burn two different types of fuel. The two interconnections to FPL's transmission system would also be a benefit to Unit 1 and allow FMPA to better serve its members in the FPL transmission grid. FMPA's analysis of five proposals from other potential bidders indicated that Unit 1 is the most cost-effective option available. There were no

conservation measures taken by or reasonably available to FMPA which would mitigate the need for the proposed Unit 1. Unit 1 was further found by the FPSC to provide the most cost-effective solution to satisfy FMPA's forecast capacity requirements beginning in 2008.

51. The Department, DCA, FPSC, SFWMD, FDOT, FFWCC, TCRPC, and the Cities of Fort Pierce and Port St. Lucie each prepared written reports on the Project.

52. The Department has proposed Conditions of Certification for the Project, which FMPA has agreed to accept and comply with in construction and operation of the Project.

53. No state, regional, or local agency has recommended denial of certification of the Project.

CONCLUSIONS OF LAW

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

55. In accordance with Part II of Chapter 403, Florida Statutes, and Florida Administrative Code Chapter 62-17, proper notice was accorded all persons, entities, and parties entitled to such notice. All necessary and required governmental agencies, as well as members of the public, either participated in or had the opportunity to participate in the certification

hearing. Reports and studies were issued by the Department, DCA, FFWCC, SFWMD, FDOT, TCRPC, City of Fort Pierce, and City of Port St. Lucie.

56. The FPSC has issued its affirmative determination that a need exists for the electrical generating facility and the electricity it will produce in accordance with Section 403.519, Florida Statutes.

57. Competent substantial evidence produced at the certification hearing demonstrates that FMPA has met its burden of proof to demonstrate that the TSEC meets the criteria for certification under the PPSA. Unrebutted evidence produced at the hearing demonstrates that the safeguards for construction and operation of the TCEC are technically sufficient to protect the public welfare of the citizens of Florida and are otherwise reasonable and available methods to achieve that protection of the public. The Project will result in minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life. In addition, and as noted in a separate Recommended Order, the Project will not conflict with the State Comprehensive Plan or the County Comprehensive Plan. If operated and maintained in accordance with this Recommended Order and the Department's proposed Conditions of Certification, the TCEC will comply with the applicable non-procedural

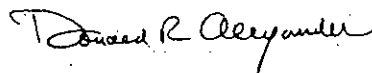
requirements of all agencies. Further, certification of the Project will fully balance the increasing demand for electrical power plant location and operation in this State with the broad interests of the public that are protected by the PPSA.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Siting Board grant final certification to the Treasure Coast Energy Center Project under Part II, Chapter 403, Florida Statutes, for the location, construction, and operation of the Project, representing a 1,200 megawatts combined cycle unit site with Unit 1 being a nominal 300-megawatt combined cycle unit, as described in the Site Certification Application and the evidence presented at the certification hearing, and subject to the Conditions of Certification contained in Department Exhibit 2.

DONE AND ENTERED this 30th day of March, 2006, in Tallahassee, Leon County, Florida.



DONALD R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of March, 2006.

ENDNOTE

1/ All future references are to the 2005 version of Florida Statutes.

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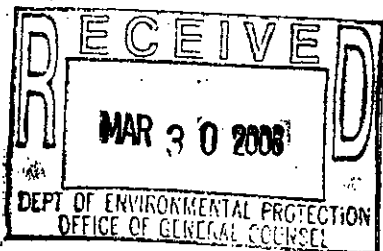
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NOTICE OF RIGHT TO FILE EXCEPTIONS

All parties have the right to submit written exceptions within 15 days of the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will render a final order in this matter.



CONDITIONS OF CERTIFICATION

I. GENERAL

The following general and specific Conditions shall apply to the construction and operation of the Florida Municipal Power Agency (FMPA) Treasure Coast Energy Center (TCEC) power plant project.

A. Definitions

The meaning of the terms used herein shall be governed by the definitions contained in Chapters 403, 378, 373, 372, and 253, Florida Statutes (F.S.), and any regulation adopted pursuant thereto and the applicable statutes and regulations of any agency with jurisdiction over the Facility. In the event of any dispute over the meaning of a term used in these conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation or, in the alternative, by the use of the commonly accepted meaning as determined by the Department. As used herein:

1. "Application" shall mean the Site Certification Application (SCA) as filed, supplemented or amended by the Licensee, Florida Municipal Power Agency (FMPA) for the site and TCEC.
2. "Conditions" shall mean these Conditions of Certification.
3. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.
4. "Emergency conditions" shall mean urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity, including but not limited to conditions necessitating new or replacement gas pipeline, transmission lines, or access facilities.
5. "Project", "Facility" or "power plant" shall mean the Licensee's TCEC facility, which is located on an approximately 68.1 acre site in St. Lucie County, Florida. The Facility includes a natural gas-fired combined cycle system, a steam turbine electrical generator, a cooling tower, air pollution control equipment, a fuel handling and storage areas, 230 kV transmission lines and related equipment and facilities, as described in the Application.

6. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.

7. "FWCC" shall mean the Florida Fish and Wildlife Conservation Commission.

8. "Licensee" or "Permittee" shall mean an applicant that has obtained a certification order for the subject electrical power plant. In this instance, the FMPA is the Licensee.

9. "SFWMD" shall mean the South Florida Water Management District.

10. "PERMITTING AUTHORITY" shall mean the Bureau of Air Regulation of the Florida Department of Environmental Protection (DEP) at 2600 Blair Stone Road (MS #5505), Tallahassee, Florida 32399-2400.

11. "COMPLIANCE AUTHORITY" shall mean the Department of Environmental Protection Southeast District, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida 33401.

B. Applicable Rules

The construction and operation of the Licensee's Facility shall be in accordance with all of the applicable provisions of at least the following regulations of DEP: Chapters 62-4, 62-17, 62-256, 62-296, 62-297, 62-301, 62-302, 62-531, 62-532, 62-550, 62-555, 62-560, 62-600, 62-601, 62-604, 62-610, 62-620, 62-621, 62-650, 62-699, 62-660, 62-701, 62-762, 62-769, 62-770 and 62-814, Florida Administrative Code (F.A.C.), or their successors if they are renumbered

II. CHANGE IN DISCHARGE

All discharges or emissions authorized herein shall be consistent with the terms and conditions of this certification. The discharge of any regulated pollutant not identified in the Application at regulated levels, or more frequent than, or at a level in excess of that authorized herein, shall constitute a violation of the certification. Any anticipated Facility expansions beyond the certified initial generating capacities of the units described in the Application, production increases, or process modifications which may result in new, different, or increased discharges of pollutants, or expansion in steam generation capacity shall be reported by submission of an amendment or application for modification or application for certification pursuant to Chapter 403, F.S.

III. GENERAL CONDITIONS

A. Facilities Operation

1. The Licensee shall properly operate and maintain the Facility and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with the Conditions of this certification, and are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the Conditions and when required by Department rules.

2. In the event of a prolonged [thirty (30) days or more] equipment malfunction or shutdown of pollution control equipment, operation may be allowed to resume and continue to take place under an appropriate Department order, provided that the Licensee demonstrates that such operation will be in compliance with all applicable ambient air quality standards and PSD increments, solid waste rules, domestic wastewater rules and industrial wastewater rules. During such malfunction or shutdown, the operation of the TCEC facility shall comply with all other requirements of this certification and all applicable state and federal emission and effluent standards not affected by the malfunction or shutdown which is the subject of the Department's order.

3. Licensee shall comply with the terms and conditions contained in Permit No. PSD-FL- 353, when issued, and any revisions, modifications or reissuances thereof.

B. Non-Compliance Notification

If, for any reason, the Licensee (defined as the applicant or its successors and/or assigns) does not comply with or will be unable to comply with any limitation specified in this certification, the Licensee shall notify the Southeast District office of the DEP by telephone at (561) 681-6600. After normal business hours, reports of any condition that poses a public health threat shall be made to the State Warning Point at telephone number (850) 413-9911 or (850) 413-9912. The Licensee shall confirm this non-compliance in writing at the DEP Southeast District Office, 400 North Congress Avenue, Suite 200, West Palm Beach, FL 33401 within seventy-two (72) hours of becoming aware of such conditions, and shall supply the following information

1. A description of the discharge and cause of noncompliance; and,
2. The period of non compliance, including exact dates and times; or if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying event.

C. Spill Notification

1. The Licensee shall report all critical (having potential to significantly pollute surface or ground waters) spills of liquid or liquid-solid materials, not confined to a building or similar containment structure, to the Department by telephone immediately after discovery and submit a written report within forty eight hours, excluding weekends, from the original notification. The telephonic report shall be submitted by calling the Southeast District Industrial Wastewater Compliance/Enforcement Section under telephone number (561) 681-6600. After normal business hours, contact the State Warning Point by calling (850) 413-9911 or (850) 413-9912. The written report shall include, but not be limited to, a detailed description of how the spill occurred, the name and chemical make-up (include any MSDS sheets) of the substance, the amount spilled, the time and date of the spill, the name and title of the person who first reported the spill, the areal size of the spill and surface types (impervious, ground, water bodies, etc.) it impacted, the cleanup procedures used and status of completion, and include a map or aerial photograph showing the extent and paths of the material flow. Any deviation from this requirement must receive prior approval from the Department.

2. For unauthorized releases or spills of untreated or treated wastewater 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 TOLL FREE 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.

D. Safety

1. The overall design, layout, and operation of the Facility shall be such as to minimize hazards to humans and the environment. Security control measures shall be utilized to prevent exposure of the public to hazardous conditions. The Federal Occupational Safety and Health Standards and any applicable Florida occupational safety standards will be complied with during construction.

2. 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 Section 62-520.420, 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.

E. Enforcement

The Department may take any and all lawful actions as it deems appropriate to enforce any condition of this certification.

F. Design and Performance Criteria

The power plant may be operated at up to the maximum electrical output 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. Moreover, the Licensee shall take all reasonable steps to minimize any adverse impacts resulting from noncompliance with any limitation specified in this certification, including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.

G. Certification - General Conditions

1. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of certification are the same as "Permit Conditions" and are

binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S. Any noncompliance with a condition of certification or condition of a federally delegated or approved permit constitutes a violation of chapter 403, F.S., and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. The Licensee is placed on notice that the Department will review this approval periodically and may initiate enforcement action for any violation of these Conditions.

2. This approval is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or Conditions of Certification may constitute grounds for revocation and enforcement action by the Department.

3. As provided in Subsections 403.087(7), 403.511, and 403.722(5), F.S., the issuance of this approval 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 approval is not a waiver of or approval of any other Department approval that may be required for other aspects of the Facility under federally delegated programs which are not addressed in this certification.

4. This certification does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this Facility, or from penalties therefore; nor does it allow the Licensee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The Licensee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of these Conditions which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a Licensee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with these Conditions.

5. In accepting this certification, the Licensee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this Facility which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the Facility arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111 and 403.73, F.S., or Rule 62-620.302, F.A.C. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

6. This certification is transferable only upon Department approval in accordance with Section 403.516, F.S., Rules 62-4.120 and 62-730.300, F.A.C., as applicable. The Licensee shall be liable for any noncompliance of the approved activity until the transfer is approved by the Department.

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

8. The Licensee shall comply with the following:

a. Upon request, the Licensee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

b. The Licensee shall hold at the Facility 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 Application. 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. Data utilized to prepare the Application may be maintained at the following locations:

Florida Municipal Power Agency

8553 Commodity Circle

Orlando, FL 32819-7767

or

Treasure Coast Energy Center

(Address to be provided upon commencement of construction)

Fort Pierce, Florida

c. Records of monitoring information shall include:

i. the date, exact place, and time of sampling or measurements;

ii. the person responsible for performing the sampling or measurements;

iii. the dates analyses were performed;

iv. the person responsible for performing the analyses;

v. the analytical techniques or methods used;

vi. the results of such analyses.

9. These Conditions may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Licensee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

10. The Licensee, by accepting these Conditions, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:

a. Enter upon the Licensee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under these Conditions;

b. Have access to and copy any records that shall be kept under the these Conditions;

c. Inspect the facilities, equipment, practices, or operations regulated or required under these Conditions; and

d. Sample or monitor any substances or parameters at any location necessary to assure compliance with these Conditions or Department rules.

11. When requested by the Department, the Licensee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating these Conditions, or to determine compliance with the Conditions. The Licensee shall also provide to the Department upon request copies of records required by these Conditions to be kept. If the Licensee becomes aware of relevant facts that were not submitted or were incorrect in the Application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department.

12. Unless specifically stated otherwise in Department rules, the Licensee, in accepting these Conditions, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the Licensee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.

13. The Licensee, in accepting these Conditions, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C.

14. The Licensee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment.

15. The Licensee shall apply for a revision to any Department issued PSD, Title V, or NPDES permit in accordance with Department Rules in Chapter 62, Florida Administrative Code, and receive approval before construction of any planned substantial modifications to the certified Facility is to commence or in accordance with applicable rules for minor modifications to the certified Facility. A revised permit shall be obtained before construction begins except as provided in the applicable portions of Chapter 62, F.A.C.

16. The Licensee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with these Conditions. The Licensee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of these Conditions. The notice shall include the following information:

- a. A description of the anticipated noncompliance;
- b. The period of the anticipated noncompliance, including dates and times; and
- c. Steps being taken to prevent future occurrence of the noncompliance.

17. Water quality sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate.

a. Monitoring results shall be reported at the intervals specified elsewhere in these Conditions and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10).

b. If the Licensee monitors any contaminant more frequently than required by these Conditions, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

c. Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in these Conditions.

d. Under Chapter 62-160, F.A.C., sample collection shall be performed by following the protocols approved by the Department. Alternatively, sample

collection may be performed by an organization that has an approved Comprehensive Quality Assurance Plan (CompQAP) on file with the Department. This CompQAP shall be approved for collection of samples from the required matrices and for the required tests.

18. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in these Conditions shall be submitted no later than 14 days following each schedule date. When requested by the Department, the Licensee shall within a reasonable time furnish any information required by applicable law, which is needed to determine compliance with the certification. If the Licensee becomes aware that relevant facts were not submitted or were incorrect in the Application or in any report to the Department, such facts or information shall be corrected promptly.

H. Laboratories and Quality Assurance

1. The Licensee shall ensure that all laboratory analytical data submitted to the Department, as required by this certification, must be from a laboratory which has a currently valid and Department approved Comprehensive Quality Assurance Plan (CompQAP) [or a CompQAP pending approval] for all parameters being reported, as required by Chapter 62-160, F.A.C.

2. When a contract laboratory is used to analyze samples required pursuant to this certification, the Licensee is required to have the samples taken by qualified personnel following EPA and Department approved sampling procedures and chain-of-custody requirements in accordance with Rule 62-160, F.A.C.

3. When an in-house laboratory is used to analyze samples required pursuant to these Conditions, the Licensee is required to have the samples taken by a qualified technician following EPA and Department approved sampling procedures and chain-of-custody requirements. All chain-of-custody records must be retained on-site for at least three (3) years and made available to the Department immediately upon request.

I. Procedures for Post-Certification Submittals

1. Purpose of Submittals

Conditions of certification which provide for the post-certification submittal of information to DEP by the Licensee are for the purpose of facilitating DEP's monitoring of the effects from the construction and maintenance of the Facility. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with these Conditions, without any further agency action.

2. Filings

All post-certification submittals of information by the Licensee are to be filed with DEP. Copies of each submittal shall be simultaneously submitted to any other agency indicated in the specific Conditions requiring the post-certification submittals.

3. Completeness

The DEP shall promptly review each post-certification submittal for completeness. This review shall include consultation with the other agencies receiving the post-certification submittal. For the purposes of this condition, completeness shall mean that the information submitted is both complete and sufficient. If found to be incomplete, the Licensee shall be so notified. Failure to issue such a notice within forty-five (45) days after filing of the submittal shall constitute a finding of completeness.

4. Interagency Meetings

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

5. Reasonable Assurance of Compliance

Within ninety (90) days of the filing of a complete post-certification submittal, or 45 days after a submittal is made by the Licensee, or unless another date is specified herein, DEP shall give written notification to the Licensee and the agencies to which the post-certification information was submitted of its determination whether there is reasonable assurance of compliance with these Conditions. If it is determined that reasonable assurance has not been provided, the Licensee shall be notified with particularity and possible corrective measures suggested. Failure to notify the Licensee in writing within ninety (90) days of receipt of a complete post-certification submittal shall constitute a compliance determination.

6. Commencement of Construction

If DEP does not object within the time period specified in Condition III.1.5. above, the Licensee may begin construction pursuant to the terms of the Conditions of certification and the subsequently submitted construction details.

IV. ADVERSE IMPACT

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 discharge. The Licensee shall not adversely impact any jurisdictional wetland without prior approval.

V. RIGHT OF ENTRY

The Licensee shall allow during normal business hours the Secretary of the Florida Department of Environmental Protection and/or authorized representatives, including representatives of the SFWMD upon the presentation of credentials:

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

B. To have access during normal business hours (Monday - Friday, 9:00 a.m. to 4:00 p.m.) to any records required to be kept under these Conditions for examination and copying;

C. To inspect and test any monitoring equipment or monitoring method required in this certification and to sample any discharge or pollutants, or monitor any substances or parameters at any location reasonably necessary to assure compliance with these Conditions or Department rules; and,

D. To assess any damage to the environment or violation of ambient standards.

VI. REVOCATION OR SUSPENSION

This certification may be suspended or revoked for violations of any of these Conditions pursuant to Section 403.512, F.S.

VII. CIVIL AND CRIMINAL LIABILITY

This certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any Conditions of this certification, applicable rules or regulations of the Department or Chapter 403, F.S., or regulations there-under. Subject to Section 403.511, F.S., this certification shall not preclude the institution of any legal action or relieve the Licensee from any responsibilities or penalties established pursuant to any other applicable state statutes or regulations.

VIII. PROPERTY RIGHTS

The issuance of this certification does not convey any property rights in either real or personal property, nor any exclusive privileges, nor 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 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 herein provided and 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.

IX. SEVERABILITY

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

X. REVIEW OF SITE CERTIFICATION

The certification shall be final unless revised, revoked, or suspended pursuant to law. At least every five (5) years from the date of issuance of certification the Department may review these Conditions and propose any needed changes.

XI. MODIFICATION OF CONDITIONS

A. Pursuant to Subsection 403.516(1), F.S., the Siting Board hereby delegates the authority to the Department to modify any condition of this certification, except that any proposed modification to burn a fuel other than natural gas or distillate oil shall be reviewed by the Board.

B. Subject to the notice requirements of 403.516(1), F.S., the certification may be modified to conform to subsequent DEP-issued amendments, modifications or renewals of any separately-issued Prevention of Significant Deterioration (PSD) permit, Title V Air Operation permit, or National Pollutant Discharge Elimination System (NPDES) permit for the Facility and the conditions of such permits shall be controlling over these Conditions.

XII. CONSTRUCTION

A. Standards and Review of Plans

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

2. The Department must be notified in writing and prior written approval obtained for any changes, modification, or revision to be made to the project during construction which is in conflict with these Conditions. If there are any changes, modification, or revision made to the Project as certified without this prior written approval, the project will be considered to have been constructed without departmental approval, the construction will not be cleared for service, and the construction will be considered a violation of these Conditions.

3. Ninety (90) days prior to the anticipated date of first operation, the Licensee shall provide the Department with an itemized list of any changes made to the facility design and operation plans that would affect a change in discharge as referenced in Condition II herein, after issuance of these Conditions. This post certification review of the final design and operation shall demonstrate continued compliance with Department rules and standards.

B. Control Measures

1. Storm Water Runoff

To control runoff during construction which may reach and thereby pollute waters of the state, necessary measures shall be utilized to settle, filter, treat or absorb silt-containing or pollutant-laden storm water to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units above background in waters of the state. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5.

2. Open Burning

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

3. Sanitary Wastes

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

4. Solid Wastes

Solid wastes resulting from construction shall be disposed of in accordance with the applicable regulations of Chapter 62-701, F.A.C. Solid wastes generated during operation shall be disposed of off-site in DEP licensed facilities by licensed contractors.

5. Noise

Construction noise shall not exceed noise requirements of the St. Lucie County Noise Ordinance.

6. Dust and Odors

The Licensee shall employ proper odor and dust control techniques to minimize odor and fugitive dust emissions. The Licensee shall employ control techniques sufficient to prevent nuisance conditions on adjoining property.

7. Transmission Lines

Any directly associated transmission lines from the FMPA/TCEC electric switchyard to the existing Florida Power and Light company transmission system shall be maintained in accordance with the Application and the appropriate state and federal regulations concerning use of herbicides. The Licensee shall notify the Southeast District office of the Department of the type of herbicide to be used at least 60 days prior to its first use.

8. Dewatering Operations

Any dewatering operations during construction shall be carried out in accordance with the applicable provisions of Rule 62-621.300(2), F.A.C.

9. Historical or Archaeological Finds

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

C. Environmental Control Program

The Licensee shall appoint a representative to conduct an environmental control program. Such representative shall be under the supervision of a Florida registered professional engineer or other qualified person and shall assure that all construction activities conform to applicable environmental regulations and these Conditions. If a violation of standards, harmful effects or irreversible environmental damage not anticipated by the Application or the evidence presented at the certification hearing is detected during construction, the Licensee shall notify the Southeast District office as required by Condition III.B.

D. Reporting

Notice of commencement of construction on the Project shall be submitted to the Siting Coordination Office and the Southeast District office within fifteen (15) days of initiation. Starting three (3) months after construction commences, a quarterly construction status report shall be submitted to the Southeast District Office 400 North Congress Avenue, Suite 200, West Palm Beach, FL 33401. The report shall be a short narrative describing the progress of construction.

XIII. AIR

A. General and Administrative Requirements

1. Regulating Agencies: All documents related to applications for permits to construct, operate or modify an emissions unit should be submitted to the Bureau of Air Regulation (BAR), Florida Department of Environmental Protection (FDEP), at 2600 Blair Stone Road, Mail Station 5505, Tallahassee, Florida 32399-2400 and telephone number (850)488-0114. All documents related to reports, tests, and notifications should be submitted to the DEP Southeast District Office, 400 North Congress Avenue, Suite 200, West Palm Beach, FL 33401.

2. The terms, conditions, requirements, limitations, and restrictions set forth in draft Permit PSD-FL-353, and any final issuance, modification, or amendment to such PSD permit, are incorporated by reference herein, and are binding and enforceable Conditions of this Certification. The Licensee is subject to and shall comply with the terms, conditions, requirements, limitations, and restrictions set forth in Attachment A. A violation of the terms conditions, requirements, limitations, and restrictions in Attachment A is a violation of these Conditions of Certification.

3. The Department is delegated the authority to modify these Conditions of Certification to conform them to any subsequently issued amendment or modification to Permit No. PSD-FL-353, pursuant to Conditions XI.A and B, above.

B. Emission Units

This section of the Conditions addresses the following emissions units:

EU ID No.	Emission Unit Description
001	Unit 1 consists of a General Electric PG7241 FA gas turbine electrical generator (nominal 170 MW) equipped with evaporative inlet air cooling, a heat recovery steam generator (HRSG) with supplemental duct firing, a HRSG stack, and a steam turbine electrical generator (nominal 130 MW).

C. PERMITTING AUTHORITY

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

D. Compliance Authority

All documents related to compliance activities such as reports, tests, and notifications shall be submitted to the Department of Environmental Protection Southeast District, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida 33401.

E. Applicable Standards and Regulations

1. BACT Determinations: The emission unit addressed in this section is subject to a Best Available Control Technology (BACT) determination for carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM/PM₁₀), sulfuric acid mist (SAM), and sulfur dioxide (SO₂). [Rule 62-212.400, F.A.C.]

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

a. Subpart A, General Provisions, including:

40 CFR 60.7, Notification and Record Keeping

40 CFR 60.8, Performance Tests

40 CFR 60.11, Compliance with Standards and Maintenance Requirements

40 CFR 60.12, Circumvention

40 CFR 60.13, Monitoring Requirements

40 CFR 60.19, General Notification and Reporting Requirements

b. Subpart Da, Standards of Performance for Electric Utility Steam Generating Units These provisions include standards for duct burners.

c. Subpart GG, Standards of Performance for Stationary Gas Turbines: These provisions include a requirement to correct test data to ISO conditions; however, such correction is not used for compliance determinations with the BACT standards.

d. Subpart KKKK, Standards of Performance for Stationary Gas Turbines: These provisions were published February 18, 2005 as a proposed new NSPS standard. The final rule may be applicable to Unit 1 at the time of publication in the Federal Register. When the rule becomes final, Unit 1 may no longer be subject to NSPS Subparts Da and GG.

Equipment

3. Gas Turbine: The licensee is authorized to install, tune, operate, and maintain one General Electric Model PG7241FA gas turbine-electrical generator set with a nominal generating capacity of 170 MW. The gas turbine will be equipped with DLN combustors, and an inlet air filtration system with evaporative coolers. The unit shall include the Speedtronic™ Mark VI automated gas turbine control system, and will have dual-fuel capability. [Application; Design]

4. HRSG: The licensee is authorized to install, operate, and maintain one heat recovery steam generator (HRSG) with a HRSG exhaust stack. The HRSG shall be designed to recover heat energy from the gas turbine and deliver steam to the steam turbine electrical generator. The HRSG may be equipped with supplemental gas-fired duct burners having a maximum heat input rate of 565.3 MMBtu per hour (HHV). The duct burners shall be designed in accordance with the following specifications: 0.04 lb CO/MMBtu and 0.08 lb NO_x/MMBtu. [Application; Design]

Control Technology

5. DLN Combustion: The licensee shall operate and maintain the General Electric DLN 2.6 combustion system (or better) to control NO_x emissions from the gas turbine when firing natural gas. Prior to the initial emissions performance tests required for the gas turbine, the DLN combustors and automated gas turbine control system shall be tuned to achieve the permitted levels for CO and sufficiently low NO_x values to meet the NO_x limits with the additional SCR control technology described below. Thereafter, the system shall be maintained and tuned in accordance with the manufacturer's recommendations.

6. Water Injection: The licensee shall install, operate, and maintain a water injection system to reduce NO_x emissions from the gas turbine when firing distillate fuel oil. Prior to the initial emissions performance tests required for the gas turbine, the water injection system shall be tuned to achieve the permitted levels for CO and sufficiently low NO_x values to meet the NO_x limits with the additional SCR control technology described below. Thereafter, the system shall be maintained and tuned in accordance with the manufacturer's recommendations.

7. Selective Catalytic Reduction (SCR) System: The licensee shall install, tune, operate, and maintain an SCR system to control NO_x emissions from the gas turbine when firing either natural gas or distillate fuel oil. The SCR system consists of an ammonia (NH₃) injection grid, catalyst, ammonia storage, monitoring and control system, electrical,

pipng and other ancillary equipment. The SCR system shall be designed, constructed and operated to achieve the permitted levels for NO_x and NH₃ emissions.

Ammonia Storage: In accordance with 40 CFR 68.130, the storage of ammonia shall comply with all applicable requirements of the Chemical Accident Prevention Provisions in 40 CFR 68.

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

Performance Restrictions

8. Permitted Capacity – Gas Turbine: The maximum heat input rate to the gas turbine is 1,787 MMBtu per hour when firing natural gas and 1,986 MMBtu per hour when firing distillate fuel oil (based on a compressor inlet air temperature of 59° F, the higher heating value (HHV) of each fuel, and 100% load). Heat input rates will vary depending upon gas turbine characteristics, ambient conditions, alternate methods of operation, and evaporative cooling. The licensee shall provide manufacturer's performance curves (or equations) that correct for site conditions to the Permitting and Compliance Authorities within 45 days of completing the initial compliance testing. Operating data may be adjusted for the appropriate site conditions in accordance with the performance curves and/or equations on file with the Department. [Rule 62-210.200(PTE), F.A.C.]

9. Permitted Capacity - HRSG Duct Burners: The total maximum heat input rate to the duct burners for the HRSG is 565.3 MMBtu per hour based on the higher heating value (HHV) of natural gas. Only natural gas shall be fired in the duct burners. [Rule 62-210.200(PTE), F.A.C.]

10. Hours of Operation: The gas turbine may operate throughout the year (8760 hours per year). Restrictions on individual methods of operation are specified in separate conditions. [Rules 62-210.200(PTE) and 62-212.400 (BACT), F.A.C.]

11. Authorized Fuels: The gas turbine shall fire natural gas as the primary fuel, which shall contain no more than 2.0 grains of sulfur per 100 standard cubic feet of natural gas. As a restricted alternate fuel, the gas turbine may fire ultra low sulfur distillate fuel oil containing no more than 0.0015% sulfur by weight. The gas turbine shall fire no more than 500 hours of fuel oil, regardless of mode, during any calendar year. [Rules 62-210.200(PTE) and 62-212.400 (BACT), F.A.C.]

12. Methods of Operation: Subject to the restrictions and requirements of this permit, the gas turbine may operate under the following methods of operation.

a. Combined Cycle Operation: The gas turbine/HRSG system may operate to produce direct, shaft-driven electrical power and steam-generated electrical power from the steam turbine-electrical generator as a combined cycle unit subject to the restrictions of this permit. In accordance with the specifications of the SCR and HRSG

manufacturers, the SCR system shall be on line and functioning properly during combined cycle operation or when the HRSG is producing steam.

b. Pseudo Simple Cycle Operation: The gas turbine/HRSG system may operate in a pseudo simple cycle mode where steam from the HRSG bypasses the steam turbine electrical generator and is dumped directly to the condenser. This is not considered a separate mode of operation with respect to emission limits (i.e. emission limits of combined cycle operation still apply).

c. Inlet Fogging: In accordance with the manufacturer's recommendations and appropriate ambient conditions, the evaporative cooling system may be operated to reduce the compressor inlet air temperature and provide additional direct, shaft-driven electrical power. This method of operation is commonly referred to as "fogging."

d. Duct Firing: The HRSG system may fire natural gas in the duct burners to provide additional steam-generated electrical power.

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

13. Emissions Standards

Emission Standards: Emissions from the turbine/HRSG system shall not exceed the following standards.

Pollutant	Fuel	Method of Operation	Stack Test, 3-Run Average		CEMS Average
			ppmvd 15% O ₂	@ lb/hr _f	ppmvd 15% O ₂
CO ^a	Oil	Combustion Turbine (CT)	8.0	37.8	8.0, 24-hr
		CT & Duct Burner (DB)	8.0	47.3	
	Gas	CT, Normal	4.1	16.2	
		CT & Duct Burner (DB)	7.6	39.1	
	Oil/Gas	All Modes	NA	NA	6.0, 12-month

NO _x ^b	Oil	CT	8.0	62.0	8.0, 24-hr
		CT & DB	8.0	78.0	
	Gas	CT, Normal	2.0	13.1	2.0, 24-hr
		CT & DB	2.0	16.9	
PM/PM ₁₀ ^c	Oil/Gas	All Modes	0.0015% sulfur fuel oil, 2 gr S/100 SCF of gas		
			Visible emissions shall not exceed 10% opacity for each 6-minute block average.		
SAM/SO ₂ ^d	Oil/Gas	All Modes	0.0015% sulfur fuel oil, 2 gr S/100 SCF of gas		
Ammonia ^e	Oil/Gas	CT, All Modes	5.0	NA	NA

a. Continuous compliance with the 24-hour and 12-month CO standards shall be demonstrated based on data collected by the required CEMS. The initial and annual EPA Method 10 tests associated with the certification and quality assurance of the CEMS instruments may also be used to demonstrate compliance with the individual standards for natural gas, fuel oil, and basic duct burner mode.

b. Continuous compliance with the 24-hr NO_x standards shall be demonstrated based on data collected by the required CEMS. The initial and annual EPA Method 7E or Method 20 tests associated with demonstration of compliance with 40 CFR 60, Subpart GG or certification and quality assurance of the CEMS instruments may also be used to demonstrate compliance with the individual standards for natural gas, fuel oil, and duct burner modes during the time of those tests. NO_x mass emission rates are defined as oxides of nitrogen expressed as NO₂.

c. The fuel sulfur specifications, established in Condition No. 11 of this section, combined with the efficient combustion design and operation of the gas turbine represents (BACT) for PM/PM₁₀ emissions. Compliance with the fuel specifications, CO standards, and visible emissions standards shall serve as indicators of good combustion. Compliance with the fuel specifications shall be determined by the requirements in Condition No. XIII.E.30 of this section. Compliance with the visible emissions standard shall be demonstrated by conducting tests in accordance with EPA Method 9.

d. The fuel sulfur specifications, established in Condition No. XIII.E.11 this section, effectively limit the potential emissions of SAM and SO₂ from the gas turbine and represent BACT for these pollutants. Compliance with the fuel sulfur

specifications shall be determined by the requirements in Condition No. XIII.E.0 of this section.

e. The SCR system shall be designed and operated for an ammonia slip limit of no more than 5 ppmvd corrected to 15% O₂ based on the average of three test runs.

f. The mass emission rate standards are based on a turbine inlet condition of 59°F, evaporative cooling on, and using the HHV of the fuel. Mass emission rate may be adjusted from actual test conditions in accordance with the performance curves and/or equations on file with the Department.

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

Excess Emissions

{Permitting Note: The following conditions apply only to the SIP-based emissions standards specified in Condition No. XIII.E.13 of this section. Rule 62-210.700, F.A.C. (Excess Emissions) cannot vary or supersede any federal provision of the NSPS, or Acid Rain programs.}

14. Operating Procedures: The Best Available Control Technology (BACT) determinations established by this permit rely on “good operating practices” to reduce emissions. Therefore, all operators and supervisors shall be properly trained to operate and ensure maintenance of the gas turbine, HRSG, and pollution control systems in accordance with the guidelines and procedures established by each manufacturer. The training shall include good operating practices as well as methods for minimizing excess emissions. [Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]

15. Definitions

a. Startup is defined as the commencement of operation of any emissions unit which has shut down or ceased operation for a period of time sufficient to cause temperature, pressure, chemical or pollution control device imbalances, which result in excess emissions. [Rule 62-210.200(245), F.A.C.]

b. Shutdown is the cessation of the operation of an emissions unit for any purpose. [Rule 62-210.200(230), F.A.C.]

c. Malfunction is defined as any unavoidable mechanical and/or electrical failure of air pollution control equipment or process equipment or of a process

resulting in operation in an abnormal or unusual manner.
[Rule 62-210.200(159), F.A.C.]

16. Excess Emissions Prohibited: Excess emissions caused entirely or in part by poor maintenance, poor operation or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited. All such preventable emissions shall be included in any compliance determinations based on CEMS data. [Rule 62-210.700(4), F.A.C.]

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

18. Excess Emissions Allowed: Excess emissions resulting from startup, shutdown, and documented malfunctions shall be permitted, provided that operators employ the best operational practices to minimize the amount and duration of emissions during such incidents. For the gas turbine/HRSG system, excess emissions resulting from startup, shutdown, or documented malfunctions shall not exceed two hours in any 24-hour period except for the following specific cases. A "documented malfunction" means a malfunction that is documented within one working day of detection by contacting the Compliance Authority by telephone, facsimile transmittal, or electronic mail.

a. Steam Turbine/HRSG System Cold Startup: For cold startup of the steam turbine/HRSG system, excess emissions from the gas turbine/HRSG system shall not exceed six hours in any 24-hour period. A "cold startup of the steam turbine/HRSG system" is defined as startup of the combined cycle system following a shutdown of the steam turbine lasting at least 48 hours.

{Permitting Note: During a cold startup of the steam turbine system, the gas turbine/HRSG system is brought on line at low load to gradually increase the temperature of the steam-electrical turbine and prevent thermal metal fatigue}

b. Steam Turbine/HRSG System Warm Startup: For warm startup of the steam turbine/HRSG system, excess emissions shall not exceed four hours in any 24-hour period. A "warm startup of the steam turbine/HRSG system" is defined as a startup of the combined cycle system following a shutdown of the steam turbine lasting at least 8 hours and less than 48 hours.

c. Shutdown: For shutdown of the combined cycle operation, excess emissions from the gas turbine/HRSG system shall not exceed three hours in any 24-hour period.

d. Fuel Switching: Excess emissions due to oil-to-gas fuel switching shall not exceed 1 hour in any 24-hour period.

19. Ammonia Injection: Ammonia injection shall begin as soon as operation of the gas turbine/HRSG system achieves the operating parameters specified by the manufacturer. As authorized by Rule 62-210.700(5), F.A.C., the above condition allows excess emissions only for specifically defined periods of startup, shutdown, fuel switching, and documented malfunction of the gas turbine/HRSG system including the pollution control equipment. [Design; Rules 62-212.400(BACT) and 62-210.700, F.A.C.]

20. DLN Tuning: CEMS data collected during initial or other major DLN tuning sessions shall be excluded from the CEMS compliance demonstration provided the tuning session is performed in accordance with the manufacturer's specifications. A "major tuning session" would occur after completion of initial construction, a combustor change-out, a major repair or maintenance to a combustor, or other similar circumstances. Prior to performing any major tuning session, the licensee shall provide the Compliance Authority with an advance notice of at least 14 days that details the activity and proposed tuning schedule. The notice may be by telephone, facsimile transmittal, or electronic mail. [Design; Rule 62-4.070(3), F.A.C.]

Emissions Performance Testing

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

Method	Description of Method and Comments
CTM-027	<p>Procedure for Collection and Analysis of Ammonia in Stationary Source</p> <p>This is an EPA conditional test method.</p> <p>The minimum detection limit shall be 1 ppm.</p>
7E	Determination of Nitrogen Oxide Emissions from Stationary Sources
9	Visual Determination of the Opacity of Emissions from Stationary Sources
10	<p>Determination of Carbon Monoxide Emissions from Stationary Sources</p> <p>The method shall be based on a continuous sampling train.</p> <p>The ascarite trap may be omitted or the interference trap of section 10.1 may be used in lieu of the silica gel and ascarite traps.</p>
20	Determination of Nitrogen Oxides, Sulfur Dioxide and Diluent Emissions from Stationary Gas Turbines

Method CTM-027 is published on EPA's Technology Transfer Network Web Site at "http://www.epa.gov/ttn/emc/ctm.html". The other methods are described in 40 CFR 60, Appendix A, and adopted by reference in Rule 62-204.800, F.A.C. No other methods may be used for compliance testing unless prior written approval is received from the administrator of the Department's Emissions Monitoring Section in accordance with an alternate sampling procedure pursuant to 62-297.620, F.A.C. [Rules 62-204.800 and 62-297.100, F.A.C.; 40 CFR 60, Appendix A]

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

23. Annual Compliance Tests: During each federal fiscal year (October 1st, to September 30th), the gas turbine shall be tested to demonstrate compliance with the emission standard for visible emissions. NO_x and CO emissions data collected during the required continuous monitor Relative Accuracy Test Audits (RATAs) may be used to demonstrate compliance with the CO and NO_x standards. Annual testing to determine the ammonia slip shall be conducted while firing the primary fuel. NO_x emissions recorded by the CEMS shall be reported for each ammonia slip test run. CO emissions recorded by the CEMS shall be reported for the visible emissions observation period. [Rules 62-212.400 (BACT) and 62-297.310(7) (a) 4, F.A.C.]

24. Continuous Compliance: The licensee shall demonstrate continuous compliance with the 24-hour CO and NO_x emissions standards based on data collected by the certified CEMS. Within 45 days of conducting any Relative Accuracy Test Assessments (RATA) on a CEMS, the licensee shall submit a report to the Compliance Authority summarizing results of the RATA. Compliance with the CO emission standards also serves as an indicator of efficient fuel combustion, which reduces emissions of particulate matter. [Rule 62-212.400 (BACT), F.A.C.]

Continuous Monitoring Requirements

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

CO Monitor: The CO monitor shall be certified pursuant to 40 CFR 60, Appendix B, Performance Specification 4 or 4A. Quality assurance procedures shall conform to the requirements of 40 CFR 60, Appendix F, and the Data Assessment Report of Section 7 shall be made each calendar quarter, and reported semiannually to the Compliance Authority. The RATA tests required for the CO monitor shall be performed using EPA Method 10 in Appendix A of 40 CFR 60 and shall be based on a continuous sampling train. The CO monitor span values shall be set appropriately, considering the allowable methods of operation and corresponding emission standards.

NO_x Monitor: Each NO_x monitor shall be certified, operated, and maintained in accordance with the requirements of 40 CFR 75. Record keeping and reporting shall be conducted pursuant to Subparts F and G in 40 CFR 75. The RATA tests required for the NO_x monitor shall be performed using EPA Method 20 or 7E in Appendix A of 40 CFR 60.

Diluent Monitor: The oxygen (O₂) or carbon dioxide (CO₂) content of the flue gas shall be monitored at the location where CO and NO_x are monitored to correct the measured emissions rates to 15% oxygen. If a CO₂ monitor is installed, the oxygen content of the flue gas shall be calculated using F-factors that are appropriate for the fuel fired. Each monitor shall comply with the performance and quality assurance requirements of 40 CFR 75.

26. CEMS Data Requirements:

Data Collection: Emissions shall be monitored and recorded at all times including startup, operation, shutdown, and malfunction except for continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments. The CEMS shall be designed and operated to sample, analyze, and record data evenly spaced over an hour. If the CEMS measures concentration on a wet basis, the CEM system shall include provisions to determine the moisture content of the exhaust gas and an algorithm to enable correction of the monitoring results to a dry basis (0% moisture). Alternatively, the owner or operator may develop through manual stack test measurements a curve of moisture contents in the exhaust gas versus load for each allowable fuel, and use these typical values in an algorithm to enable correction of the monitoring results to a dry basis (0% moisture). Final results of the CEMS shall be expressed as ppmvd corrected to 15% oxygen. The CEMS shall be used to demonstrate

compliance with the CEMS emission standards for CO and NO_x as specified in this permit. For purposes of determining compliance with the CEMS emissions standards of this permit, missing (or excluded) data shall not be substituted. Upon request by the Department, the CEMS emission rates shall be corrected to ISO conditions to demonstrate compliance with the applicable standards of 40 CFR 60.332.

Valid Hour: Hourly average values shall begin at the top of each hour. Each hourly average value shall be computed using at least one data point in each fifteen-minute quadrant of an hour, where the unit combusted fuel during that quadrant of an hour. Notwithstanding this requirement, an hourly value shall be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant of an hour). If less than two such data points are available, the hourly average value is not valid. An hour in which any oil is fired is attributed towards compliance with the permit standards for oil firing. The licensee shall use all valid measurements or data points collected during an hour to calculate the hourly average values.

c. *24-hour Block Averages:* A 24-hour block shall begin at midnight of each operating day and shall be calculated from 24 consecutive hourly average emission rate values. If a unit operates less than 24 hours during the block, the 24-hour block average shall be the average of all available valid hourly average emission rate values for the 24-hour block. For purposes of determining compliance with the 24-hour CEMS standards, the missing data substitution methodology of 40 CFR Part 75, subpart D, shall not be utilized. Instead, the 24-hour block average shall be determined using the remaining hourly data in the 24-hour block. [Rule 62-212.400(BACT), F.A.C.]

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

d. *12-month Rolling Averages:* Compliance with the long-term emission limit for CO shall be based on a 12-month rolling average. Each 12-month rolling average shall be the arithmetic average of all valid hourly averages collected during the current calendar month and the previous 11 calendar months.

e. *Data Exclusion:* Each CEMS shall monitor and record emissions during all operations including episodes of startup, shutdown, malfunction, fuel switches and DLN tuning. Some of the CEMS emissions data recorded during these episodes may be excluded from the corresponding CEMS compliance demonstration subject to the provisions of Condition Nos. XIII.E.18 and 20 of this section. All periods of data excluded shall be consecutive for each such episode and only data obtained during the described episodes (startup, shutdown, malfunction, fuel switches, DLN tuning) may be used for the appropriate exclusion periods. The licensee shall minimize the duration of data excluded for such episodes to the extent practicable. Data recorded during such episodes shall not be excluded if the episode was caused entirely or in part by poor maintenance,

poor operation, or any other equipment or process failure, which may reasonably be prevented. Best operational practices shall be used to minimize hourly emissions that occur during such episodes. Emissions of any quantity or duration that occur entirely or in part from poor maintenance, poor operation, or any other equipment or process failure, which may reasonably be prevented, shall be prohibited.

f. *Availability:* Monitor availability for the CEMS shall be 95% or greater in any calendar quarter. The quarterly excess emissions report shall be used to demonstrate monitor availability. In the event 95% availability is not achieved, the licensee shall provide the Department with a report identifying the problems in achieving 95% availability and a plan of corrective actions that will be taken to achieve 95% availability. The licensee shall implement the reported corrective actions within the next calendar quarter. Failure to take corrective actions or continued failure to achieve the minimum monitor availability shall be violations of this permit, except as otherwise authorized by the Department's Compliance Authority.

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

27. Ammonia Monitoring Requirements: In accordance with the manufacturer's specifications, the licensee shall install, calibrate, operate and maintain an ammonia flow meter to measure and record the ammonia injection rate to the SCR system prior to the initial compliance tests. The licensee shall document and periodically update the general range of ammonia flow rates required to meet permitted emissions levels over the range of load conditions allowed by this permit by comparing NO_x emissions recorded by the CEM system with ammonia flow rates recorded using the ammonia flow meter. During NO_x monitor downtimes or malfunctions, the licensee shall operate at the ammonia flow rate and, as applicable for fuel oil firing, the water-to-fuel ratio, that are consistent with the documented flow rate for the combustion turbine load condition. [Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]

Records and Reports

28. Monitoring of Capacity: The licensee shall monitor and record the operating rate of the gas turbine and HRSG duct burner system on a daily average basis, considering the number of hours of operation during each day (including the times of startup, shutdown, malfunction, and fuel switching). Such monitoring shall be made using a monitoring component of the CEM system required above, or by monitoring daily rates of consumption and heat content of each allowable fuel in accordance with the provisions of 40 CFR 75 Appendix D. [Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]

29. Monthly Operations Summary: By the fifth calendar day of each month, the licensee shall record the following for each fuel in a written or electronic log for the gas turbine for the previous month of operation: fuel consumption, hours of operation,

hours of duct firing, and the updated 12-month rolling totals for each. Information recorded and stored as an electronic file shall be available for inspection and printing within at least three days of a request by the Department. The fuel consumption shall be monitored in accordance with the provisions of 40 CFR 75 Appendix D. [Rules 62-4.070(3) and 62-212.400(BACT), F.A.C.]

30. Fuel Sulfur Records: The licensee shall demonstrate compliance with the fuel sulfur limits specified in this permit by maintaining the following records of the sulfur contents.

a. Compliance with the fuel sulfur limit for natural gas shall be demonstrated by keeping reports obtained from the vendor indicating the average sulfur content of the natural gas being supplied from the pipeline for each month of operation. Methods for determining the sulfur content of the natural gas shall be ASTM methods D4084-82, D4468-85, D5504-01, D6228-98 and D6667-01, D3246-81 or more recent versions.

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

The above methods shall be used to determine the fuel sulfur content in conjunction with the provisions of 40 CFR 75 Appendix D. [Rules 62-4.070(3) and 62-4.160(15), F.A.C.]

31. Emissions Performance Test Reports: A report indicating the results of any required emissions performance test shall be submitted to the Compliance Authority no later than 45 days after completion of the last test run. The test report shall provide sufficient detail on the tested emission unit and the procedures used to allow the Department to determine if the test was properly conducted and if the test results were properly computed. At a minimum, the test report shall provide the applicable information listed in Rule 62-297.310(8) (c), F.A.C. and in Appendix SC of this permit. [Rule 62-297.310(8), F.A.C.]

32. Excess Emissions Reporting:

a. **Malfunction Notification:** If emissions in excess of a standard (subject to the specified averaging period) occur due to malfunction, the licensee shall notify the Compliance Authority within (1) working day of: the nature, extent, and duration of the excess emissions; the cause of the excess emissions; and the actions taken to correct the problem. In addition, the Department may request a written summary report of the incident.

b. **SIP Quarterly Report:** Within 30 days following the end of each calendar-quarter, the licensee shall submit a report to the Compliance Authority summarizing periods of CO and NO_x emissions in excess of the BACT permit standards following the NSPS format in 40 CFR 60.7(c), Subpart A. Periods of startup, shutdown and malfunction, shall be monitored, recorded and reported as excess emissions when emission levels exceed the standards specified in this permit. In addition, the report shall summarize the CEMS systems monitor availability for the previous quarter.

c. **NSPS Semi-Annual Reports:** For purposes of reporting emissions in excess of NSPS Subpart GG, excess emissions from the gas turbine are defined as: any operating hour in which the CEMS 4-hr rolling average NO_x concentration exceeds the NSPS NO_x emissions standard identified in Appendix GG; and any monitoring period during which the sulfur content of the fuel being fired in the gas turbine exceeds the NSPS standard identified in Appendix GG. For purposes of reporting emissions in excess of NSPS Subpart Da, excess emissions from duct firing are defined as: NO_x or PM emissions in excess of the NSPS standards except during periods of startup, shutdown, or malfunction; and SO₂ emissions in excess of the NSPS standards except during startup or shutdown. Within thirty (30) days following each calendar semi-annual period, the licensee shall submit a report on any periods of excess emissions that occurred during the previous semi-annual period to the Compliance Authority. This also includes reporting any periods of excess emissions as applicable and defined by NSPS Subpart KKKK when the rule is finalized.

{Note: If there are no periods of excess emissions as defined in NSPS Subparts GG, Da, or KKKK, a statement to that effect may be submitted with the SIP Quarterly Report to suffice for the NSPS Semi-Annual Report.} [Rules 62-4.130, 62-204.800, 62-210.700(6), F.A.C., and 40 CFR 60.7, and 60.332(j) (1)]

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

F. Fuel Oil Storage Tank (EU 002)

ID	Emission Unit Description
002	One distillate fuel oil storage tank for Unit 1 combustion turbine (approximately 1 million gallons).

NSPS Applicability

1. NSPS Subpart Kb Applicability: Subpart Kb does not apply to storage vessels with a capacity greater than or equal to 151 cubic meters storing a liquid with a maximum true vapor pressure less than 3.5 kilopascals (kPa) or with a capacity greater than or equal to 75 cubic meters but less than 151 cubic meters storing a liquid with a maximum true vapor pressure less than 15.0 kPa. Tanks with a capacity greater than or equal to 40,000 gallons (151 cubic meters) storing a liquid with a maximum true vapor pressure less than 5.2 kPa and greater than 3.5 kPa, are exempt from the General Provisions (40 CFR 60, Subpart A) and from the provisions of NSPS Subpart Kb, except for the monitoring requirements. Tanks with a capacity greater than or equal to 40,000 gallons (151 cubic meters) storing a liquid with a maximum true vapor pressure less than 3.5 kPa, are exempt from the General Provisions (40 CFR 60, Subpart A) and from the provisions of NSPS Subpart Kb. The fuel oil storage tank (EU 002) has a capacity greater than 151 cubic meters and the vapor pressure of the ultra low sulfur fuel oil is less than 3.5 kPa, therefore NSPS Kb, including the monitoring requirements, does not apply to this unit. [40 CFR 60.110b (a) and (b), and 60.116b(c); Rule 62-204.800(7) (b), F.A.C.]

Equipment Specifications

2. Equipment: The licensee is authorized to install, operate, and maintain one 990,000 gallon distillate fuel oil storage tank designed to provide ultra low sulfur fuel oil to the Unit 1 gas turbine. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]

Performance Requirements

3. Hours of Operation: The hours of operation are not restricted (8760 hours per year). [Applicant Request; Rule 62-210.200(PTE), F.A.C.]

Notification, Reporting, and Records

4. Oil Tank Records: The licensee shall keep readily accessible records showing the dimension of each storage vessel and an analysis showing the capacity of each storage tank. Records shall be retained for the life of the facility. The licensee shall also keep records sufficient to determine the annual throughput of distillate fuel oil for use in the Annual Operating Report. [Rule 62-204.800(7) (b)16, F.A.C.]

G. Cooling Tower (EU 003)

ID	Emission Unit Description
003	One 8-cell mechanical draft cooling tower.

Equipment

1. Cooling Tower: The licensee is authorized to install one 8-cell mechanical draft cooling tower with the following nominal design characteristics: a circulating water flow rate of 111,130 gpm; a design air flow rate of 1,000,000 acfm per cell; drift eliminators; a drift rate of no more than 0.0005 percent of the circulating water flow. [Application; Design]

Emissions and Performance Requirements

Drift Rate: Within 60 days of commencing commercial operation, the licensee shall certify that the cooling tower was constructed to achieve the specified drift rate of no more than 0.0005 percent of the circulating water flow rate. [Rule 62-212.400(BACT), F.A.C.]

{Permitting Note: This work practice standard is established as BACT for PM/PM₁₀ emissions from the cooling tower. Based on this design criteria, potential emissions are expected to be less than 10 tons of PM per year and less than 2 tons of PM₁₀ per year. Actual emissions are expected to be lower than these rates.}H. Safe shutdown Generator (EU004)

H. Safe Shutdown Generator (EU004)

ID	Emission Unit Description
004	One safe shutdown generator (approximately 1525 hp) with associated 1000 gallon fuel oil storage tank.

NESHAPS Applicability

NESHAPS Subpart ZZZZ Applicability: The facility is not a "Major Source" of hazardous air pollutants (HAPs), therefore the generator is not subject to Subpart ZZZZ.

NSPS Applicability

NSPS Subpart IIII Applicability: The emergency generator is a Stationary Compression Ignition Internal Combustion Engines (Stationary ICE) and may be subject to 40 CFR 60, Subpart IIII at the time the proposed rule becomes final.

The emergency generator shall comply with 40 CFR 60, Subpart IIII only to the extent that the regulations apply to the emissions unit and its operations.

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

Equipment Specifications

1. Safe Shutdown Generator: The licensee is authorized to install, operate, and maintain one safe shutdown generator. The safe shutdown generator may operate when the transmission connection is lost and the plant shuts down, and during occasional testing to ensure operability. The safe shutdown generator will fire ULS fuel oil. [Application; Design]

Emissions and Performance Requirements

2. Hours of Operation: The safe shutdown generator may operate 200 hours per year. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]

I. Diesel Fire Pump

ID	Emission Unit Description
005	One diesel engine fire pump (approximately 300 hp) with associated 500 gallon fuel oil storage tank.

NESHAPS Applicability

NESHAPS Subpart ZZZZ Applicability: The facility is not a "Major Source" of hazardous air pollutants (HAPs), therefore the generator is not subject to Subpart ZZZZ.

Equipment Specifications

1. Fire Pump: The licensee is authorized to install, operate, and maintain one diesel engine driven fire pump (approximately 300 hp) with associated 500 gallon fuel oil storage tank. The diesel engine fire pump will fire ULS fuel oil. [Application; Design]

Emissions and Performance Requirements

2. Hours of Operation: The fire pump may operate 200 hours per year. [Applicant Request; Rule 62-210.200(PTE), F.A.C.]

{Permitting Note: The fire pump is considered emergency equipment, therefore exempt from permitting, however its emissions are included in the potential to emit for the project.

XIV. Effluent Limitations and Monitoring Requirements

A. Surface Water Discharges

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

B. Underground Injection Control Systems

This section is not applicable to this facility.

C. Land Application Systems

This section is not applicable to this facility.

D. Other Methods of Disposal or Recycling

There shall be no discharge of industrial wastewater from this facility to ground or surface waters, except as authorized by these Conditions. Cooling tower blowdown may not be discharged to the Fort Pierce Utilities Authority's deep well injection system until at least one such well is in full operation.

E. Other Limitations and Monitoring and Reporting Requirements

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

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

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

1. The Licensee shall make copies of the attached DMR form(s) and shall submit the completed DMR form(s) to the Department's Southeast District Office at the address specified in Permit Condition XIV.E.2. below.

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

Southeast District Office

400 North Congress Avenue, Suite 200,

West Palm Beach, FL 33401

Phone Number - (561) 681-6600

FAX Number - 561.681.6755

(All FAX copies shall be followed by original copies.)

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

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

F. Industrial Sludge Management Requirements

This section not applicable to this facility.

G. Ground Water Monitoring Requirements

This section not applicable to this facility.

H. Record keeping Requirements:

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

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

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

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

d. A copy of the current certification;

e. A copy of any required record drawings;

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

I. Other Specific Conditions

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

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

3. Specific Conditions Related to Construction

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

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

4. Reopener Clause

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

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

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

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

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

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

5. Notice of Modification or Revision

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

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

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

8. Bypass Provisions

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

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

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

iii. The Licensee submitted notices as required under Condition III.B.

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

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

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

9. Upset Provisions:

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

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

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

iii. The Licensee submitted notice of the upset as required in Condition III. of these Conditions; and

iv. The Licensee complied with any remedial measures required under Condition III.G.4.

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

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

XV. South Florida Water Management District

A. LEGAL/ADMINISTRATIVE CONDITIONS

1. GENERAL

a. Responsible Entity

The Licensee shall be responsible for compliance with the Certification Conditions. If contractual rights, duties, or obligations are transferred under this Certification, notice of such transfer or assignment, including the identification of the entity responsible for compliance with the Certification, shall immediately be submitted to the Florida Department of Environmental Protection and the SFWMD by the previous certification holder (Licensee) and the Assignee. Any assignment or transfer shall carry with it the full responsibility for the limitations and conditions of this Certification. The previous Licensee shall be responsible for informing the Assignee of all authorized facilities and uses and the conditions under which they were authorized. The previous Licensee shall remain liable for corrective actions that may be required as a result of any violations prior to transfer or assignment of any contractual rights, duties, or obligations under this Certification. Reference: Sections 373.223, 373.342, and 373.413, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.101(1), F.A.C.

b. Minimum Standards

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

c. Compliance Requirements

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

d. Off-site Impacts

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

e. Liability

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

f. Construction, Operation, and Maintenance Responsibilities

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

g. Access

SFWMD representatives shall be allowed reasonable escorted access to the power plant site, the water withdrawal facilities and any associated facilities to inspect and observe any activities associated with the construction of the proposed project and/or the operation and/or maintenance of the on-site wells in order to determine compliance with the conditions of this Certification. The Licensee shall not refuse entry or access to any SFWMD representative who, upon reasonable notice, requests entry for the purpose of the above noted inspection and presents appropriate credentials. Reference: Sections 373.223 and 373.319, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.

h. Post Certification Information Submittals

Information submitted to the SFWMD subsequent to Certification, in compliance with the conditions of this Certification, shall be for the purpose of the SFWMD determining the Licensee's compliance with the Certification conditions and the non-procedural criteria contained in Chapters 40E-2, 40E-3, and 40E-20, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity. Reference: Rule 62-17.191, F.A.C.

i. Enforcement

The SFWMD may take any and all lawful actions that are necessary to enforce any condition of this Certification based on the authorizing statutes and rules of the SFWMD. Prior to initiating such action, the SFWMD shall notify the Secretary of DEP of the proposed action. Reference: Sections 373.223 and 373.319, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.

2. PROCESSING OF INFORMATIONAL REQUESTS

a. Completeness and Sufficiency Review

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

b. Compliance Review and Confirmation

Within sixty (60) days of the determination by SFWMD staff that the additional information is complete and sufficient, the SFWMD shall determine and notify the Licensee in writing whether the proposed activities conform to SFWMD rules, as required by Chapters 40E-2, 40E-3, and 40E-20, F.A.C., and the Conditions of Certification. If necessary, the SFWMD shall identify what items remain to be addressed. No construction activities shall begin until the SFWMD has determined either in writing, or by failure to notify the Licensee in writing, that the activities are in compliance with the applicable SFWMD criteria. Reference: Sections 373.413(1) and (2), F.S.

c. Revisions to Site Specific Design Authorizations

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

d. Dispute Resolution

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

e. Objections

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

f. Changes to Information Requirements

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

B. WATER USE CONDITIONS

1. GENERAL

a. Water Shortage Compliance

In the event of a declared water shortage, the Licensee must comply with any water withdrawal reductions ordered by the SFWMD in accordance with the Water Shortage Plan, Chapter 40E-21, F.A.C. Reference: Section 373.246, F.S.; Rule 40E-2.381, F.A.C.

b. Interference with Existing Legal Uses

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

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

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

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

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

c. Harm to Existing Off-Site Land Uses

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

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

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

(3) Land collapse or subsidence caused by reduction in water levels associated with consumptive use.

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

d. Harm to Natural Resources

The Licensee shall mitigate harm to natural resources caused by the Licensee's withdrawals, as determined through reference to the SFWMD conditions for permit issuance. When harm occurs, or is imminent, the SFWMD will require the Licensee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to these Conditions of Certification includes:

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

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

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

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

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

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

e. Well System Operation

At any time, if there is an indication that the well casing, valves, or controls associated with the on-site well system leak or have become inoperative, the Licensee shall

be responsible for making the necessary repairs or replacement to restore the well system to an operating condition that meets the criteria set forth in Chapter 40E-3, F.A.C. Failure to make such repairs shall be the cause for requiring that the well(s) be filled and abandoned in accordance with the procedures outlined in Chapter 40E-3, F.A.C. Reference: Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.101, 40E-3.411, and 40E-3.500-531, F.A.C.

2. SITE SPECIFIC DESIGN AUTHORIZATIONS

a. Authorized Monthly Withdrawals

This Certification authorizes a maximum monthly withdrawal of 110.205 MGM from the Floridan aquifer for cooling tower makeup water, service water, and fire protection water for Unit #1 prior to the availability of reclaimed water from the Ft. Pierce Utility Authority. After use of reclaimed water has commenced, this Certification authorizes a maximum monthly withdrawal of 106.65 MGM from the Floridan aquifer for cooling tower makeup water, service water, and fire protection water for Unit #1. This authorization includes the 30 day emergency backup water supply for the cooling tower makeup water.

b. Authorized Annual Withdrawals

This Certification authorizes a maximum annual withdrawal of 1,218 MGY from the Floridan aquifer for cooling tower makeup water, service water, and fire protection water for Unit #1 prior to the availability of reclaimed water from the Ft. Pierce Utility Authority. After use of reclaimed water has commenced, this Certification authorizes a maximum annual withdrawal of 149.86 MGY from the Floridan aquifer for cooling tower makeup water, service water, and fire protection water for Unit #1. This authorization includes the 30 day emergency backup water supply for the cooling tower makeup water.

c. Reclaimed Water

Upon Notification from the SFWMD that the Ft. Pierce Utility Authority has a sufficient supply of reclaimed water to serve the project, the Licensee shall provide the SFWMD with a schedule for use of reclaimed water for the SFWMD's review and approval. Notwithstanding the provisions of conditions 2a and 2b above, the schedule may include provisions for continued withdrawals from the Floridan aquifer, as necessary, to adjust for the timing and quantity of available reclaimed water. Once the SFWMD approves the schedule, the SFWMD and the Licensee may jointly agree to further modify the approved schedule to account for unforeseen circumstances.

Reference: Sections 373.219, 373.223, and 373.250, F.S.; Rules 40E-2.091, 40E-2.041, 40E-2.301, and 40E-2.381, F.A.C.

d. Emergency Withdrawals

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

e. Authorized Withdrawal Facilities

Prior to commencement of construction of Unit 1, the Licensee shall submit the details of the proposed withdrawal facilities (number of wells, well diameter, well depth, casing depth) for review and approval by the SFWMD. This condition shall be modified at a future date to reflect the specific withdrawal facilities authorized by the SFWMD.

f. Consistency Review of Authorized Withdrawals

Within five years from the date of issuance of the Certification Order and every five years thereafter, unless extended by mutual agreement between the Licensee and the SFWMD, the Licensee shall submit to the SFWMD a report on the project's consistency with the SFWMD's Water Use Conditions of Certification. Within 90 days after receipt of the completed report, the SFWMD shall evaluate the information contained therein and issue a written notification to the DEP and the Licensee as to whether the ground water withdrawals for consumptive use authorized by this Certification remain in compliance with the provisions of Chapter 373, F.S., and Chapter 40E-2, F.A.C., in effect at the time the certification was issued by the Siting Board. In determining whether the Licensee has established that its use of water complies with rule 40E-2 and the Basis of Review for Water Use Permit Applications within the SFWMD, the SFWMD shall evaluate whether the Licensee's use of water interferes with a legal use of water that existed at the time the certification was issued by the Siting Board. If the notification indicates that the withdrawals are not in compliance with these provisions, the SFWMD shall recommend to the Licensee possible alternatives for bringing the withdrawals into compliance with the SFWMD Water Use Conditions of Certification. In addition, if DEP determines, in consultation with SFWMD, based upon a review of a report submitted pursuant to this condition, that the Licensee has failed to establish that the Licensee's use of water meets the consumptive water use requirements described herein, DEP shall modify the authorization to use water in the certification or take other appropriate measures to ensure that the consumptive use of water meets the condition for issuance in Chapter 40E-2, F.A.C., as described herein. Any modification made pursuant to this condition shall not be subject to competing applications provided there is no increase in the allocation and no change in source.

g. Request for Modification of Withdrawals

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

withdrawals shall be made pursuant to the provisions of Section 403.516, F.S., and Section 62-17.211, F.A.C.

h. Dewatering Activities

Prior to commencement of construction of those portions of the project that involve dewatering activities, the Licensee shall submit a detailed plan for any such activities to the SFWMD for a determination of compliance with the non-procedural requirements of Chapters 40E-2, 40E-3 and 40E-20, F.A.C., in effect at the time of submittal. The following information, referenced to NGVD where appropriate, shall be submitted:

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

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

i. Reporting Requirements

Prior to the use of any proposed withdrawal facility authorized under this Certification, the Licensee shall equip each facility with a SFWMD-approved operating water use accounting system and submit a report of calibration to the SFWMD, pursuant to Section 4.1 of the Basis of Review For Water Use Permit Applications. In addition, the

Licensee shall submit a report of recalibration for the water use accounting system for each water withdrawal facility (existing and proposed) authorized under this Certification every five years from each previous calibration, continuing at five year increments. The Licensee shall report monthly withdrawals for each withdrawal facility to the SFWMD quarterly. The Licensee shall specify the water accounting method and means of calibration on each report. Reference: Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.

j. Existing Well Repair, Replacement, Abandonment

If any of the existing on-site wells require repair, replacement, and/or abandonment, the Licensee shall submit the information described in Chapter 40E-3, F.A.C. for review by the SFWMD prior to initiating such activities. Reference: Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.101, 40E-3.411, and 40E-3.500-531, F.A.C.

k. New Well Construction

Prior to construction of any new or replacement wells, the Licensee shall submit the drilling plans and other pertinent information required by Chapter 40E-3, F.A.C. to the SFWMD for review and approval. If the well locations are different from those approved in this Certification, the Licensee shall also submit to the SFWMD for review and approval an evaluation of the impacts of the proposed pumpage from the proposed well location(s) on adjacent existing legal users, pollution sources, environmental features, and water bodies. Reference: Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.

l. Water Conservation Plan

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

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

(i) Implementation of a leak detection and repair program;

(ii) Implementation of a recovery/recycling or other program providing for technological, procedural or programmatic improvements to the Licensee's facilities; and

(iii) Use of processes to decrease water consumption.

(b) Development and implementation of an employee awareness program concerning water conservation.

XVI. Department of Community Affairs

The Licensee shall develop a Treasure Coast Energy Center hurricane preparation and recovery plan. The plan shall be submitted to the Department of Community Affairs and the St. Lucie County Office of Emergency Management no later than completion of building construction code compliance review of the Treasure Coast Energy Center by St. Lucie County. The Licensee shall formally update the plan every 5 years following commercial operation of the Treasure Coast Energy Center or whenever an additional generating unit is brought into commercial operation at the Treasure Coast Energy Center site and shall submit these updated versions of the plan to the Department of Community Affairs and the St. Lucie County Office of Emergency Management. These updating and submittal requirements should be noted in the plan. If the Department deems the plan or any of its periodic updates not to be in compliance with the requirements of this

condition, it may petition for enforcement of this condition pursuant to the Florida Electrical Power Plant Siting Act.

XVII. Florida Department of Transportation

A. Post-Certification Review of Specific Problems

1. Florida's Turnpike: All crossings of Florida's Turnpike will be subject to the requirements of the Department of Transportation's Utility Accommodation Manual (Document 710-020-001) and Rule Chapter 14-46, Utilities Installation or Adjustment, Florida Administrative Code. Although there is no major widening of the facility segment planned in the foreseeable future, due to the status of this roadway as a Florida Intrastate Highway system (FIHS) facility, the placement of the transmission lines should take into consideration the possible widening of this facility. If future widening should be required, the cost of relocating the transmission lines will be borne by the licensee unless the terms of Section 337.403, Florida Statutes, are met.

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

3. Overweight or Over Dimensional Loads: Operation of overweight or overdimensional loads by the Licensee or its contractors on State transportation facilities during construction and operation of the utility facility will be subject to safety and permitting requirements as defined in Chapter 316, Florida Statutes, and Chapter 14-26, Safety Regulations and Permitting Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

4. Use of State of Florida Right of Way or Transportation Facilities: Any use of State of Florida right-of-way and certain activities on State transportation facilities will be subject to the requirements of the Department of Transportation's Utility Accommodation Manual (Document 710-020-001) and Rule Chapter 14-46, Utilities Installation or Adjustment, Florida Administrative Code and Section 337.403, Florida Statutes.

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

6. Use of Air Space: Any structures proposed in the application which exceed 200 feet in height will be subject to an aeronautical study by the Federal Aviation authority under the provisions of 14 CFR Part 77. If the aeronautical study finds an adverse effect on the safe and efficient use of navigable airspace, the project will require the issuance of a variance by state or local government.

XXXI.A. Citation: Chapter 316, F.S. (2002); Chapters 14-26, 14-46, 14-86, 14-96 and 14-97, F.A.C.

B. Best Management Practices

1. Traffic control will be maintained during Project construction and maintenance in compliance with the standards contained in the Manual of Uniform Traffic Control Devices, Rule Chapter 14-94, Statewide Minimum Level of Service Standards, Florida Administrative Code; Florida Department of Transportation's Design Standards; and Florida Department of Transportation's Specifications for Roads and Bridge Construction; and the Department's Utility Accommodation Guide whichever is more stringent.

2. It is recommended that the licensee encourage transportation demand management techniques by doing the following:

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

b. Requiring that heavy construction vehicles remain onsite for the duration of construction.

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

XXXI.B. Citation: Chapter 14-94, F.A.C.

XVIII. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS

A. Spills

The spill of any toxic, deleterious, or hazardous materials shall be reported in the manner specified by Condition III.B., Noncompliance Notification.

B. Handling and Testing of Potentially Hazardous Material

The Licensee shall continue to implement its current plan for handling and disposing of any hazardous wastes.

XIX. BY-PRODUCT AND SOLID WASTE STORAGE

Any solid waste produced by the operation of the TCEC Facility shall be disposed of in an approved disposal facility. Industrial by-products that are to be sold for reuse or beneficially reused are not considered solid waste.

XXI. FEDERAL OPERATING PERMITS AND FEES

A. DEP Responsibilities

The Department of Environmental Protection shall implement the provisions of Title V of the 1990 Clean Air Act and the NPDES program for the Treasure Coast Energy Facility, developing Conditions of certification requiring submission of annual operating permit information and annual pollutant emission fees in accordance with any applicable provisions in federal law and federal regulations and sections 403.0885, 403.0872, 403.5055, 403.509, and 403.511, F.S.

B. Licensee Responsibilities

The Licensee shall submit the appropriate annual operating information as well as the appropriate annual pollutant emission and NPDES fees, as required by federal law, to the Department.

XXII. Florida Fish and Wildlife Conservation Commission

A. Burrowing Animals: Surveys shall be conducted prior to construction throughout the upland areas within the construction footprints. Where possible, take of these species or their burrows should be avoided by staking out a flagged buffer of 25 feet for gopher tortoises (FWC 2004a) and 50 to 150 feet for burrowing owls (FWC 2004b) around each burrow or group of burrows prior to construction. Workers should be informed of the purpose of the flagging and instructed not to disturb the burrows. With regard to any burrows located such that take would be unavoidable, the permitting requirements of FWC must be complied with. Please consult the FWC website for further information and permit requirements (<http://myfwc.com/permits/Protected-Wildlife/default.htm>), or contact Ricardo Zambrano in the FWC's South Regional office at 561-625-5122. In the event that eastern indigo snake or nests of the wood stork, kite, or eagle are found during pre-construction surveys, impacts can be avoided by consulting with the U.S. Fish and Wildlife Service (FWS) shall also be consulted, and their guidelines adhered to.

B. Wetland Habitat: The proposed 11-acre stormwater detention area on-site could offer an opportunity to provide some benefits in terms of wetland habitat. The applicant should consider designing and planting the area such that it can support native littoral and transitional upland vegetation around its perimeter. Establishment of native vegetation around the detention area may provide water quality benefits by assisting in nutrient uptake from stormwater runoff and would also provide some fish and wildlife habitat value.

XXIII. Treasure Coast Regional Planning Council

A. Treated Sewage Effluent

In accordance with the SFWMD Condition XV.B.2.c, concerning reclaimed water, upon notification from SFWMD that, in accordance with the District's statutes and rules, the

City of Port St. Lucie has a sufficient supply of reclaimed water to serve the project, TCEC shall provide the SFWMD with a schedule for the SFWMD's review and approval, for the TCEC's use of reclaimed water from the City of Port St. Lucie in order to avoid using ground water until such a time as the Fort Pierce Utilities Authority is able to provide reclaimed water to the site.

B. Wetland Mitigation

TCEC shall provide wetland mitigation within the watershed of the North Fork of the St. Lucie River as proposed through the use of the Bluefield Ranch Wetlands Mitigation Bank or other similar mitigation bank serving St. Lucie County, in accordance with Conditions XXIV.A.1 and XXV.A.3.

XXIV. Onsite Wetlands Resource Management

A. Mitigation

1. The Licensee shall provide mitigation for onsite Project-related wetlands impacts by obtaining wetlands mitigation credits from the Bluefield Ranch Mitigation Bank or other permitted wetlands mitigation bank serving the Project site. Within 90 days after issuance of the site certification or 30 days prior to commencement of construction of the Project, the Licensee shall provide the Siting Coordination Office with documentation of the final purchase of the required mitigation credits and deduction of those credits from the wetlands mitigation bank's ledger. If the Project results in additional wetland impacts not covered by this certification, then additional wetlands mitigation information shall be submitted to the Department. Upon receiving complete information, the Department will assess the revised mitigation plan within 90 days. If the Department, upon review of the proposed mitigation, determines that the proposed mitigation is inadequate to offset the additional wetland loss and habitat degradation from this project, the Licensee shall propose additional mitigation.

2. Prior to construction of work authorized by this certification, the Licensee shall provide written notification of the date of commencement of construction to the Southeast District Office of the Florida Department of Environmental Protection, 400 N. Congress Ave. Suite 200, West Palm Beach, Florida 33401.

3. Turbidity controls shall be utilized at all locations where sediment has the potential to reach nearby wetlands until construction in the area is completed. The turbidity controls shall be maintained throughout the duration of the project, and shall be effective in preventing soil from the fill pad from eroding into the adjacent unimpacted wetlands.

4. Within 30 days of completion of work authorized by this certification, the Licensee shall provide written notification of the date of completion of construction to the Southeast District Office of the Florida Department of Environmental Protection, 400 N. Congress Ave. Suite 200, West Palm Beach, Florida 33401.

5. The limits of construction within the unimpacted wetlands shall be delineated by a continuous plastic flagging tape and with a turbidity barrier/control. The Licensee bears the responsibility of notifying all construction workers that the flagging and barriers represent the limits of all construction activities. The Licensee shall bear the responsibility of keeping all construction workers and equipment out of the wetland or surface water areas, which has not been permitted for impacts.

6. There shall be no storage or stockpiling of tools or materials within the unimpacted wetlands.

7. If any damage occurs to wetlands or surface waters as a result of any construction activities, the Licensee shall be required to restore the wetland area(s) or

surface waters by re-grading the damaged areas back to the natural preconstruction elevations and planting vegetation of the size, densities and species that exist in the adjacent areas. The restoration shall be completed within 30 days of completion of the construction unless a later date is agreed to by the Department and shall be done to the satisfaction of the Department.

8. All material used as fill in wetland areas shall be clean material and shall not be contaminated with vegetation, garbage, trash, tires, hazardous, toxic waste or other materials that are not suitable within waters of the State as so determined by the Department.

9. The fill and associated side slopes that will be placed in wetlands on the property shall be stabilized.

B. Water Quality Standards

The project shall comply with applicable state water quality standards, including:

1. Rule 62-302.500, F.A.C. - minimum criteria for all surface waters at all places and at all times,
2. Rule 62-302.500, F.A.C. - Surface waters: general criteria,
3. Rule 62-302.400, F.A.C. - Class III Waters - Recreation, Propagation and maintenance of a healthy, well balanced population of Fish and Wildlife, and
4. Rule 62-302.530(70), F.A.C. - Turbidity shall not exceed 29 Nephelometric Turbidity Units above background.

XXV. Construction of Offsite Linear Facilities

A. Linear Facilities

1. The certified corridors for the linear facilities consisting of two electrical transmission lines and the natural gas pipeline are depicted by Figure 6.1-1 in the application.
2. Construction of the planned linear facilities, including the transmission lines and natural gas pipeline lateral shall be undertaken in accordance with the plans submitted in the Application.
3. Once the final right-of-way has been established for the transmission line or natural gas pipeline, the Licensee shall propose any additional mitigation necessary to offset any proposed wetland impacts.
4. Prior to construction of linear facilities authorized by this certification, the Licensee shall provide written notification of the date of commencement

of construction to the Southeast District Office of the Florida Department of Environmental Protection, 400 N. Congress Ave. Suite 200, West Palm Beach, Florida 33401.

5. Turbidity controls shall be utilized at all locations where sediment has the potential to reach nearby wetlands until construction in the area is completed. The turbidity controls shall be maintained throughout the duration of the project, and shall be effective in preventing soil from the fill pad from eroding into the adjacent wetlands.

6. Within 30 days of completion of work authorized by this certification, the Licensee shall provide written notification of the date of completion of construction to the Southeast District Office of the Florida Department of Environmental Protection, 400 N. Congress Ave. Suite 200, West Palm Beach, Florida 33401.

7. The limits of construction within unimpacted wetlands on the right-of-way shall be delineated by a continuous plastic flagging tape and with a turbidity barrier/control. The Licensee shall bear the responsibility of notifying all construction workers that the flagging and barriers represent the limits of all construction activities. The Licensee shall bear the responsibility of keeping all construction workers and equipment out of the wetland or surface water areas, which have not been permitted for impacts.

8. There shall be no storage or stockpiling of tools or materials within unimpacted wetlands.

9. If any damage occurs to unimpacted wetlands or surface waters as a result of any construction activities for the linear facilities, the Licensee shall be required to restore the wetland area(s) or surface waters by re-grading the damaged areas back to the natural preconstruction elevations and planting vegetation of the size, densities and species that exist in the adjacent areas. The restoration shall be completed within 30 days of completion of the construction and shall be done to the satisfaction of the Department.

10. All material used as fill in wetlands areas shall be clean material and shall not be contaminated with vegetation, garbage, trash, tires, hazardous, toxic waste or other materials that are not suitable for construction within waters of the State as so determined by the Department.

11. The fill and associated side slopes (for example for any key hole pads) that will be placed in wetlands within rights of way for the linear facilities shall be stabilized.

12. The construction of linear facilities shall comply with applicable state water quality standards, including:

- a. 62-302.500 - minimum criteria for all surface waters at all places and at all times,
- b. 62-302.500 - Surface waters: general criteria,

c. 62-302.400 - Class III Waters - Recreation, Propagation and maintenance of a healthy, well balanced population of Fish and Wildlife, and

d. 62-302.530(70) - Turbidity shall not exceed 29 Nephelometric Turbidity Units above background.

13. For any post-certification submittal which addresses matters within DEP's environmental resource permitting jurisdiction, DEP shall provide to the U.S. Army Corps of Engineers a letter in accordance with DEP Rule 62-17.665(7)(f), F.A.C. This letter shall be sent concurrently with a determination of compliance pursuant to Condition III.I.5. above, or immediately upon a request by the Licensee submitted more than 60 days after the filing of a sufficient post-certification submittal addressing matters within DEP's environmental resource permitting jurisdiction.

14. For each post-certification submittal, which addresses activities located within joint jurisdictional wetlands or surface waters, that provides reasonable assurance of compliance with the conditions of certification, DEP shall provide to the U.S. Army Corps of Engineers a letter indicating that the activities are consistent with the federally-approved Florida Coastal Zone Management Program.

15. Dredging and filling in association with the installation of the transmission lines and the natural gas pipeline shall be limited to only that necessary to install the transmission line or pipeline.

a. All disturbed areas, except access roads and structure pads, shall be restored to their pre-existing ground surface conditions and elevations.

b. Construction techniques necessary for the installation of the gas pipeline, including transport and placement of material shall not disturb wetlands or surface waters adjacent to the construction right-of-way and shall not adversely affect water quality.

c. During construction and while conducting normal maintenance activities, the applicant/Licensee shall eradicate all Brazilian pepper, Australian pine and Melaleuca trees from the wetland portions of the right-of-way.

16. If the construction of the offsite linear facilities causes additional unanticipated wetlands impacts, mitigation may be required. For construction in wetlands that requires mitigation, the Licensee shall propose a mitigation plan as a post-certification submittal under Condition XXIV. The Licensee may obtain credits from a permitted wetlands mitigation bank serving the Project area. If the Licensee proposes to undertake mitigation, the Licensee shall provide the following information to the DEP Southeast District Environmental Resource Permitting Section for review:

- a. Detailed description, location map, and recent aerial photograph of each wetland impact area in which the Rule 62-341.620(2)(b)-(i), F.A.C. limitations were not met;
- b. Acreage of the type and quality of wetland being impacted at each such site;
- c. Narrative, drawings, location map, and aerial photographs showing and explaining the proposed mitigation;
- d. Detailed description of the existing conditions at the impact site and at the mitigation area;
- e. Acreage and wetland type of the proposed mitigation;
- f. Documentation providing reasonable assurance that the proposed mitigation will be successful; and
- g. An analysis pursuant to Chapter 62-345, F.A.C., to the extent applicable.

17. Mitigation plans must be found to fully offset the functions and values provided by wetlands that will be degraded or eliminated. DEP will work with the Licensee in the development of acceptable mitigation plans. The mitigation plans proposed by Licensee shall be submitted for review and compliance monitoring to DEP under Condition III.I.

18. If DEP, upon review of the proposed mitigation plan, determines that the proposed mitigation is inadequate to offset the wetland loss and habitat degradation from this project, Licensee may propose additional or alternative mitigation or dispute the determination pursuant to Condition XXVI.

19. If the proposed mitigation plan is deemed acceptable by DEP, DEP shall establish construction conditions, success criteria and a monitoring plan to be carried out for the approved mitigation in accordance with DEP Rule 62-354, F.A.C. These conditions, criteria and monitoring plan shall be incorporated into the certification conditions as an Attachment.

20. No construction within wetlands, located within rights-of-way and which are subject to the regulatory jurisdiction of DEP that does not comply with the non-procedural limitations of Rule 62.341.620(2)(b)-(i), F.A.C., shall commence until DEP approves a mitigation plan for those additional wetland impacts, and mitigation construction conditions, success criteria and a monitoring plan are approved in accordance with these certification conditions.

21. The Licensee shall be deemed to have met the requirements of this condition if Licensee satisfies the criteria of either Section 4.3 or 4.4 of the Basis of Review for Environmental Resource Permit Applications.

C. Process for Review of ROW Location

1. Prior to the finalization of the ROW location, three copies of blue-line reproductions of the most recent available aerial photographs at a scale of 1" = 400' with wetland locations generally identified shall be submitted to DEP Siting Coordination Office, and one copy each to DEP Southeast District Office, SFWMD, DOT, DCA, and St. Lucie County, delineating the certified corridor, and the selected transmission line or gas pipeline ROW. In addition, FMPA shall note on the aerial photographs new development within the corridor that has occurred since the photograph was taken. FMPA shall notify all parties of such filing and, if needed, shall meet with DEP to discuss the ROW location. This information may be submitted in segments. The agencies receiving copies of the aerial photographs from FMPA shall have an opportunity to review the photographs and to notify DEP Siting Coordination Office of any apparent conflicts with the requirements of the Conditions of Certification. However, this paragraph shall not operate to avoid the need for post-certification submittals and compliance reviews otherwise required by the Conditions of Certification.

2. After review of the aerial photographs and comments from the other reviewing agencies, if DEP Siting Coordination Office has reason to believe that the construction of the transmission lines, gas pipelines, access roads or pads within FMPA's designated ROWs cannot be accomplished in compliance with the Conditions of Certification, FMPA may be so notified in writing, with copies to other parties to the certification proceeding of the particular basis for DEP's conclusion, and possible corrective measures which would bring the Project into compliance. If such notice is not received within 15 days of FMPA's submittal of the aerial photographs to the agencies, FMPA may proceed with design of the transmission line on the noticed ROW.

3. The acquisition of a particular ROW or the expenditure of funds toward acquisition of a particular ROW prior to the agencies' review pursuant to this condition will be at the Licensee's risk, and no party will be estopped by such acquisition to seek disapproval of the construction of the transmission line or access road within the ROW in accordance with these Conditions of Certification.

4. After the Licensee has acquired interest in the entire length of the transmission line or gas pipeline ROW in a county, the Licensee shall:

a. File a statement with the clerk of the circuit court for each county through which the corridor passes certifying that all lands required for the transmission line or gas pipeline ROW within the corridor have been acquired. The Licensee shall also file with the county Planning Department a map at the scale of 1" = 400' showing the boundaries of the acquired ROW.

b. File with DEP Siting Coordination Office a map at a scale of 1" = 400' showing the boundaries of the acquired ROW, if such boundaries are different

from those shown in the filing required by Condition XXV.C.1. above. Such maps shall comply with the requirements of Condition XXV.C.1. If the boundaries have not changed, the Licensee shall file a statement with DEP Siting Coordination Office accordingly.

XXVI. DISPUTE RESOLUTION

If a situation arises in which mutual agreement cannot be reached between DEP and another agency receiving a post-certification submittal or between DEP and FMPA regarding compliance with the Conditions of Certification, then the matter shall be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S.