



Florida Department of Environmental Protection

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Ryan E. Matthews
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May 12, 2017

Sent by Electronic Mail – Received Receipt Requested

Ms. Jena Mier
Licensing and Permitting Manager
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408
Jena.Mier@fpl.com

RE: Cape Canaveral Energy Center
Modification to Conditions of Certification
DEP Case Number PA 08-53B
OGC Case Number 16-1426

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Ms. Mier:

On October 9, 2009, the Secretary of the Department of Environmental Protection, pursuant to 403.509(1)(a), Florida Statutes (F.S.), issued a Site Certification to Florida Power and Light Company (FPL) for the construction and operation of Cape Canaveral Energy Center (CCEC) in Brevard County. The Department of Environmental Protection (Department) has modified the Conditions of Certification (Conditions) for CCEC by Final Order on one other occasion.

The Department has reviewed FPL's petition received on November 28, 2016, for a modification to the CCEC Conditions pursuant to Section 403.516(1)(c), F.S, for relocation of the manatee heater enclosure, construction of a dredged material management area (DMMA) and the installation of a new horseshoe crab deterrent wall.

On March 24, 2017, all parties to the certification proceeding were provided notice by electronic mail of the Department's intent to modify the Conditions for CCEC, along with a draft copy of the proposed order modifying the Conditions. On April 5, 2017, notice of the Department's intent to modify CCEC's Conditions was also published in the Florida Administrative Register (FAR).

Pursuant to Section 403.516, F.S., and Rule 62-17.211, Florida Administrative Code (F.A.C.), all parties to the certification proceeding have 45 days from the issuance of notice in which to file a written objection to the modification. Pursuant to Section 403.516, F.S., and Rule 62-17.211, F.A.C., any person who is not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification has 30 days from the date of publication of the public notice in the FAR to object in writing. Failure to act within the time frame constitutes a waiver of the right to become a party.

These timeframes have expired and no objections to the modification have been received by the Department. Therefore, the Conditions for CCEC are hereby modified as follows (words ~~stricken~~ are deletions; words underlined are additions):

MODIFICATIONS ASSOCIATED WITH FPL'S PETITION

Section B. SPECIFIC CONDITIONS

I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. Groundwater– NO CHANGE

B.—Dredging:

~~1. If dredging is proposed, the Licensee will be required, upon consultation with district staff, to submit all applicable information to the Department prior to the commencement of any dredge activities:~~

~~2. Sampling and test analyses of ambient water or sediments, core borings, surveys of existing resources such as grassbeds and other habitats, or any other information necessary to evaluate the proposed dredging or filling may be required.~~

~~[Chapters 403.918 and 403.919, F.S.; Rules 62-4, 62-45, and 62-312, F.A.C.]~~

C.—Public Easement

~~Within 60 days of certification, Florida Power and Light will submit the required information, as outlined in Condition XIX, in order to obtain a public easement for the existing spit of land extending east into the Indian River. Upon issuance of the easement a copy will be attached as Attachment E.~~

~~[Chapters 253 and 258, F.S.]~~

II. FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT

TRUST FUND

The Licensee shall comply with a current Sovereign Submerged Land Lease (Attachment D). Any renewals of the lease shall be submitted by the Licensee to the Siting Coordination Office.

The terms, conditions, and provisions of the required state lands authorizations (Attachment D) shall be met. Construction of any activity shall not commence on sovereignty submerged lands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease/easement documents have been executed to the satisfaction of the Department.

III. DEPARTMENT OF TRANSPORTATION - NO CHANGE

IV. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. West Indian Manatee

1. Interim Warm-Water Refuge Heating System

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

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

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

- i. operation and maintenance procedures for the interim heating system;
- ii. requirement for a log demonstrating that the recommended operating and maintenance procedures and checks are performed;
- iii. a spare parts list including the location of the spares;
- iv. a list of qualified operators and repair persons and their contact information;

call out plan;

- iv. a trouble shooting flowchart and repair personnel
- v. an incident log to track the status of troubleshooting and repair activities until the system is operable;
- vi. notification requirements to agencies.

(3) Licensee shall submit its BMP manual to FWC for review and comment by August 15 of the year when the CCEC conversion commences which is expected to be 2010. Licensee will review, consider, and incorporate if practicable, comments from FWC that are received by September 15 of that year. A copy of the Licensee's BMP manual for the interim heating system shall be maintained at all times at the CCEC site and shall be made available upon request to authorized representatives of FWC and DEP.

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

(5) The interim warm-water refuge is described as the area located within the current Cape Canaveral plant intake canal beginning at the western most extent of the canal and including all waters within the canal between the peninsula and the southern shoreline up to the southern shoreline's eastern most point (See attachment F and G).

(6) The Licensee may request modification of the following applicable FWC conditions upon issuance by the Department of Environmental Protection, in consultation with the FWC, of Final NPDES permit modification FL0001473 if such requested modifications to the conditions herein have been adopted into the Final NPDES permit.

(7) Licensee shall provide written notification of the commencement of conversion to DEP and the FWC as soon as possible but no later than June 15 of the year when the CCEC conversion commences which is expected to be 2010.

(8) The operation of the maintenance gate within the manatee heating area will be performed under the following constraints:

- i. Gate shall not be operated from November 15 – March 31, unless the heaters are in use.
- ii. Manual hand crank operation only.
- iii. At least one person shall be designated as a manatee observer when gate is being operated.
- iv. Gate shall not be operated at night or when manatees cannot be seen within 50 feet of the gate due to inclement weather conditions.

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

2. – 5. NO CHANGE

6. Manatee Construction Conditions for In-Water Work

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

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

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

c. At least one dedicated observer that has been approved by the Florida Fish and Wildlife Conservation Commission (FWC) shall be present when in water work is being performed and shall perform no other duties that may interfere with their ability to observe for protected marine species. FWC approval must be specifically for this project and approval must occur prior to work commencement as per FWC guidelines outlined at the following website: <http://www.myfwc.com/wildlifehabitats/managed/manatee/watch-program/>. Observer(s) must have prior on-the-job experience observing protected marine species (such as manatees and marine turtles) during previous dredging and marine construction work where the activities were similar in nature to this project. Movement of a work barge or other associated vessels shall be minimized to the greatest extent possible at night. A final report including names of observers, contact information, protected marine species sightings and actions taken shall be sent to the Florida Fish and Wildlife Conservation Commission at ImperiledSpecies@myfwc.com, no later than 30 days after the final project completion.

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

e. No nighttime mechanical dredging, such as clamshell shall occur.

7. – 8 . NO CHANGE

9. Environmental Monitoring for the Horseshoe Crab Deterrent Wall

FPL shall consult with the FWC to develop a Horseshoe Crab Deterrent Structure (Structure) Maintenance and Monitoring Plan (Plan). The Plan will identify Structure maintenance activities to minimally include inspection, repairs, debris removal and biofouling organism removal on a scheduled basis, and reporting of such activities on a scheduled basis. The Plan will also identify Structure monitoring activities to minimally include data collection, data analysis and, reporting at a sufficient level and schedule necessary to evaluate efficacy of the structure. This Plan must be agreed upon by both FWC and FDEP within 60 days of receipt of the draft plan by the agencies. The plan can be subsequently amended at any time provided such amendments are also agreed upon by both FWC and FDEP.

VI. through IX. – RENUMBERING ONLY

MODIFICATIONS ASSOCIATED WITH AGENCY UPDATES

SECTION A. GENERAL CONDITIONS

I. SCOPE

A. NO CHANGE

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

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

1. The peninsula which serves as a barrier between the Plant intake and discharge structures and includes a fuel oil barge unloading facility.

2. A barge slip comprised of about 1.5 acres of submerged land leased from the State of Florida.
3. An offsite construction laydown and parking area that will be located on FPL property west of U.S. Highway 1
4. Transmission upgrades to connect CCEC to FPL's transmission line system

~~C. Within 60 days after completion of construction of the certified facility/ies, the Licensee shall provide: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the site, and an aerial photograph delineating the boundaries of the site. The survey and aerial photograph shall be attached hereto as Attachment A. The Licensee shall notify the Department of any change to the site boundary. The notification shall be accompanied by an updated land survey (or legal description) and aerial photograph delineating the new boundaries of the site. Absent the above description/delineation of the site, the Department will consider the perimeter fence line of the property on which the plant is located to be the boundaries of the site.~~

C. These Conditions, unless specifically amended or modified, are binding upon the Licensee and shall apply to the construction, operation and maintenance of the Certified Facility. If a conflict should occur between the design criteria of this Certified Facility and the Conditions, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions, the more specific condition governs.

~~D. Within 60 days after completion of construction of the certified facility/ies, including but not limited to transmission lines and natural gas pipelines, the Licensee shall provide a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the certified area; and an aerial photograph delineating the boundaries of the certified area (if different from those boundaries established for the site). The survey and the aerial photograph shall be attached hereto as Attachment B. Any proposed project requiring a change to the boundaries of the certified area shall be accompanied by an updated survey map or legal description and aerial photograph.~~

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

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

electrical power plant's generating facility and on-site support facilities are located to be the boundaries of the site.

E. — The certified facility includes the following major associated facilities;

1. — The peninsula which serves as a barrier between the Plant intake and discharge structures and includes a fuel oil barge unloading facility.
2. — A barge slip comprised of about 1.5 acres of submerged land leased from the State of Florida.
3. — An offsite construction laydown and parking area that will be located on FPL property west of U.S. Highway 1
4. — Transmission upgrades to connect CCEC to FPL's transmission line system

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

~~F. — Unless otherwise specified within the Conditions of Certification, Licensee shall make a good faith effort to timely comply with any newly established General Condition within 6 months. Licensee shall promptly notify the Department regarding any newly established General Condition for which licensee cannot timely comply.~~

~~*[Section 403.511, 403.531, 403.9416, F.S.; 62-4.160(8), and 62-17.205(2), F.A.C.]*~~

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

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

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

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

II. APPLICABLE DEPARTMENT RULES

~~A.—The construction and operation of the certified facility shall be in accordance with all applicable non-procedural provisions of Florida Statutes (F.S.) and Florida Administrative Code, including, but not limited to, the non-procedural portions of the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification or in a subsequent modification to the Conditions: Chapter 403 (Environmental Control), F.S., and Chapters 18-20 (Aquatic Preserves), 40D-2 through 4 (Consumptive Use of Water, Regulation of Wells, Individual Environmental Resource Permits), 40D-8 (Water Levels and Rates of Flow), 40D-9 (District Land Use Rules), 40D-20 (General Water Use Permits), 40-D21 (Water Shortage Plan), 40-D40 (General Environmental Resource Permits), 62-4 (Permits), 62-17 (Electrical Power Plant Siting), 62-25 (Regulation of Stormwater Discharge), 62-256 (Open Burning), 62-296 (Stationary Sources Emission Standards), 62-297 (Stationary Sources Emission Monitoring), 62-301 (Surface Waters of the State), 62-302 (Surface Water Quality Standards), 62-303 (Identification of Impaired Surface Waters), 62-304 (Total Maximum Daily Loads) 62-312 (Dredge and Fill Activities), 62-330 (Environmental Resource Permitting), 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters), 62-345 (Uniform Mitigation Assessment Method), 62-520 (Groundwater Classes and Standards), 62-522 (Groundwater Permitting and Monitoring), 62-531 (Water Well Contractor Licensing Requirements), 62-532 (Water Well Permitting and Construction Requirements), 62-550 (Drinking Water Standards, Monitoring and Reporting), 62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems), 62-560 (Requirements for Public Water Systems That Are Out of Compliance), 62-600 (Domestic Wastewater Facilities), 62-601 (Domestic Wastewater Treatment Plant Monitoring), 62-604 (Collection Systems and Transmission Facilities), 62-610 (Reuse of Reclaimed Water and Land Application), 62-621 (Generic Permits), 62-650 (Water Quality Based Effluent Limitations), 62-660 (Industrial Wastewater Facilities), 62-699 (Treatment Plant Classification and Staffing), 62-701 (Solid Waste Management Facilities), 62-730 (Hazardous Waste), 62-762 (Aboveground Storage Tank Systems), 62-769 (Florida Petroleum Liability and Restoration Insurance Program), 62-770 (Petroleum Contamination Site Clean-Up Criteria), 62-780 (Contaminated Site Clean-Up Criteria), 62-807 (Natural Gas Transmission Pipeline) and 62-814 (Electric and Magnetic Fields); Florida Administrative Code (F.A.C.).~~

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

Florida Administrative Code:

- 18-2 (Management of Uplands Vested in the Board of Trustees)
- 18-14 (Administrative Fines for Damaging State Lands)
- 18-20 (Aquatic Preserves)
- 18-21 (Sovereign Submerged Lands Management)
- 62-4 (Permits)
- 62-17 (Electrical Power Plant Siting)
- 62-25 (Regulation of Stormwater Discharge)
- 62-40 (Water Resource Implementation Rule)
- 62-150 (Hazardous Substance Release Notification)
- 62-160 (Quality Assurance)
- 62-204 (Air Pollution Control-General Provisions)
- 62-210 (Stationary Sources-General Requirements)
- 62-212 (Stationary Sources-Preconstruction Review)
- 62-213 (Operation Permits for Major Sources of Air Pollution)
- 62-214 (Requirements for Sources Subject to the Federal Acid Rain Program)
- 62-256 (Open Burning)
- 62-296 (Stationary Sources-Emission Standards)
- 62-297 (Stationary Sources-Emission Monitoring)
- 62-302 (Surface Water Quality Standards)
- 62-304 (Total Maximum Daily Loads)
- 62-330 (Environmental Resource Permitting)
- 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)
- 62-342 (Mitigation Banks)
- 62-345 (Uniform Mitigation Assessment Method)
- 62-520 (Groundwater Classes, Standards and Exemptions)
- 62-528 (Underground Injection Control)
- 62-531 (Water Well Contractor Licensing Requirements)
- 62-532 (Water Well Permitting and Construction Requirements)
- 62-550 (Drinking Water Standards, Monitoring and Reporting)
- 62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems)
- 62-560 (Requirements for Public Water Systems That Are Out of Compliance)
- 62-600 (Domestic Wastewater Facilities)
- 62-601 (Domestic Wastewater Treatment Plant Monitoring)
- 62-604 (Collection Systems and Transmission Facilities)
- 62-610 (Reuse of Reclaimed Water and Land Application)
- 62-620 (Wastewater Facility and Activities Permitting)
- 62-621 (Generic Permits)
- 62-650 (Water Quality Based Effluent Limitations)
- 62-660 (Industrial Wastewater Facilities)
- 62-699 (Classification and Staffing of Water or Domestic Wastewater Treatment Plants and Water Distribution Systems)
- 62-701 (Solid Waste Management Facilities)

62-710 (Used Oil Management)
62-730 (Hazardous Waste)
62-737 (Management of Spent Mercury-Containing Lamps and Devices Destined For Recycling)
62-740 (Petroleum Contact Water)
62-761 (Underground Storage Tank Systems)
62-762 (Aboveground Storage Tank Systems)
62-769 (Florida Petroleum Liability and Restoration Insurance Program)
62-777 (Contaminant Cleanup Target Levels)
62-780 (Contaminated Site Clean-Up Criteria)
62-814 (Electric and Magnetic Fields)

B. ~~No term or condition of certification shall be interpreted to preclude the postcertification exercise by any party of whatever procedural rights it may have under chapter 120, including those related to rulemaking proceedings.~~

~~*[Section 403.511, 403.531, 403.9416, F.S.]*~~

III. REVISIONS TO DEPARTMENT STATUTES AND RULES

A. NO CHANGE

~~B. Upon written notification to the department, any holder of a certification issued pursuant to the PPSA, TLSA or NGPSA may choose to operate the certified electrical power plant/transmission line/natural gas pipeline in compliance with any rule subsequently adopted by the department which prescribes criteria more lenient than the criteria required by the terms and conditions in the certification which are not site-specific.~~

~~*[Sections 403.511(5)(a), 403.531, 403.9416, F.S.; Rules 62-4.160(8) and 62-4.160(10), F.A.C.]*~~

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

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

IV. DEFINITIONS

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

A. ~~“Application” means the documents required by the department to be filed to initiate a certification review and evaluation, including the initial document filing, amendments,~~

and responses to requests from the department for additional data and information. For purposes of this license application shall also include materials submitted for petitions for modification to the Conditions of Certification, as well as supplemental applications.

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

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

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

E. ~~“DCA” means the Florida Department of Community Affairs.~~

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

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

H. ~~“DOT” means the Florida Department of Transportation.~~

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

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

K. ~~“FWC” means the Florida Fish and Wildlife Conservation Commission.~~

L. ~~“Licensee” means an applicant that has obtained a certification order for the subject project.~~

M. ~~“NPDES permit” means a federal National Pollutant Discharge Permit System permit issued in accordance with the federal Clean Water Act.~~

N. ~~“PSD permit” means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.~~

O. ~~“ARPC”, “CFRPC”, “ECFRPC”, “NCFRPC”, “NEFRPC”, “SFRPC”, “SWFRPC”, “TBRPC”, “TCRPC”, “WFRPC”, or “WRPC” means the Apalachee, Central Florida, East Central Florida, North Central Florida, Northeast Florida, South Florida, Southwest Florida, Tampa Bay, Treasure Coast, West Florida or Withlacoochee Regional Planning Council, respectively.~~

P. ~~“ROW” means right of way.~~

Q. ~~“Site” means any proposed location within which will be located an electrical power plant's generating facility and onsite support facilities, or an alteration or addition of~~

~~electrical generating facilities and onsite support facilities resulting in an increase in generating capacity, including offshore sites within state jurisdiction.~~

R. ~~“NWF, SR, SJR, SWF, or SF WMD” means the Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida Water Management District, respectively.~~

S. ~~“Title V permit” means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.~~

The meaning of terms used herein shall be governed by the applicable definitions contained in Chapters 253, 373, 379 and 403, F.S., and any regulation adopted pursuant thereto. In the event of any dispute over the meaning of a term used in these Conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation or, in the alternative by the use of the commonly accepted meaning. As used herein, the following shall apply:

A. “Application” or “SCA” as defined in Section 403.503(6), F.S. For purposes of this license, “Application” shall also include materials submitted for post-certification amendments and petitions for modification to the Conditions of Certification, as well as supplemental applications.

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

C. “Certified Area” means the area within the site in which the Certified Facilities are located. For off-site non-linear associated facilities this shall mean the area within which the certified off-site associated facility is located. For off-site linear facilities this term shall mean the area encompassed by the boundaries of the certified corridors, until such time as all property interests required for ROWs have been acquired, after which time the term will include only the area within the final ROWs in accordance with Section 403.503(11), F.S.

D. “Certified Facility” or “Certified Facilities” means the certified electrical power generation facilities and all on- or off-site associated structures and facilities identified/described in the Application, in the final order of certification, or in a post-certification amendment or modification.

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

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

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

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

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

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

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

L. “FWC” means the Florida Fish and Wildlife Conservation Commission.

M. “Licensee” means an applicant that has obtained a certification order for the subject project.

N. “NPDES permit” means a federal National Pollutant Discharge Elimination System permit issued by DEP in accordance with the federal Clean Water Act.

O. “Post-certification submittal” shall mean a submittal made by the Licensee pursuant to a Condition of Certification.

P. “PSD permit” means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.

Q. “ARPC”, “CFRPC”, “ECFRPC”, “NCFRPC”, “NEFRPC”, “SFRPC”, “SWFRPC”, “TBRPC”, “TCRPC”, “WFRPC”, or “WRPC” means the Apalachee, Central Florida, East Central Florida, North Central Florida, Northeast Florida, South Florida, Southwest Florida, Tampa Bay, Treasure Coast, West Florida or Withlacoochee Regional Planning Council, respectively.

R. “ROW” means the right-of-way to be selected by the Licensee within the certified corridor in accordance with the Conditions of Certification and as defined in Section 403.503(27), F.S.

S. “Site” as defined in Section 403.503(28).

T. “State Water Quality Standards” shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapters 62-302, and 62-520, F.A.C.

U. “Surface Water Management System” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms “surface water management system” or “system” include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.

V. “NED, NWD, CD, SED, SWD, SD” shall mean the applicable DEP district office.

W. “NWF, SR, SJR, SWF, or SFWMD” means the Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida Water Management District, respectively.

X. “Title V permit” means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.

Y. “Wetlands” shall mean those areas meeting the definition set forth in Section 373.019(27), F.S., as delineated pursuant to Chapter 62-340, F.A.C.

V. TRANSFERABILITY OF DEFINITIONS

~~Definitions in other Chapters of the Department's rules may be used to clarify the meaning of terms used in these Conditions unless the terms are defined in Section 62-4.020, F.A.C., or unless transfer of such definition would defeat the purpose or alter the intended effect of the provisions of these Conditions.~~

~~[Rule 62-4.021, F.A.C.]~~

V. DEPARTMENT PERMITS UNDER FEDERAL PROGRAMS

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

A. Air

All Air Construction Permits and Title V Air Operation Permits in force for the Certified Facilities are incorporated by reference herein as part of these Conditions. The [Air Construction Permits and Title V Air Operation Permits](#) can be found using the facility ID number FL-0090006.

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

B. Water

1. NPDES Industrial Wastewater Discharge

Licensee shall comply with all applicable provisions of NPDES Permit No. FL0001473 (attached as Appendix I) as well as any subsequent modifications, amendments and/or renewals.

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

2. Underground Injection Control

Any construction or operation of injection wells shall be in accordance with all applicable provisions of UIC permit No. XXXXX (attached as Appendix II) as well as any subsequent modifications, amendments and/or renewals.

[Chapter 62-528, F.A.C.]

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

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

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

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

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

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

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

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

5. NPDES Generic Permits for Discharge from Petroleum Contaminated Sites.

If the activity involves a point source discharge of ground water from a petroleum contaminated site, the Licensee must obtain coverage under the Generic Permit for discharge from petroleum contaminated sites. Before discharge of ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed as required by Rule 62-621.300, F.A.C., to determine if the activity can be covered by this permit.

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

6. NPDES Generic Permit for Discharge from Ground Water from Dewatering Operations.

Any discharge of ground water from dewatering operations shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. For industrial activities that result in a discharge of groundwater into surface waters of the state, a Generic Permit for Discharge of Ground Water from Dewatering Operations shall be obtained. Dewatering operations seeking coverage under the NPDES Generic Permit for Stormwater Discharges from Large and Small Construction Activities under 62-621.300(4), F.A.C., are not required to obtain separate coverage under this permit.

VII. DESIGN AND PERFORMANCE CRITERIA

~~Certification, including these Conditions of Certification, is predicated upon preliminary designs, concepts, and performance criteria. Final engineering design will be consistent and in substantial compliance with the preliminary information described in the Application and explained at the certification hearing (if any). Conformance to those criteria, unless specifically modified in accordance with Section 403.516, 403.5315, 403.9418, F.S., and Rule 62-17.211, F.A.C., is binding upon the Licensee in the design, construction, operation and maintenance of the certified facility. In any instance where a conflict occurs between the Application's design criteria and the Conditions of Certification, the Conditions shall prevail.~~

~~*[Sections 403.516, 403.5315 and 403.9418, F.S.; 62-17.211, 62-17.680 and 62-807.610 F.A.C.]*~~

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

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

~~VIII~~-VII. NOTIFICATION

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

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

All notifications which are made in writing shall additionally be immediately provided to the Siting Coordination Office (SCO) via email to SCO@dep.state.fl.us.

[Rule 62-343, F.A.C.]

B. The licensee shall immediately notify the ~~Department~~ SCO in writing (email acceptable) in writing of any previously submitted information that is later discovered to be inaccurate.

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

C. Within 60 days after certification of an associated linear facility the Licensee shall file a notice of the certified route with the Department's Office of General Counsel and the clerk of the circuit court for each county through which the corridor will pass.

The notice shall consist of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified route and shall state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor.

[Section 403.5112, F.S.]

IX. ~~REPLACEMENT FOR RESTORATION OF SYSTEM INTEGRITY~~

~~A. Replacement of all or a portion of a power plant, transmission line(s) or natural gas pipeline certified under the PPSA, TLSA or the NGPSA that is necessary to restore system integrity following an emergency as defined by section 252.34(6), (7) or (9), F.S. and requiring deviation from any condition of certification shall not be considered a modification pursuant to section 403.5315 F.S. A verbal report of the emergency replacement for restoration of system integrity shall be made to the department as soon as possible. Within 30 days after correction of the emergency condition requiring a replacement for system integrity, a report to the department shall be made outlining the details of the emergency condition requiring the replacement and the steps taken for its relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.~~

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

[Section 403.511, 403.531 and 403.9416, F.S.]

VIII. EMERGENCY CONDITION NOTIFICATION AND RESTORATION

If the Licensee is temporarily unable to comply with any of the conditions of the License due to breakdown of equipment or destruction by hazard of fire, wind or following an emergency as defined by Sections 252.34(3), (6), (7) or (9), F.S., the Licensee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such

notification does not release the Licensee from any liability for failure to comply with Department rules. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

[Section 62-4.130, F.A.C.]

X-IX. CONSTRUCTION PRACTICES

A. Local Building Codes

~~Any local government has the right to charge appropriate fees or require that construction be in compliance with applicable building construction codes.~~

[Section 403.511(4), 403.531(4) and 403.9416(7) F.S.]

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

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

B. Particulate Matter

~~The Licensee shall take reasonable precautions to control emissions of unconfined particulate matter in accordance with Rule 62-296.320(4)(c)1., F.A.C. The Licensee shall take appropriate measures to stabilize those portions of the certified area that are disturbed by construction or operation of the certified facility.~~

[Sections 403.511, 403.531, 403.9416, F.S.; Rule 62-296.320, F.A.C.]

B. Open Burning

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

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

C. Open Burning

~~Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum. Prior to 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., Licensee shall seek approval from the applicable DEP District Office, as appropriate, whose approval may be granted in conjunction with the Division of Forestry. Burning shall not occur if not approved by the appropriate agency or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions. A copy of any submittal by Licensee relating to open burning shall be submitted to the affected county, for any open burning that will take place in the affected county, respectively, for informational purposes. A copy of any submittal by Licensee relating to open burning within the affected county or within 5 miles of the affected county shall be submitted to the affected county for informational purposes.

[Sections 403.511, 403.531, 403.9416, F.S.; Rules 51-2 and 62-256, F.A.C.]

C. Vegetation

For areas located in any Florida Department of Transportation (DOT) ROW, Chapter 4.6 of the [Florida DOT Utility Accommodation Manual](#) shall serve as guidelines for best management practices.

D. Solid Wastes

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

[Sections 403.511, 403.531, 403.9416, F.S.; Rule 62-701, F.A.C.]

D. Existing Underground Utilities

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

[Chapter 556, F.S.]

E. Flood Control Protection

The certified facilities shall be constructed in such a manner that complies with any applicable County flood protection requirements.

E. Electric and Magnetic Fields (EMF)

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

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

F. Vegetation

The Licensee, to the extent feasible, will retain existing native (non-exotic) vegetation within the certified area and practice "best management practices" with respect to

vegetation management in the certified area to the extent feasible and in compliance with Section 163.3209, F.S., which incorporates by reference North American Electrical Reliability Corporation (NERC) standard FAC 003-1, American National Standards Institute (ANSI) standards A300 (Part I) 2001 and 2133.1 2000, and National Electrical Safety Code (NESC) standards adopted by the Florida Public Service Commission. The requirements of section V. D. the *Upland Erosion Control, Revegetation, and Maintenance Plan* from the Federal Energy Regulatory Commission (FERC) found at this web address <http://www.ferc.gov/industries/gas/enviro/uplndetl.pdf> as well as Chapter 7 of the Florida Department of Transportation *Utility Accommodation Manual* located at this web address http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710020001/Chapter_7.pdf shall serve as guidelines for best management practices.

[Chapter 163.3209, F.S.]

F. Existing Wells

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

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

G. Underground Utilities

During design and prior to construction of any linear facility, Licensee shall contact Sunshine One Call and obtain a listing (design and construction tickets) of all of the known existing underground utilities within the ROW. Licensee shall provide the affected county and the Siting Office with a copy of those facilities located within the County's right of way. Licensee must also follow safe digging practices and the Underground Facility Damage Prevention and Safety Act, Chapter 556, F.S.

[Chapter 556, F.S.]

G. Abandonment of Existing Septic Tanks

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

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

H. Electric and Magnetic Fields

Any transmission lines that are associated facilities shall comply with the requirements of Chapter 62-814, F.A.C.

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

I. Solar

Any building constructed or remodeled utilizing rooftop solar panels will be certified under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system.

XI-X. RIGHT OF ENTRY

~~A. Upon presentation of credentials or other documents as may be required by law, the Licensee shall allow authorized representatives of DEP or other agencies with jurisdiction over a portion of the certified facility:~~

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

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

~~B. When requested by DEP, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within 10 working days, or such longer period as may be mutually agreed upon by DEP and the Licensee, furnish any information required by 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 DEP or other agencies, such facts or information shall be corrected promptly.~~

~~[Sections 403.511, 403.531, 403.9416, F.S.; Rule 62-4.160(7)(a), 62-4.160(15), F.A.C.]~~

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

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

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

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

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

XII. DISPUTE RESOLUTION

This Section XII governs disputes concerning these Conditions of Certification in cases where (a) the parties to the dispute are parties identified in Sections 403.508(3)(a), 403.527(2)(a), and 403.9411(4)(a) F.S. and (b) the time has elapsed for filing an appeal concerning the Conditions of Certification that gave rise to the disputed issue. If such a dispute arises and mutual agreement cannot be reached between the parties, the first attempt at dispute resolution will be handled by a Florida Supreme Court Certified Mediator agreed upon by all of the parties involved in the dispute. If resolution cannot be achieved in this manner, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. Licensee or DEP may request DOAH to establish an expedited schedule for the processing of such a dispute.

[Sections 403.508(3)(a), 403.511(5)(e), 403.527(2)(a), 403.531(5), 403.9411(4)(a), 403.9416(4), F.S. and 120.57, F.S.]

A. General

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

B. Modifications

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

C. Post-Certification Submittals

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

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

XIII. SEVERABILITY

NO CHANGE

XIV. ENFORCEMENT

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

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

~~*[Sections 403.121, 403.131, 403.141, 403.151, 403.161 and 403.514, 403.533, 403.9419 F.S.; Rules 62-4.160(1) and 62-4.160(9)]*~~

A. The terms, conditions, requirements, limitations, and restrictions set forth in these Conditions are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, [For TLSA – 403.533] F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, license termination, license revocation, or license revision. The Licensee is placed on notice that the Department may review this certification periodically and may initiate enforcement action for any violation of these Conditions.

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

[Sections 403.121, 403.131, 403.141, 403.151, 403.161, 403.514, 403.533, and 403.9419, F.S.; subsections 62-4.160(1) and 62-4.160(9), F.A.C.]

XIV. REVOCATION OR SUSPENSION

~~The certification shall be final unless revised, revoked or suspended pursuant to law. This certification may be suspended or revoked pursuant to Section 403.512, 403.532 and 403.9435 F.S. as applicable, or for violations of any of these Conditions of Certification. This approval is valid only for the specific processes and operations identified within the Application and indicated in the approved drawings or exhibits. Any unauthorized deviation from the~~

~~approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the Certified facility that are the cause of such action, and other portions of the Certified facility shall remain unaffected by such action.~~

~~*[Sections 403.512, 403.532 and 403.9435, F.S. and Rule 62-4.160(2), F.A.C.]*~~

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

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

XVI. — SAFETY

~~As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this license 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 License is not a waiver of or approval of any other Department License that may be required for other aspects of the certified facility which are not addressed in this License. This license 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 certified 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.~~

~~*[Rules 62-4.160(3); 62-4.160(5), F.A.C.]*~~

XVII. — HERBICIDES

~~Herbicides applied at the plant site or in any ROW shall only be those registered by the U.S. Environmental Protection Agency and which have state approval. Herbicide application rates and concentrations will be in accordance with label directions and will be carried out by a licensed applicator, meeting all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.~~

~~*[Sections 403.061, 403.088, 487.031 and 487.041, F.S.]*~~

XV. REGULATORY COMPLIANCE

As provided in Sections 403.087(7) and 403.722(5), F.S., except as specifically provided in the final order of certification, a subsequent modification or amendment, or these conditions, the issuance of this license 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 license is not a waiver of or approval of any other Department license/permit that may be required for other aspects of the Certified Facility which are not addressed in this license. This license does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of the Certified Facility, or from penalties therefore.

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

XVIII. CIVIL AND CRIMINAL LIABILITY

~~A.—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 any other state statutes or regulations which may apply. As provided in Section 403.511, 403.531 and 403.9416, F.S., the issuance of this certification conveys neither any vested rights nor any exclusive privileges. Neither does it authorize any injury to human health or welfare, animal or plant life, public or private property or any invasion of personal rights.~~

~~B.—This certification does not allow any infringement of federal, state, or local laws or regulations, nor does it allow the Licensee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order or permit from the Department or these Conditions of Certification. This approval is not a waiver of any other Department approval that may be required for other aspects of the certified facility under federally delegated or approved programs.~~

[Sections 403.141, 403.161, 403.511, 403.531, 403.9416, F.S.]

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

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

XIX. PROPERTY RIGHTS

~~A.—The issuance of 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.~~

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

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

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

~~E.— The terms, conditions, and provisions of the required lease or easement shall be met. Construction of this activity shall not commence on sovereign submerged lands or state-owned uplands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease or easement documents have been executed to the satisfaction of the Department.~~

~~*[Sections 403.511, 403.531, 403.9416, F.S.; Chapters 253 and 258, F.S., Chapter 3.1.1. of the B.O.R.; 18-2, 18-14, 18-21, 62-343.900(1), Section G, and 62-4.160(4) and 62-340, F.A.C.; Upland Easement Application and Section G of the Environmental Resource Permit Application Form.]*~~

XVII. USE OF STATE LANDS

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

B. If any portion of the Certified Facility is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the Licensee must comply with the

applicable portions of Chapters 18-2, 18-20, and 18-21, F.A.C., and Chapters 253 and 258, F.S., except as specifically provided in the final order of certification or these conditions. If any portion of the Certified Facility is located on sovereign submerged lands, the Licensee must submit section F of the Joint Application for Environmental Resource Permits to the Department prior to construction. If any portion of the Certified Facility is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

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

D. The Licensee is hereby advised that Florida law states: “A person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the board of trustees of the Internal Improvement Trust Fund under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

E. The terms, conditions, and provisions of any required lease or easement issued by the State shall be met. Any construction activity associated with the Certified Facility shall not commence on sovereign submerged lands or state owned uplands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease or easement documents have been executed.

[Chapters 253 and 258 F.S.; Chapters 18-2, 18-14, 18-21, 62-340, and subsections 62-330.060(1) and 62-4.160(4), F.A.C.]

XXVIII. LICENSEE’S PROCEDURAL RIGHTS

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

[Sections 403.511(5)(c) F.S.]

~~XXI XIX. POST-CERTIFICATION SUBMITTALS AND NOTICES REQUIRED BY CONDITIONS- AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES~~

~~Post-certification submittals and notices shall be sent, as specified in these Conditions, to the agencies specified in these Conditions at the following addresses, unless~~

~~Licensee and DEP are notified in writing of an agency's change in address for such submittals and notices:~~

Florida Department of Environmental Protection
Siting Coordination Office, ~~MS-48~~ MS 5500
~~3900 Commonwealth Blvd.~~ 2600 Blair Stone Rd.
Tallahassee, FL 32399-39000
SCO@dep.state.fl.us

Florida Department of Environmental Protection
Central District Office
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

~~Florida Department of Community Affairs~~
~~Office of the Secretary~~
~~2555 Shumard Oak Blvd.~~
~~Tallahassee, FL 32399-2100~~
Florida Department of Economic Development
Office of the Secretary
107 East Madison St.
Tallahassee, FL 32399-2100

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

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

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

East Central Florida Regional Planning Council
Office of the Executive Director
631 North Wymore Road
Suite 100

Maitland, Florida 32751

St. Johns River Water Management District
Office of General Counsel
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177

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

Brevard County
Office of the County Attorney
Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

[Section 403.511, F.S.]

XXH. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. Purpose of Submittals

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

B. Filings

~~All post-certification submittals of information by Licensee are to be filed with the DEP Siting Coordination Office, the appropriate DEP District Office(s), and any other agency that is entitled to receive a submittal pursuant to any Condition of Certification. As required by Section 403.5113(2), F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.~~

~~The Licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due dates for information required of the Licensee are identified. A summary shall be provided as a separate document for each transmission line. Such submittals shall include, but are not limited to,~~

monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the DEP Siting Coordination Office and any affected agency or agency subunit to which the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below or equivalent:

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

~~{62-17.191(3), F.A.C.}~~

C. Completeness

DEP shall promptly review each post-certification submittal for completeness. This review may include consultation with the other agency (ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the submittal. DEP's finding of completeness shall specify the area of the certified facility affected, and shall not delay further processing of the post-certification submittal for non-affected areas. If any portion of a post-certification submittal is found to be incomplete, Licensee shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of incompleteness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

~~{62-17.191(1)(e)2., F.A.C.}~~

D. Interagency Meetings

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

E. Determination of Compliance

DEP shall give written notification within 90 days, to the Licensee and the other agency(ies) to which the post-certification information was submitted of DEP's determination whether there is demonstration of compliance with the conditions of certification. If it is

determined that compliance with these conditions has not been provided, Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall constitute a determination of compliance.

F. Commencement of Construction

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

G. Revisions to Design Previously Reviewed for Compliance

The Licensee shall submit to DEP, and/or applicable agencies, proposed revisions to post-certification submittals for review. Such submittals shall include the same type of information required for the original submittal and shall be submitted prior to construction/implementation.

H. Variation to Submittal Requirements

DEP, in consultation with the appropriate agencies that have regulatory authority over a matter to be addressed in a post-certification submittal, and Licensee may jointly agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

I. Disputes

Any agency which received a post-certification submittal pursuant to these Conditions may dispute a determination that a submittal provides reasonable assurances of compliance with the Conditions of Certification made by DEP on matters within that agency's jurisdiction by following the procedures set forth in Chapter 120, F.S. The agency's statement disputing DEP's determination shall state with particularity the location to which the agency's dispute relates. Work in areas other than the location to which the agency's dispute relates will not be affected by the agency's dispute.

J. Post-Construction Activities

The Licensee shall comply with the requirements of section VII from the *Upland Erosion Control, Revegetation, and Maintenance Plan* from the Federal Energy Regulatory Commission (FERC) found at this web address <http://www.ferc.gov/industries/gas/enviro/uplndetl.pdf>.

[Sections 120.569, 373.413, 373.416, 403.511, 403.531 and 403.9416, F.S.; 62-17.191 and 62-17.205, F.A.C.]

A. Purpose of Submittals

Conditions which provide for the post-certification submittal of information to DEP or other agencies by the Licensee are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the Certified Facility and the construction and maintenance of the Certified Facility. This monitoring is for DEP to assure, in consultation

with other agencies with applicable regulatory jurisdiction, continued compliance with these Conditions, without further agency action. A submittal of information or determination of compliance pursuant to a post-certification submittal under this Condition does not provide a point of entry for a third party.

B. Filings

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

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

C. Completeness

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

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

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

D. Interagency Meetings

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

E. Determination of Compliance

DEP shall give written notification within 90 days, to the Licensee and the other agency(ies) to which the post-certification information was submitted of DEP's determination of whether there is demonstration of compliance with these Conditions. If it is determined that

compliance with the Conditions has not been provided, the Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall constitute a determination of compliance. A post-certification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

F. Commencement of Construction

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

G. Revisions to Design Previously Reviewed for Compliance

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

[Sections 120.569, 373.413, 373.416, 403.511, 403.531, and 403.9416, F.S.; Rules 62-17.191 and 62-17.205, F.A.C.]

XXI. POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY

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

| Condition Number | Requirement and Timeframe | Due Date | Name of Agency or Agency Subunit to whom the submittal is required to be provided |
|------------------|---------------------------|----------|---|
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[Section 403.5113, F.S.; Subsection 62-17.191(3), F.A.C.]

XXIII. POST CERTIFICATION AMENDMENTS (NO CHANGE)

XXIII. MODIFICATION OF CERTIFICATION

~~A.— Pursuant to Section 403.516(1)(a), 403.5315(1), and 403.9418(1)(a), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department of Environmental Protection to modify, after notice and receipt of no objection by a party or other substantially affected person, any conditions which would not otherwise require approval by the Siting Board. In addition, the Department is delegated the authority to modify conditions as follows:~~

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

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

~~C.— Requests which include alterations to the landscape regulated under Part IV of Chapter 373 (relevant to environmental resource permitting), F.S shall require modification to the Conditions of Certification. Activities meeting any one of the below criteria shall require modification to these conditions. An activity shall be considered a modification if:~~

- ~~1.— the activity requires a new site inspection by the department in order to evaluate the request;~~
- ~~2.— the activity necessitates a change to the Conditions of Certification;~~
- ~~3.— the activity substantially~~
 - ~~a.— increases the authorized discharge;~~
 - ~~b.— results in different or increased impacts on wetlands and other surface waters, as delineated by the methodology ratified by section 373.4211, F.S., and codified in Chapter 62-340, F.A.C.;~~
 - ~~c.— decreases the retention/detention specified by the current application/license;~~
 - ~~d.— decreases any flood control elevations for roads or buildings specified by the current application/license; or~~
 - ~~e.— increases the certified facility area; or~~

~~4. — the activity occurs on sovereign (or state-owned) submerged lands.~~

~~For approval of activities governed by the Department's program for Environmental Resource Permits, the Licensee shall submit a completed application Form# 62-343.900(1) (as required in Rules 62-343.070(2) and 62-343.090(2)(b), F.A.C.) with its petition for modification.~~

~~D. — Any anticipated facility change which results in a change to the certified area must be accompanied by a map or aerial photo showing the proposed new boundaries of the certified area. The Department may consider any such change to be a modification of the Conditions of Certification, including those changes that would otherwise be considered an amendment to the Site Certification Application. Within 60 days after completion of construction of the new project the Licensee shall provide: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as a legal description, delineating the boundaries of the certified area; and an aerial photograph delineating the new boundaries of the certified area. The survey and aerial photograph shall be attached hereto as Attachment B.~~

~~F. — The Licensee may file a petition for modification with the department, or the department may initiate the modification upon its own initiative.~~

~~*[Sections 120.569(2)(n), 403.511(5)(a) and 403.516, 403.5315, 403.9418, F.S.; Rules 62-17.211, 62-343, F.A.C.]*~~

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

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

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

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

E. Any anticipated facility change that results in a change to the Site Delineation or the Delineation of the Certified Area, attached hereto as part of Attachment A (Maps), must be accompanied by a map or aerial photo showing the proposed new boundaries of the site and/or certified area. Within 120 days after completion of construction of the approved facility change,

the Licensee shall provide the information required by Section A. General Conditions, Condition I. Scope, paragraphs D, E, F, or G, as appropriate.

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

XXV. INCORPORATION OF EXISTING STATE AND LOCAL PERMITS/LICENSES

~~The operation of the Cape Canaveral Energy Center shall be in accordance with all applicable provisions of any state or local government permit issued prior to certification. All such state and locally issued permits are intended to be incorporated herein, such that the Licensee shall comply with the substantive provisions and limitations set forth in these permits. The inadvertent omission of any state or locally issued permit from these Conditions of Certification does not relieve the Licensee from compliance with the substantive provisions and limitations set forth in those permits.~~

~~At any time following certification, should the Licensee become aware of any state or locally issued permit not included herein, the Licensee shall promptly notify the Siting Office for incorporation into these Conditions of Certification. Likewise, when the Department is made aware of any separately issued permits, the Conditions of Certification will be modified accordingly to incorporate the substantive provisions and limitations of any such permit.~~

~~Such provisions shall be fully enforceable as conditions of this certification and may only be amended or modified in accordance with the provisions herein. Any violation of such provisions shall be a violation of these Conditions of Certification.~~

XXIV. COASTAL ZONE CONSISTENCY

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

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

XXVII. STATE WATER QUALITY STANDARDS COMPLIANCE

~~For each post-certification submittal and modification which addresses matters within DEP's environmental resource permitting jurisdiction, DEP shall provide to the U.S. Army Corps of Engineers (USCOE) a letter stating that the Licensee has met the requirements for 33 United States Code (U.S.C.) 1341.~~

[Sections 403.067, F.S.]

XXV. WATER QUALITY CERTIFICATION

Pursuant to the Operating Agreement between the Department, Water Management Districts and U.S. Army Corps of Engineers, a written final order granting 'certification'

constitutes certification by the Department that the project activities comply with applicable state water quality standards.

[2012 Operating Agreement, Jacksonville District USACOE, DEP and Water Management Districts, Section II.A.1.(f)]

XXIX. TRANSFER OF CERTIFICATION

~~This certification is transferable in whole or in part, upon Department approval, to an entity determined to be competent to construct, operate and maintain the certified facility in accordance with these Conditions of Certification. The Department will consider whether the entity is a proper applicant as defined by the PPSA, TLSA and/or NGPSA, in making its approval. A transfer of certification of all or part of the certified facility may be initiated by the Licensee's filing of a Notice of Intent to Transfer Certification with the Department. A copy of the necessary form may be obtained by contacting the Siting Coordination Office. Upon approval the Department will initiate a modification to the Conditions of Certification to reflect the change in ownership in accordance with 62-17.211, F.A.C. In the event of the dissolution of a certified licensee, the Department may transfer certification to successor entities which are determined to be competent to construct, operate and maintain the certified facility in accordance with the conditions of certification and which are proper applicants as defined by the PPSA, TLSA and/or NGPSA. Upon determination that such a successor entity complies with the above, the Department will initiate a modification to the Conditions of Certification to reflect the change in ownership in accordance with 62-17.211, F.A.C.~~

~~*[Chapter 120, and Sections 403.511, 403.531, and 403.9416, F.S.]*~~

XXVI. TRANSFER OF CERTIFICATION

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

B. In the event of the dissolution of the Licensee, the Department may transfer certification to successor entities which are determined to be competent to construct, operate and maintain the Certified Facility in accordance with the conditions of certification and which are proper applicants as defined by the PPSA. Upon determination that such a successor entity complies with the requirements for transfer of certification, the Department will initiate a

modification to the Conditions to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.

[Chapter 120, F.S.; Rule 62-17.211, F.A.C.]

XXX. LABORATORIES AND QUALITY ASSURANCE

A.—~~The Licensee shall ensure that all laboratory analytical data submitted to the Department, as required by this Certification, are from a laboratory which 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.~~

B.—~~The Licensee shall ensure that all samples required pursuant to this certification are taken by an appropriately trained technician following EPA and Department approved sampling procedures and chain of custody requirements in accordance with Rule 62-160, F.A.C. All chain of custody records shall be retained on-site for at least three (3) years and made available to the Department immediately upon request.~~

C.—~~Records of monitoring information shall include:~~

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

~~[Rules 62-160 and 62-4.160(14), F.A.C.]~~

XXVII. LABORATORIES AND QUALITY ASSURANCE

Chemical, physical, biological, microbiological and toxicological data collected as a requirement of these Conditions must be reliable, and collected and analyzed by scientifically sound procedures. Unless otherwise specified in these Conditions, the Licensee shall adhere to the minimum field and laboratory quality assurance, methodological and reporting requirements of the Department as set forth in Chapter 62-160, F.A.C. Standard Operating Procedures can be downloaded from the following website: [Standard Operating Procedures](#).

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

XXXI. ENVIRONMENTAL RESOURCES

A. Stormwater

~~1. Activities approved by these conditions shall be conducted in a manner which does not cause violations of state water quality standards. The licensee shall implement best management practices for erosion and a pollution control to prevent violation of state water quality standards. Temporary erosion control shall be implemented prior to and during~~

~~construction and permanent control measures shall be completed within seven days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the licensed work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the licensee shall be responsible for the removal of the barriers. The licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources.~~

~~2. — Water quality data for the water discharged from the licensee's property or into the surface waters of the state shall be submitted to the Department as required by these Conditions. Analyses shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association or Methods for Chemical Analyses of Water and Wastes by the U.S. Environmental Protection Agency. If water quality data are required, the licensee shall provide data as required on volumes of water discharged, including total volume discharged during the days of sampling and total monthly volume discharged from the property or into surface waters of the state.~~

~~3. — The Department must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must either have been submitted and approved with the license application or submitted to the Department as a license prior to the dewatering event as a license modification. The licensee is advised that the rules of the applicable Water Management District state that a water use license may be required prior to any use exceeding the thresholds in Chapter 40X-X, F.A.C.~~

~~4. — Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as feasible in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.~~

~~5. — Off site discharges during construction and operation of the certified facilities shall be made only through the facilities authorized by this license. Water discharged from the certified facility shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operation schedules satisfactory to the Department.~~

~~6. — The licensee shall complete construction of all aspects of the surface water management system, including wetland compensation (grading mulching, planting), water quality treatment features, and discharge control facilities prior to beneficial occupancy or use of the development being served by this system.~~

~~7. — The following shall be properly abandoned and/or removed in accordance with the applicable regulations:~~

~~a. — Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.~~

~~b. — Any existing septic tanks on site shall be abandoned at the beginning of construction, unless these Conditions provide otherwise.~~

~~e. — Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction, unless these Conditions provide otherwise.~~

~~8. — All surface water management systems shall be operated to conserve water in order to maintain environmental quality and resource protection; to increase the efficiency of transport, application and use; to decrease waste; to minimize unnatural runoff from the property and to minimize dewatering of offsite property.~~

~~9. — At least 48 hours prior to commencement of activity authorized by this license, the licensee shall submit to the Department a written notification of commencement using an “Environmental Resource Permit Construction Commencement” notice (Form No. 62-343.900(3), F.A.C.) indicating the actual start date and the expected completion date.~~

~~10. — Each phase or independent portion of the licensed system must be completed in accordance with the licensed plans and license conditions prior to the occupation of the site or operation of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the licensed plans and license conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.~~

~~11. — Within 30 days after completion of construction of the licensed activity, the licensee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required “Environmental Resource Permit As-Built Certification by a Registered Professional” (Form No. 62-343.900(5), F.A.C.), and “Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase” (Form 62-343-900(7), F.A.C.). Additionally, if deviations from the approved drawings are discovered during the certification process the certification must be accompanied by a copy of the approved license drawings with deviations noted.~~

~~12. — This license is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the license application. Any substantial deviation from the approved drawings, exhibits, specifications or license conditions, including construction within the total land area but outside the certified facility, may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.~~

~~13. — The operation phase of this license shall not become effective until the licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the licensed plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system. The license may not be transferred to the operation and maintenance entity approved by the Department until the operation phase of the license becomes effective. Following inspection and approval of the licensed system by the Department, the licensee shall request transfer of the license to the responsible operation and maintenance entity approved by the Department, if different from the~~

~~licensee. Until a transfer is approved by the Department pursuant to Section 62-343.110(1)(d), F.A.C., the licensee shall be liable for compliance with the terms of the license.~~

~~14. — Should any other regulatory agency require changes to the licensed system, the Department shall be notified of the changes prior to implementation so that a determination can be made whether a license modification is required.~~

~~15. — The licensee is hereby advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the licensee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.~~

~~16. — Any delineation of the extent of a wetland or other surface water submitted as part of the license application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this license or a formal determination under section 373.421(2), F.S., provides otherwise.~~

~~*[Rules 62-343, 62-302, and 62-4.242, F.A.C.]*~~

B. Wetland Impacts

1. — Submittals for Activities Within Wetlands or Other Surface Waters

~~a. — Prior to the projected commencement of construction of the certified facility in wetlands or other surface waters, the Licensee shall provide to the appropriate DEP District's Environmental Resource Permitting Section(s) and the U.S. Army Corps of Engineers all information necessary for a complete *Joint Environmental Resource Permit application*, DEP Form No. 62-343.900(1), with copies to the appropriate WMD(s), local government (s) and RPC(s) for informational purposes.~~

~~*[Section 373.416, F.S.; Rule 62-343.900(1)]*~~

~~b. — The Licensee shall provide reasonable assurance that the joint construction, operation and maintenance of any facilities, including any access roads and structures constructed within wetlands and other surface waters, and/or associated facilities, satisfy any applicable water management district rules. Pursuant to Rule 62-17.665(7)(d), F.A.C., the Licensee shall provide sufficient information on a post-certification basis to demonstrate that there is reasonable assurance of compliance with the applicable WMD(s) substantive requirements.~~

~~*[Section 373.414, F.S.; Rule 62-17.665(7)(d)]*~~

~~e. — The post-certification submittal shall include a signed and sealed Professional Land Surveyors' survey of wetland and surface water areas as defined pursuant to Chapter 62-340, F.A.C., and verified by appropriate agency staff.~~

~~*[Rule 62-340, F.A.C.]*~~

2. — Consultation with Wetland Agencies

~~At the request of the Licensee, DEP Siting Coordination Office may conduct an interagency meeting for the Licensee to consult with the wetlands resource permitting staffs of DEP and WMD(s) and the FWC's staff, prior to the finalization of any construction in wetlands which are to be reflected in any post-certification submittals. At DEP's request, the Licensee shall conduct a field inspection with the agencies' staff representatives in conjunction with the interagency meeting.~~

~~*[Sections 403.504, 403.523 and 403.9404, F.S.]*~~

~~3. — Reduction and Elimination of Impacts~~

~~a. — Avoidance~~

~~(1) — Where the certified facility crosses wetlands or other surface waters, the Licensee shall utilize adjacent existing access roads and public roads for access to associated facilities for construction, operation and maintenance purposes to the extent feasible.~~

~~(2) — All facilities shall be constructed in a manner which reduces or eliminates adverse impacts to on-site and adjacent wetlands to the extent feasible.~~

~~(3) — Where feasible, the Licensee shall make an effort to reduce or eliminate impacts to wetlands and other surface waters within the certified facility.~~

~~(4) — To the extent feasible and utilizing the typical structures shown in the Application, access roads, culverts and structures shall be located to avoid conflict with existing underground utilities properly documented in county records.~~

~~(5) — In the event temporary fill is used to facilitate construction, the temporary fill shall be removed where necessary to minimize impacts to wetlands or habitats of listed species.~~

~~b. — Clearing~~

~~(1) — The Licensee shall use only restrictive clearing practices during construction and maintenance of the certified facility where it crosses forested wetlands. Restrictive clearing, as used in this condition, is the removal of vegetation by hand, usually with chain saws, or with low ground pressure shear or rotary machines to reduce soil compaction and damage to ground cover. These methods may be used alone or in combination, as may be appropriate for specific sites. All cut vegetation must be removed from wetlands unless other techniques, such as mulching or burning in place, are agreed to by DEP Siting Coordination Office and the applicable local government in the post-certification review process. Removable construction matting in conjunction with best management practices may be used in wetlands to support equipment.~~

~~(2) — Tree stumps within access roads and in the construction area may be removed, sheared, or ground to 6 inches below the ground line to allow for travel and construction activities.~~

~~(3) — Clearing or fill must not occur within 550 feet from the shoreline of a named waterbody designated as an Outstanding Florida Waterbody (OFW).~~

[Sections 373.414 and 373.416, F.S.]

4. — Mitigation

a. — Mitigation for wetland impacts pursuant to Section 373.414, F.S. shall not be required by DEP if the certified facility is;

- (1) — not located within wetlands
- (2) — not expected to adversely impact wetlands, or
- (3) — complies with the following conditions:

i. — All permanent fill shall be at grade; and
ii. — ~~Vegetation within wetlands may be cut or removed no lower than the soil surface while maintaining the remainder of the project right of way within the wetland by selectively clearing vegetation which has an expected mature height above 14 feet. Brazilian pepper, Australian pine, and melaleuca shall be eradicated throughout the wetland portions of the right of way; and~~

iii. — ~~Erosion control methods shall be implemented as necessary to ensure that state water quality standards for turbidity are met. Diversion and impoundment of surface waters shall be minimized; and~~

iv. — ~~The proposed construction and clearing shall not adversely affect threatened and endangered species; and~~

v. — ~~The proposed construction and clearing shall not result in a permanent change in existing ground surface elevation.~~

vi. — ~~For associated linear facilities, where fill is placed in wetlands, the clearing to ground of forested wetlands is restricted to 4.0 acres per 10-mile section of the project, with no more than one impact site exceeding 0.5 acres. The impact site which exceeds 0.5 acres shall not exceed 2.0 acres. The total forested wetland clearing to the ground per 10-mile section shall not exceed 15 acres. The 10-mile sections shall be measured from the beginning to the terminus, or vice versa, and the section shall not end in a wetland.~~

b. — For construction in wetlands that does not comply with the requirements in paragraph a., the Licensee shall propose a mitigation plan as a post-certification submittal under Condition XXII and once approved by DEP become part of the Conditions as Attachment C. The following information shall be provided to the appropriate DEP District(s) Environmental Resource Permitting Section for review:

(1) — 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;

(2) — acreage of the type and quality of wetland being impacted at each such site;

(3) — narrative, drawings, location map, and aerial photographs showing and explaining the proposed mitigation, or in the case of a mitigation bank, the name and location of the bank;

~~(4) — detailed description of the existing conditions at the impact site and, unless a mitigation bank is proposed, at the mitigation area;~~

~~(5) — acreage and wetland type of the proposed mitigation, or for a Department approved mitigation bank, the type and number of credits;~~

~~(6) — if not a mitigation bank, documentation providing reasonable assurance that the proposed mitigation will be successful; and~~

~~(7) — an analysis pursuant to Chapter 62-345, F.A.C., to the extent applicable.~~

~~(8) — To the extent mitigation will be provided from a mitigation bank, a credit reservation letter will be provided from the selected bank demonstrating the necessary credits are being set aside to offset project impacts.~~

~~e. — Mitigation plans must be found to fully offset the functions and values provided by wetlands that will be degraded or eliminated to the abundance and diversity of fish, wildlife and listed species, and the habitat of fish, wildlife and listed species. DEP will work with the Licensee in the development of acceptable mitigation plans. The mitigation plans proposed by the Licensee shall be submitted for review and compliance monitoring to DEP under Condition XXII.~~

~~d. — If DEP, upon review of the proposed mitigation plan, determines that the proposed mitigation is inadequate to offset the loss of wetland values described above from this project, the Licensee may propose additional or alternative mitigation or dispute the determination pursuant to Condition XII.~~

~~e. — If the proposed mitigation plan is deemed acceptable by DEP; and,~~

~~(1) — Does not involve the use of a mitigation bank, the construction conditions, success criteria and a monitoring plan will be incorporated into the construction conditions.~~

~~(2) — Does involve the use of a mitigation bank 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.~~

~~g. — No construction within wetlands 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., or paragraph A above, shall commence until DEP approves a mitigation plan, and, if a bank is not used, mitigation construction conditions, success criteria and a monitoring plan are incorporated into the certification conditions.~~

~~h. The Licensee shall be deemed to have met the requirements of this condition relative to mitigation if the Licensee satisfies the criteria of the appropriate WMD(s) Basis of Review for Environmental Resource Permit Applications and Chapter 62-345, F.A.C., as applicable under operating agreements between appropriate WMD(s) and the department.~~

~~[Sections 373.414, 403.511, 403.531, 403.814(6) and 403.9416, F.S. (2007); Rules 62-341.620 and 62-345, F.A.C.]~~

XXVIII. ENVIRONMENTAL RESOURCES

A. General

1. Submittals for Construction Activities

a. Prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the appropriate DEP District for review, all information necessary for a complete *Joint Application for Environmental Resource Permit* (ERP), DEP Forms 62-330.060, F.A.C. A copy of the submittal shall also be provided to the SCO. Information may be submitted by discrete portions of the Certified Facilities for a determination of compliance with these COC.

This form may: a) be submitted concurrently with a SCA; b) be submitted as part of an amendment request or a petition for modification; or c) be submitted as a post-certification submittal following approval of a project through certification, modification, or amendment. Such ERP submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapters 62-330, F.A.C., as applicable unless otherwise stated in these Conditions. While the information is provided for review via submittal of the Environmental Resources Permit form, pursuant to section 403.511, Florida Statutes, issuance of a separate Environmental Resources Permit is not required for certified facilities.

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

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

b. Concurrent with submittal of the DEP form required in Subparagraph A.1.a. above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department compliance review. Available DEP-approved wetland

and surface water delineations within the boundaries of a certified site or a portion thereof may be used and reproduced for this delineation submittal and verification.

[Section 373.416, F.S.; Chapters 62-330 and 62-340, F.A.C.]

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

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

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by Subparagraph A.1.a. above, including plans or other supporting documentation, shall not be considered binding on the Department unless a specific condition of this Certification or a formal wetlands jurisdictional determination under Section 373.421(2), F.S., provides otherwise.

[Sections 373.421, 403.504, 403.523, and 403.9404, F.S.]

B. Surface Water Management Systems

1. Information regarding surface water management systems (SWMS) will be reviewed for consistency with the applicable non-procedural requirements of Part IV of Chapter 373, F.S., following submittal of Form 62-330.060(1) F.A.C., to the appropriate office of the Department.

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

3. To allow for stabilization of all disturbed areas, immediately prior to construction, during construction of the SWMS, and for the period of time after construction of the SWMS, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the licensed work, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in *the State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater

Management Academy, June 2007) unless a project-specific erosion and sediment control plan is approved as part of this License. If project-specific Conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

4. The Licensee shall complete construction of all aspects of the SWMS described in the ERP Application Form, submitted as part of a post-certification submittal, amendment, modification, or certification application including water quality treatment features, and discharge control facilities prior to use of the portion of the Certified Facility being served by the SWMS.

5. At least 48 hours prior to the commencement of construction of any new SWMS for any part of a Certified Facility authorized by this certification, the Licensee shall submit to the Department a written notification of commencement using an “Environmental Resource Permit Construction Commencement Notice” (DEP Form 62-330.350(1), F.A.C.), indicating the actual start date and the expected completion date.

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

7. Within 30 days, or such other date as agreed to by DEP and the Licensee, after completion of construction of any new portions of the SWMS, the Licensee shall submit to the appropriate DEP District, and copy the SCO, a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required “As-Built Certification and Request for Conversion to Operation Phase” (DEP Form 62-330.310(1), F.A.C.). Additionally, if deviations from the approved drawings are discovered, the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

8. Any substantial deviation from the approved drawings, exhibits, specifications or Conditions, may constitute grounds for revocation or enforcement action by the Department.

9. The operation phase of any new SWMS approved by the Department shall not become effective until the Licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the approved plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system.

10. The DEP District must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must be submitted to and approved by the Department prior to the dewatering event.

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

C. Wetland and Other Surface Water Impacts

1. All Certified Facilities shall be constructed in a manner which will eliminate or reduce adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent practicable or otherwise comply with substantive criteria for elimination or reduction. When impacts to wetlands will occur as a result of a future amendment, modification, or certification, and cannot be practicably eliminated or reduced, the Licensee may propose and the Department or Board shall consider mitigation to offset otherwise unpermissible activities under the Environmental Resource Permit review process pursuant to Condition XXVIII. A.1. above.

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

[Sections 373.413, 373.414, 373.415, 403.511, and 403.814(6), F.S.; 62-330, 62-340, 62-342, and 62-345, F.A.C.]

XXXII. THIRD PARTY IMPACTS

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

~~[Rule 62-4.166, F.A.C.]~~

XXIX. THIRD PARTY IMPACTS

The Licensee is responsible for maintaining compliance with these Conditions even when third party activities authorized by the Licensee occur in or on the certified site/area.

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

XXXIII. FACILITY OPERATION

~~A.—The Licensee shall at all times properly operate and maintain the certified facility and related appurtenances, and systems of treatment and control that are installed and used 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 of the approval and when required by Department rules.~~

~~B.—~~ All discharges or emissions authorized herein shall be consistent with the terms and conditions of this certification. ~~The discharge or emission of any regulated pollutant not identified in the Application, or more frequently than, or at a level in excess of that authorized herein, shall constitute a violation of the certification.~~

~~C.—~~ The Department shall hold the Licensee responsible for compliance with the Conditions of Certification regardless of how the violation occurred.

~~[Rules 62-4.160(2) and 62-4.160(6), F.A.C.]~~

XXXIV. RECORDS MAINTAINED AT THE FACILITY

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

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

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

XXX. RECORDS MAINTAINED AT THE FACILITY

A. These Conditions or a copy thereof shall be kept at the site.

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

C. Records of monitoring information shall include:

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

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

XXXV. TOXIC, DELETERIOUS OR HAZARDOUS MATERIALS

A. Use

~~If hazardous substances are used in the construction or maintenance of the certified facility, Licensee shall provide the DEP with reasonable assurances that such hazardous substances will not enter stormwater drains or waterbodies (including groundwater).~~

~~*[Rules 62-761.451; 62-762.451 F.A.C.]*~~

B. Spills

~~Fuel and other petroleum product spills that enter stormwater drains or waterbodies, or fuel and other petroleum product spills that are in excess of 25 gallons shall be contained, cleaned up, and immediately reported to the appropriate DEP District Water Resources Office. A copy of any submittal by Licensee pursuant to this paragraph, for any spills located in the affected County, shall be provided to the affected County for informational purposes. Smaller ground surface spills shall be cleaned up as soon as practical.~~

~~*[Rules 62-761.451; 62-762.451 F.A.C.]*~~

C. Discharge

~~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.~~

~~*[Rules 62-303; 62-40; 62-520, F.A.C.]*~~

D. Reporting

~~The Licensee shall report all spills of materials having potential to significantly pollute surface or ground waters and which are not confined to a building or similar containment structure, by telephone immediately after discovery of such spill. The Licensee shall submit a written report within forty-eight hours, excluding weekends, from the original notification; the Siting Coordination Office shall be copied on this report. The telephone report shall be submitted by calling the DEP District Office Industrial Wastewater Compliance/Enforcement Section. After normal business hours, the Licensee shall contact the State Warning Point by calling (850) 413-9911 or (850) 413-9912. The written report shall include, but not be limited to, a detailed description of how the spill occurred, the name and chemical make-up (include any 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 size and extent of the spill and surface types~~

(impervious, ground, water bodies, etc.) it impacted, the cleanup procedures used and status of completion, and include a map or aerial photograph showing the extent and paths of the material flow. Any deviation from this requirement must receive prior approval from the Department.

[Chapter 376, F.S.; Rule 62-160, F.A.C.]

XXXI. WATER DISCHARGES

A. Discharges

1. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption or other relief is granted or authorized by these Conditions, the Licensee shall not discharge to surface or ground waters of the State wastes in concentrations, which, alone or in combinations with other substances or components of discharges (whether thermal or non-thermal), are carcinogenic, mutagenic, or teratogenic to human beings (unless specific criteria are established for such components in Rule 62-520.400, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

2. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption or other relief is granted or authorized by these Conditions, all discharges and activities must be conducted so as to not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.

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

B. Wastewater Incident Reporting

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

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

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

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

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

d. Any unauthorized discharge to surface or ground waters.

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

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

a. Name, address, and telephone number of person reporting;

b. Name, address, and telephone number of Licensee or responsible person for the discharge;

c. Date and time of the discharge and status of discharge (ongoing or ceased);

d. Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);

e. Estimated amount of the discharge;

f. Location or address of the discharge;

g. Source and cause of the discharge;

h. Whether the discharge was contained on-site, and cleanup actions taken to date;

i. Description of area affected by the discharge, including name of water body affected, if any; and

j. Other persons or agencies contacted.

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

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

XXXVI. SOLID AND HAZARDOUS WASTE

A. Solid Waste

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

~~[Rules 62-701 and 62-702, F.A.C.]~~

B. Hazardous Waste

~~The Licensee shall comply with all applicable provisions of DEP Rule Chapter 62-730, F.A.C., for any hazardous waste generated within the certified facility. An EPA identification number must be obtained before beginning hazardous waste activities, except for Conditionally Exempt Small Quantity Generators (CESQGs) who are exempt from this regulation under Title 40 Code of Federal Regulations (CFR), §261.5. CESQGs generate no more than 100 kg (220 lbs) of hazardous waste in any month.~~

~~[Rule 62-730, F.A.C.]~~

C. Water Quality Reporting Requirements

~~All solid and/or hazardous waste water quality monitoring reports and all solid and/or hazardous waste ground water, surface water and leachate analytical results shall be submitted electronically. Water quality monitoring reports shall be submitted in a pdf format. The water quality data Electronic Data Deliverable (EDD) shall be provided to the Department in an electronic format consistent with requirements for importing the data into the Department's databases. Water quality monitoring reports shall be signed and sealed by a Florida-registered professional geologist or professional engineer with experience in hydrogeological investigations and shall include the following:~~

- ~~1. Cover letter;~~
- ~~2. Summary of exceedances and recommendations;~~
- ~~3. Ground water contour maps;~~
- ~~4. Chain of custody forms;~~
- ~~5. Water levels, water elevation table;~~
- ~~6. Ground Water Monitoring Report Certification, using the appropriate Department form;~~
- ~~7. Appropriate sampling information on Form FD 9000-24 (DEP SOP-001/01); and,~~
- ~~8. Laboratory and Field EDDs and error logs, as applicable.~~

~~All submittals in response to this specific condition shall be sent both to:~~

~~Florida Department of Environmental Protection~~

~~Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767~~

~~And to:~~

~~Florida Department of Environmental Protection
Solid Waste Section
2600 Blair Stone Road, MS 4565
Tallahassee, Florida, 32399-2400~~

~~And to:~~

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

~~[Rules 62-160.110, 62-160.240, 62-160.340, and 62-730.225, F.A.C.]~~

XXXII. SOLID AND HAZARDOUS WASTE

A. Solid Waste

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-701, F.A.C., for any solid waste generated within the Certified Facility during construction, operation, maintenance, and closure.

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

B. Hazardous Waste, Used Oil, Petroleum Contact Water and Spent Mercury

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

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

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

The Licensee shall comply with all applicable provisions of DEP Chapter 62-740, F.A.C. for any petroleum contact water located within the Certified Facility.

[Chapters 62-710, 62-730, 62-737, and 62-740, F.A.C.]

C. Hazardous Substance Release Notification

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

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

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

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

D. Contaminated Site Cleanup

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

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

XXXVII. PETROLEUM STORAGE

~~The Licensee shall comply with all applicable provisions of DEP Rule 62-762, F.A.C. for any above ground petroleum storage systems.~~

~~[Rule 62-762, F.A.C.]~~

XXXIII. STORAGE TANK SYSTEMS

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

A. Incident Notification Requirements.

Notification of the discovery of the loss from a storage tank system of a regulated substance exceeding 100 gallons on impervious surfaces, other than secondary containment, such as driveways, airport runways, or other similar asphalt or concrete surfaces, provided that the loss does not come in contact with pervious surfaces or of the discovery of any other incident listed in subsections 62-761.450(2) or 62-762.450(2), F.A.C., shall be made to the

County on Incident Notification Form 62-761.900(6) within 24 hours or before the close of the County's next business day.

B. Discharge Reporting Requirements

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

C. Discharge Cleanup

If a discharge of a regulated substance occurs at a certified facility, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules. The Licensee is advised that other federal, state, or local requirements may apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with that Chapter.

D. Out of Service and Closure Requirements

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

[Chapters 62-761, 62-762, and 62-780, F.A.C.]

~~XXXVIII. NOISE~~

~~The Licensee shall comply with applicable noise ordinances, if any. If steam blows will be necessary the Licensee will notify the local government in advance and conduct steam blows only during day time (8:00am—5:00pm).~~

~~XXXIX. SCREENING~~

~~The Licensee shall comply with applicable local government requirements concerning the screening of the certified facility.~~

A complete set of the Conditions (including attachments) can be viewed and downloaded from the following website:

http://publicfiles.dep.state.fl.us/Siting/Outgoing/Web/Certification/pa08_53_2017_B.pdf

Copies of the Conditions and/or attachments may also be obtained by contacting the Department of Environmental Protection, Siting Coordination Office, 2600 Blair Stone Rd., M.S. 5500, Tallahassee, Florida 32399-3000, (850) 717-9000.

Pursuant to Section 120.68, F.S., any party to this order has a right to seek judicial review, by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection 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 order is filed with the Clerk of the Department of Environmental Protection.

Sincerely,



Cindy Mulkey
Administrator,
Siting Coordination Office

CC by email:

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Lisa Gregg, FFWCC: Lisa.Gregg@MyFWC.com

FILING AND ACKNOWLEDGMENT

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



2017.05.12
13:12:05 -04'00'

Clerk

Date

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