

**STATE OF FLORIDA  
DEPARTMENT  
OF  
ENVIRONMENTAL PROTECTION**



**Conditions of Certification**

**Solid Waste Authority  
Of  
Palm Beach County  
Palm Beach Renewable Energy Park**

**PA84-20A2**

**September 1, 2011**

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### SECTION A: GENERAL CONDITIONS

#### I. SCOPE

A. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501-518, Florida Statutes (F.S.), this certification is issued to the Solid Waste Authority of Palm Beach County (SWA) as owner/operator and Licensee of the Palm Beach County Renewable Energy Park (Park). Subject to the requirements contained in the Conditions of Certification (Conditions) previously issued to the SWA, the SWA operates an existing 62MW (design capacity) electrical power plant (Renewable Energy Facility #1), which is nominally designed to burn approximately 1,800 tons per day (tpd) of refuse-derived fuel and generate approximately 62 megawatts (MW) of electricity. This certification (PA 84-20A2) authorizes the SWA to construct and operate a new 100 MW (nominal) resource recovery facility consisting of three 1,000 tpd mass-burn municipal waste combustors and an electrical steam turbine generator (Renewable Energy Facility #2), subject to the Conditions contained herein. Renewable Energy Facility #1 and #2 are located in the 1,320 acre Park (Site), which is located in Palm Beach County, Florida. The UTM coordinates for the Site are: Zone 17; 585.300 km East; 2.962 km North. The Department does not intend, solely by the incorporation of these General and Specific Conditions into the existing Conditions for the Park, to require the retrofitting of any existing certified facilities.

B. The certified facility includes but is not limited to the following major associated facilities;

- Class I Landfill
- Class III Landfill
- Ferrous Metal Processing Facility
- Composting Facility
- Woody Waste Processing Facility
- Recovered Materials Processing Facility
- Household Hazardous Waste Collection Facility
- Biosolids Processing Facility
- Vehicle and Equipment Maintenance Building
- Landfill Operation and Maintenance Building
- Utilities and Support Infrastructure

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 facilities. If a conflict should occur between the design criteria of the certified facilities 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 proposed electrical power plant (Renewable Energy Facility #2), as defined by 403.503(14), F.S., but excluding off-site linear and non-linear associated facilities, Licensee shall provide to the Department in pdf format: a survey map signed by a professional land surveyor, or acceptable equivalent

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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 and aerial photograph shall be identified as the site delineation and attached hereto as part of Attachment A.

The Licensee shall notify the Department of any change to the site boundary depicted in the site delineation in Attachment A. The notification shall be accompanied by an updated land survey (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 onsite support facilities are located to be the boundaries of the Site.

E. If both certified and uncertified facilities lie within the boundaries of the site, the Licensee shall also comply with the requirements of this paragraph. Within 60 days after completion of construction of the proposed electrical plant and on-site associated facilities, but excluding off-site linear and 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 within the site; and an aerial photograph delineating the boundaries of the certified areas within the site. The boundaries of the Certified Area shall include both the certified electrical power plant's generating facilities, as defined in Section 403.503(28), F.S., and its on-site certified associated facilities (including on-Site linear facilities), as defined by Section 403.503(7), F.S. The survey and the aerial photograph shall be known as the Delineation of the Certified Area of the Site and attached hereto as part of Attachment A.

F. Within 120 days after completion of construction of the off-Site associated non-linear facilities (if any) for the proposed electrical power plant, 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. The survey map(s) and aerial photographs shall be known as Delineation of the Certified Areas of the Off-Site Non-linear Facilities and attached hereto as part of Attachment A.

G. Within 180 days after completion of construction of associated off-site linear facilities (if any), as defined by Section 403.503(7), F.S., for the proposed electrical power plant, 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(s), 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 Off-Site Linear Facilities and attached as part of Attachment A.

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

*[Sections 403.511, F.S.; subsections 62-4.160(8) and 62-17.205(2), F.A.C.]*

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### II. APPLICABLE RULES AND STATUTES

The construction, operation and maintenance of the certified facilities shall be in accordance with all applicable non-procedural provisions of Florida Statutes (F.S.) and Florida Administrative Code (F.A.C.), 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, F.S.:

#### **Florida Statutes:**

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

#### **Florida Administrative Codes:**

5I-2 (Open Burning)  
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)  
62-256 (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)

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- 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)
- 62-341 (Noticed General Environmental Resource Permits)
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- 62-345 (Uniform Mitigation Assessment Method)
- 62-520 (Groundwater Classes, Standards and Exemptions)
- 62-522 (Groundwater Permitting and Monitoring Requirements)
- 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)
- 62-640 (Biosolids)
- 62-650 (Water Quality Based Effluent Limitations)
- 62-660 (Industrial Wastewater Facilities)
- 62-699 (Treatment Plant Classification and Staffing)
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- 62-709 (Criteria for the Production and Use of Compost made from Solid Waste)
- 62-710 (Used Oil Management)
- 62-730 (Hazardous Waste)
- 62-737 (Management of Spent Mercury-Containing Lamps and Devices Destined for Recycling)
- 62-740 (Petroleum Contact Water)
- 62-761 (Underground Storage Tank Systems)
- 62-762 (Aboveground Storage Tank Systems)
- 62-769 (Florida Petroleum Liability and Restoration Insurance Program)
- 62-770 (Petroleum Contamination Site Clean-Up Criteria)
- 62-780 (Contaminated Site Clean-Up Criteria)
- 62-814 (Electric and Magnetic Fields)
- 64E-6 (Standards for Onsite Sewage Treatment and Disposal Systems)
- 40E-4 (Environmental Resource Permits)
- 40E-40 (General Environmental Resource Standard Permits)
- 40E-41 (Surface water Management Basin and Related Criteria)
- Basis of Review for ERP Applications

### III. REVISIONS TO DEPARTMENT STATUTES AND RULES

A. The Licensee shall comply with rules adopted by the Department subsequent to the issuance of the certification under the PPSA which prescribe new or stricter criteria, to the

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extent that the rules are applicable to electrical power plants. Except when express variances, exceptions, exemptions, or other relief have been granted, subsequently adopted Department rules which prescribe new or stricter criteria shall operate as automatic modifications to certifications.

B. Upon written notification to the Department, any holder of a certification issued pursuant to the PPSA 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)(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, as well as supplemental applications.

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

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

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

E. “DCA” means the Florida Department of Community Affairs and any successor agency.

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.

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- I. “Feasible” means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- J. “FWC” means the Florida Fish and Wildlife Conservation Commission.
- K. “Health Department” or “PBCHD” means the Palm Beach County Health Department.
- 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 by DEP in accordance with the federal Clean Water Act.
- N. “PBCERM” means Palm Beach County Environmental Resource Management.
- O. “PSD permit” means a federal Prevention of Significant Deterioration air emissions permit issued by DEP in accordance with the federal Clean Air Act.
- P. “ROW” means the right-of-way to be selected by the Licensee within a certified corridor in accordance with the Conditions and as defined in Section 403.503(27), F.S.
- Q. “SFWMD” means the South Florida Water Management District.
- R. “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.
- S. “TCRPC” means the Treasure Coast Regional Planning Council.
- T. “Title V permit” means a federal permit issued by DEP in accordance with Title V provisions of the federal Clean Air Act.

### 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 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.]*

### VI. FEDERAL PERMITS

This license 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. The Department may consider a violation of any of these federal permits as a violation of this license.

#### A. *Air*

The provisions of the following paragraphs shall be conditions of this certification. The Licensee shall comply with the substantive provisions and limitations set forth in the Air Construction Permits and Title V Air Operation Permit for the Park as part of these Conditions, and as those provisions may be modified, amended, or renewed in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification. Any violation of such provisions shall be a violation of these Conditions.

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### 1. Air Construction Permit(s)

Air Construction Permits PSD-FL-108A, PSD-FL-108B, PSD-FL-108C, 0990234-002-AC (PSD-FL-108D), 0990234-006-AC (PSD-FL-108F), 0990234-008-AC, 0990234-011-AC, 0990234-012-AC, 0990234-014-AC, 0990234-015-AC (PSD-FL-108H), and 0990234-018-AC (PSD-FL-108H) for Renewable Energy Facility #1, and Air Construction Permit 0990234-017-AC (PSD-FL-413) for Renewable Energy Facility #2, are incorporated by reference herein as part of these Conditions and attached as Appendix I.

*[Chapter 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C.]*

### 2. Title V Permit

Title V Air Operation Permit 0990234-016-AV is incorporated by reference herein as part of these Conditions and attached as Appendix II. After commencement of operations of Renewable Energy Facility #2, the updated Title V Operation Permit will be attached and incorporated herein upon issuance.

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

## **B. Water**

### 1. Underground Injection Control

The construction and operation of injection wells shall be in accordance with all applicable provisions of UIC permit No. 78189-003-UO (attached as Appendix III) and 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 on the site shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. Prior to commencing construction activities on the site that:

- 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 (CGP) 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 shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. For industrial activities at the site that result in a discharge of stormwater to surface waters of the State or into a municipal separate storm sewer system (MS4), and fall under any one of the 11 categories of industrial

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activities identified in 40 CFR 122.26(b)(14), a Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity (MSGP) shall be obtained as applicable.

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

5. NPDES Generic Permit for Discharge of Produced Ground Water from any Non-Contaminated Site Activity

Prior to discharge of produced ground water from any non-contaminated site activity which discharges by a point source to surface waters of the State, as defined in Chapter 62-620, F.A.C., the Licensee must first obtain coverage under the Generic Permit for Discharge of Produced Ground Water from any Non-Contaminated Site Activity. Similarly, if the activity involves a point source discharge of ground water from a petroleum contaminated site, the Licensee must obtain coverage under the Generic Permit for discharge from petroleum contaminated sites. Before discharge of ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed as required by Rule 62-621.300, F.A.C., to determine if the activity can be covered by either permit.

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

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

### VII. DESIGN AND PERFORMANCE CRITERIA

Certification, including these Conditions, is predicated upon preliminary designs, concepts, and performance criteria described in the site certification application (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 facilities.

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

### VIII. 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 appropriate District Office with the following information:

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

Notifications provided to the District Office in writing, shall be concurrently provided to the Siting Coordination Office (SCO) via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us). This does

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not include routine reports/notifications submitted as a specific requirement of a federal air construction or air operation permit.

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

B. If the Licensee becomes aware that relevant facts were not submitted or were incorrect in the SCA or in any report to the Department or other agencies, such facts or information shall be promptly corrected and submitted.

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

### IX. CONSTRUCTION PRACTICES

#### A. *Local Building Codes*

This license shall not affect in any way the right of local governments to charge appropriate fees or require that construction be in compliance with applicable building construction codes.

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

#### B. *Open Burning*

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapters 62-256 and 5I-2, F.A.C. Prior to any burning of construction-generated material, such as land clearing debris that is allowed to be burned in accordance with Chapter 62-256, F.A.C., the Licensee shall seek approval from the applicable DEP District Office, whose approval may be granted in conjunction with the approval of the Division of Forestry. Burning shall not occur if not approved by the Department or if 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 the Licensee relating to open burning shall be submitted to the affected county in which open burning will take place, as requested or required by that County, for informational purposes.

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

#### C. *Flood Control Protection*

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

#### D. *Vegetation*

For areas located in any Florida Department of Transportation (DOT) ROW, Chapter 7 of the Florida DOT *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.

#### E. *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 Siting Office with copies of valid tickets obtained from Sunshine State One Call of Florida upon request. Tickets shall be retained by the Licensee and available upon request until the underground work has been completed.

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*[Chapter 556, F.S.]*

**F. Electric and Magnetic Fields**

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

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

**G. Wells**

Any existing wells in the path of construction that will be impacted and 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(4), and rule 62-532.410, F.A.C., or with the rules of the authorizing agency.

*[Rules 62-532.400 and 62-532.410; and subsection 62-532.500(4), F.A.C.]*

**H. Abandonment of Existing Septic Tanks**

Any existing septic tanks that will 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.]*

**I. Sanitary Wastes**

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

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

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

**XI. DISPUTE RESOLUTION**

If a situation arises in which mutual agreement cannot be reached between the Licensee, the Department and another agency receiving a post-certification submittal or between the Department and the Licensee regarding compliance with the Conditions, then the matter shall

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be immediately 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.

*[Subsection 120.57, F.S.]*

### **XII. SEVERABILITY**

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

### **XIII. ENFORCEMENT**

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, license termination, license revocation, or license revision. The Licensee is placed on notice that the Department may review this certification periodically and may initiate enforcement action for any violation of these Conditions. Abandonment of the certified facilities 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 facilities which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the certified facilities and arising under the Florida Statutes or Department rules. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

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

### **XIV. REVOCATION OR SUSPENSION**

This certification shall be final unless revised, revoked or suspended pursuant to law. This certification may be suspended or revoked pursuant to Sections 403.512, 403.532, and 403.9425, F.S., or for violations of any of these Conditions. This license is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of 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 facilities that are the cause of such action, and other portions of the certified facilities shall remain unaffected by such action.

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

### **XV. REGULATORY COMPLIANCE**

As provided in Sections 403.087(7) 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

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other Department license/permit that may be required for other aspects of the certified facilities 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 facilities, or from penalties therefore.

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

### **XVI. CIVIL AND CRIMINAL LIABILITY**

This certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any conditions of this certification, applicable rules or regulations of the Department, or any other state statutes or regulations which may apply.

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

### **XVII. USE OF STATE LANDS**

A. The issuance of this License conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless 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 facilities is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the certified facilities 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 facilities 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 facilities 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 facilities is located on sovereign submerged lands or state-owned uplands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, then the proposed activity on such lands requires a proprietary authorization. Under such circumstances, the proposed activity is not exempt from the need to obtain a proprietary authorization. The Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Rules 18-2.018 or 18-21.0051, F.A.C.

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

E. The terms, conditions, and provisions of any required lease or easement issued by the State shall be met. Any construction activity associated with the certified facilities shall

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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.

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

**XVIII. PROCEDURAL RIGHTS**

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

*[Chapter 120, and Section 403.511(5)(c), F.S.]*

**XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES**

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

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

Florida Department of Environmental Protection  
Southeast District Office  
400 N. Congress Ave, Suite 200  
West Palm Beach, FL 33401-2319

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

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

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

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

Treasure Coast Regional Planning Council  
Office of the Executive Director  
301 E. Ocean Blvd., Suite 300  
Stuart, FL 34994

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

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

City of West Palm Beach  
Office of General Counsel  
200 2nd Street  
West Palm Beach, Florida 33401

*[Section 403.511, F.S.]*

### **XX. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS**

#### **A. Purpose of Submittals**

Conditions which provide for the post-certification submittal of information to DEP or other agencies by the Licensee are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the certified facilities and the construction and maintenance of the certified facilities. 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.

#### **B. Filings**

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

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

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### ***C. Completeness***

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

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

### ***D. Interagency Meetings***

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

### ***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

### ***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.

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*[Sections 120.569, 403.511, F.S.; Rule 62-17.191, 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 Department a complete summary of those post-certification submittals that are identified in these Conditions where due-dates for the information required of the Licensee are identified. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the Siting Coordination Office, in a sortable spreadsheet, via email, in the format identified below or equivalent. For subsequent modifications and certifications, a Post-Certification Submittal Requirements Summary shall be required for only those modifications and certifications resulting in new or altered post-certification requirements.

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

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

**XXII. POST CERTIFICATION AMENDMENTS**

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

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

B. If the Department concludes that the change would require a modification to the Conditions, the Department shall provide written notification to the Licensee that the proposed change to the SCA requires a request for modification pursuant to Sections 403.516 and 403.5317, F.S.

*[Section 403.5113, F.S.]*

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**XXIII. MODIFICATION OF CERTIFICATION**

A. Pursuant to Sections 403.516(1)(a), 403.5315(1), 403.9418(1)(a), 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department to modify, after notice and receipt of no objection by a party or other substantially affected person, any Condition of Certification 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 facilities. In the event of a conflict, the more stringent of the requirements of such permits or of these Conditions shall be controlling.

B. Any anticipated facility expansions, production increases, or process modifications which may result in a 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.

C. 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, must be accompanied by a map or aerial photo showing the proposed new boundaries of the Site and/or certified area. The Department may consider any such change to be a modification to the Conditions. Within 60 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, or F as appropriate.

D. 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, F.S.; Rule 62-17.211 and Chapter 62-343, F.A.C.]*

**XXIV. INCORPORATION OF EXISTING STATE AND LOCAL PERMITS/LICENSES**

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

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

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**XXV. COASTAL ZONE CONSISTENCY**

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

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

**XXVI. FINANCIAL RESPONSIBILITY**

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

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

**XXVII. 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 Facilities may be initiated by the Licensee's filing of a Notice of Intent to Transfer Certification with the Department. The notice of intent shall: identify the intended new certification holder or Licensee; identify the 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 and applicable laws and regulations. Upon receiving a complete notice of intent, the transfer shall be approved by the Department unless the Department objects to the transfer on the grounds that the new Licensee will be unable to comply with the Conditions, specifies in writing its reasons for its objections, and gives notice and an opportunity to petition for an administrative hearing pursuant to Section 120.57, F.S.. Upon approval, the Department will initiate a modification to the Conditions of to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.

B. 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 facilities in accordance with the Conditions and which are proper applicants as defined by the PPSA. Upon determination that such a successor entity complies with the above, 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.]*

**XXVIII. 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: <http://www.dep.state.fl.us/labs/qa/sops.htm>.

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

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**XXIX. ENVIRONMENTAL RESOURCES**

Licensee previously certified and constructed Renewable Energy Facility #1. Requirements of this Section A, Condition XXIX. Environmental Resources have been satisfied for that facility. Licensee's application for Renewable Energy Facility #2 has been reviewed and approved. Some of the requirements of this Section A, Condition XXIX. Environmental Resources have been satisfied for Renewable Energy Facility #2.

**A. General**

1. Submittals for Construction Activities

a. Unless such information has already been provided to DEP as part of the Application or during the certification proceedings, prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the appropriate DEP District's Environmental Resource Permitting Section(s) for review, all information necessary for a complete *Joint Application for Environmental Resource Permit (ERP)*, DEP Forms 62-343.900(1).

This form may: a) have been submitted concurrently with a SCA; b) be submitted as 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 applications, once received, shall be reviewed in accordance with the standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapters 62-330, 62-341, 62-343, and 62-346, F.A.C., as applicable, unless otherwise stated in these Conditions.

Those forms submitted as part of a site certification, 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 project approval and prior to construction) shall be processed in accordance with Section A, XX. Procedures for Post-Certification Submittals.

No construction shall commence until the appropriate notification from the Department has been received, or in the case of post-certification submittals the time period for notification by the Department has expired.

b. The Licensee shall submit a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department approval.

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

*[Section 373.416, F.S.; subsections 62-312, 62-343.070(2) and 62-346.070(2), paragraph 62-343.090(2)(b), and Forms 62-343.900(1) and 62-346.900(1), F.A.C.]*

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

*[Section 373.414, F.S.]*

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

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

### **B. Surface Water Management**

1. Surface water management systems will be evaluated under Part IV of Chapter 373, F.A.C. following submittal of Form 62-343.900(1) or 62-346.900(1), as applicable, to the appropriate office of the Department.

2. All construction, operation, and maintenance of the surface water management system(s) for the Certified Facilities shall be as set forth in the plans, specifications and performance criteria contained in the ERP Application form and the surface water management system operation/management plans approved by this certification. The Department approved surface water management system operation/management plans shall be incorporated herein as Attachment B, as well as any subsequent alterations, amendments, or modifications thereto. Any subsequent alterations, amendments or modification to the approved surface water management system and/or operation/management plans shall require prior approval from the Department.

3. Immediately prior to and during construction, and for a sufficient period of time after construction to allow for stabilization of all disturbed areas, 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 of transferring suspended solids into the receiving waterbody exists due to the licensed work, and shall remain in place at all locations until construction 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, 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* (Florida Department of Transportation and Florida Department of Environmental Protection, June 2007). The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as practicable. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments and other disturbed areas, and before conversion from 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 surface water management system described in the DEP ERP Application Form, as part of a

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postcertification submittal, amendment, or modification, including water quality treatment features, and discharge control facilities prior to use of the portion of the certified facility being served by the surface water management system.

5. At least 48 hours prior to the commencement of construction of any new surface water management system authorized by this license, the Licensee shall submit to the Department a written notification of commencement using an "Environmental Resource Permit Construction Commencement Notice" (DEP Form 62-343.900(3) or 62-346.900(3), F.A.C. as applicable), indicating the actual start date and the expected completion date. When the duration of construction will exceed one year, the Licensee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (DEP Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

6. Each phase or independent portion of the approved system must be completed in accordance with the submitted DEP Form prior to the operation of site infrastructure located within the area served by that portion or phase of the system.

7. Within 30 days after completion of construction of any new portions of the surface water management system, the Licensee shall submit to the SCO and DEP District Office a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required "As-Built Certification by a Registered Professional" (DEP Form 62-343.900(5) or 62-346.900(4), F.A.C., as applicable). Additionally, if deviations from the approved drawings are discovered, the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

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

9. Prior to the operation of any new surface water management system, the Licensee shall submit to the Department a "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (DEP Form 62-343.900(7), F.A.C). The operation phase of any new surface water management system 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.

*[Chapters 62-25, 62-302, 62-330, 62-343 62-346, 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 avoid or minimize adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent feasible. When unavoidable impacts to wetlands will occur, an applicant may propose and the Department shall consider mitigation to offset otherwise unpermittable activities under the Environmental Resource Permit review process pursuant to Condition A.1.a above.

2. Proposed mitigation plans submitted with the DEP ERP Application forms required in Condition A.1.a. above, or submitted and approved as part of an amendment,

## SECTION A: GENERAL CONDITIONS

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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 and attached as Attachment C.

*[Sections 373.413, 373.414, 373.4145, 403.511, and 403.814(6), F.S.; Chapters 62-330, 62-341 62-342, 62-343, 62-345, and 62-346, F.A.C.]*

### **XXX. 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 area. Such third party activities authorized by the Licensee may include but are not limited to mining, hunting, and timbering.

*[Section 403.506(1), F.S.]*

### **XXXI. FACILITY OPERATION**

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

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

### **XXXII. RECORDS MAINTAINED AT THE FACILITY**

A. These Conditions or a copy thereof shall be kept at the work site of the certified facility.

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

C. The Licensee shall hold at the certified facility (i.e., the Licensee's administrative offices in the Renewable Energy Park), 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.

D. 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;

## SECTION A: GENERAL CONDITIONS

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3. the dates analyses were performed;
4. the person responsible for performing the analyses;
5. the analytical techniques or methods used; and,
6. the results of such analyses.

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

### XXXIII. WATER DISCHARGES

#### A. Discharges

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

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

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

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

#### B. Wastewater Incident Reporting

1. The Licensee shall report to the Southeast District Office and the Palm Beach County Health Department 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 Southeast 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

## SECTION A: GENERAL CONDITIONS

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- 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 TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the Licensee becomes aware of the discharge. The Licensee, to the extent known, shall provide the following information to the State Warning Point:

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

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

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

### **XXXIV. SOLID AND HAZARDOUS WASTE**

#### **A. Solid Waste**

The Licensee shall comply with all applicable provisions of Chapters 62-701 and 62-702, F.A.C., for any solid waste generated within the certified facilities during construction and/or operation.

*[Chapters 62-701 and 62-702, F.A.C.]*

## SECTION A: GENERAL CONDITIONS

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### ***B. Hazardous Waste***

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapters 62-710, 62-730, and 62-737, F.A.C., for any hazardous waste generated within the certified facilities. 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.

*[Chapter 62-730, 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 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, (850) 488-1320, within 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.]*

## **XXXV. STORAGE TANK SYSTEMS**

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

### ***B. Discharge Reporting Requirements***

Upon discovery of an unreported discharge, the owner or operator shall report to the PBCERM on Discharge Report Form 62-761.900(1) within 24 hours or before the close of the PBCERM'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,

## SECTION A: GENERAL CONDITIONS

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

### ***D. Out of Service and Closure Requirements***

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

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

## SECTION B: SPECIFIC CONDITIONS

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### SECTION B: SPECIFIC CONDITIONS

#### I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### A. *Wastewater Disposal*

Plans, drawings and specifications for leachate collection systems, pumps, lift stations, sewage collection systems, sewage treatment systems, wastewater treatment systems, deep injection wells, and wastewater collection systems shall be furnished to the Southeast District Office, PBCHD and the SFWMD for approval at least 90 days prior to start of construction for the particular of such component. All items submitted pertaining to the injection wells shall be directly distributed to the Technical Advisory Committee (TAC) for approval.

##### B. *Water Quality Monitoring Requirements*

###### 1. Surface Water Monitoring

a. Water quality in the surface water management system shall be sampled semi-annually at the station labeled S7S-2, as shown on Exhibit A (Well Locations and ZOD dated December 2010), overflow control structure at EPB-10 west of the Class I Landfill.

b. Surface water will be sampled semiannually (May and November) for the parameters listed in Rule 62-701.510(8)(b), F.A.C., and submitted concurrently with the groundwater monitoring reports to the same agencies as listed in Section B, Condition I.C.3.b.

c. Pursuant to Rule 62-701.510(4)(c), F.A.C., any new surface water monitoring location shall be marked and its position determined by a Florida Licensed Professional Surveyor and Mapper in degrees, minutes and seconds of latitude and longitude within 60 days of permit issuance and this information shall be submitted to the Department within 45 days of the survey.

d. If any surface water analytical results exceed the Department's water quality standards or criteria in Rule 62-302, F.A.C., a confirmatory sample shall be taken within thirty (30) days of the Licensee's receipt of the data. The FDEP Southeast District Waste Cleanup Section must be notified seven (7) days prior to any surface water resampling event. Should the Licensee chose to not resample, the Department will consider the water quality analysis as representative of current surface water conditions at the facility. If the data is confirmed, or if the Licensee chooses not to resample, the Licensee will notify the Department in writing within thirty (30) days of this finding.

###### 2. Groundwater

All discharges to groundwaters, such as landfill leachate, shall be collected and treated as necessary, or otherwise be of high enough quality, to be able to meet the applicable Water Quality Standard of Section 62-520.400, F.A.C., within 100 feet of the landfill perimeter.

###### 3. Zone of Discharge

The zone of discharge for the certified facility shall be a three dimensional volume as shown or described in Section 10.14.2 of the application dated July 12, 2010, which is a document entitled "Proposed Monitoring Plan for the North County Resource Recovery Facility", dated August 1994 (received November 9, 1994 and approved December 2, 1994), and shall extend vertically to the first continuous confining layer (Figure 5-1). The Licensee shall

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ensure that Class G-II water quality standards will not be exceeded at the boundary of the zone of discharge, per Rule 62-520.420, F.A.C., and that ground water minimum criteria will not be exceeded outside the boundary of the zone of discharge, per Rule 62-701.320(17), F.A.C.

### 4. Groundwater Monitoring Program

a. Sampling shall be in accordance with Section 10.14.2 of the application dated July 12, 2010, which is a document entitled “Proposed Monitoring Plan for the North County Resource Recovery Facility”, dated August 1994 (received November 9, 1994 and approved December 2, 1994) and Table 5-1 “Proposed Groundwater Monitoring Network”, as amended by Chapter 62-701, F.A.C. (January 6, 2010).

b. Pursuant to Rule 62-701.510(3)(d), F.A.C., the location of each well, in degrees, minutes and seconds (to two decimal places) of latitude and longitude, and the elevation of the top of the well casing to the nearest 0.01 foot, using a consistent, nationally recognized datum, shall be determined by a Florida Licensed Professional Surveyor and Mapper. All new or replacement monitoring wells shall be installed by a Florida certified water well contractor. The location information required in subparagraph 62-701.320(7)(f)7., F.A.C., shall be included. Upon completion of each well, Form 62-701.900(30), Monitoring Well Completion Report, effective date January 6, 2010 shall be submitted to the Department to report details of the well construction and location. A drawing illustrating the surveyed information, signed and sealed by a Florida Licensed Professional Surveyor and Mapper, shall be submitted to the Department within forty-five (45) days of each survey.

c. Well screens shall not act as conduits through confining layers between water bearing strata. The annular space (the space between the borehole and well casing) above the sampling depth shall be sealed to prevent contamination of samples and ground water. Wells monitoring the unconfined water table shall be screened so that the water table can be sampled at all times in accordance with Rule 62-701.510(3)(d), F.A.C.

d. Monitoring wells shall be constructed so as to provide ground water samples that exhibit the physical and chemical properties of that portion of the aquifer screened by the well. All new, replacement or existing monitoring wells shall be clearly identified and maintained in good condition to prevent or minimize sampling interferences, loss of well integrity or vandalism. All monitoring wells shall have well maintained concrete pads and be kept properly sealed and locked. Monitoring wells finished above grade shall be protected by bumper guards and steel risers. Monitoring wells finished at or below grade shall have traffic bearing, steel plate cover assemblies.

e. The Licensee shall maintain reasonable access to all of the monitoring well stations required by this certification. The Licensee is responsible for maintaining the integrity of the monitoring well stations and protecting them from destruction and vandalism. Should any of these monitoring well stations be damaged or vandalized in any manner, or destroyed, the Licensee shall notify the Department immediately upon discovery. The notification shall include pertinent information as to the cause, and what steps are being taken to replace the monitoring well station and prevent the recurrence of such problems in the future.

f. Any monitoring wells which are abandoned or which will be covered due to lateral expansions of a landfill or the construction of new solid waste disposal

## SECTION B: SPECIFIC CONDITIONS

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units shall be plugged as necessary so that they do not act as a conduit for any leachate release to the ground water. The Department shall be notified in writing before any monitoring wells are abandoned or plugged. All new or replacement monitoring wells shall be constructed and/or abandoned in accordance with Chapter 62-532, F.A.C., and the approved water quality monitoring plan.

g. Compliance wells required by Chapter 62-761 and / or 62-762, F.A.C. for release detection, and/or wells that are part of an approved groundwater monitoring plan shall remain active. [Rules 62-532.500(4), 62-761, and 62-762, F.A.C.]

h. Well development prior to sampling events and purge/sampling water discharges shall be followed pursuant to the Department's Standard Operating Procedures for Field Activities, DEP SOP-001/01 or any Department approved standard operating procedure which may be in force at the time. Any laboratory test required by this permit shall be performed by a laboratory that has been certified by the Department of Health (DOH) under Chapter 64E-1, F.A.C., where such certification is required by Rule 62-160.300, F.A.C. The laboratory must be certified for all specific method/analyte combinations that are used to comply with this permit.

i. Background water quality shall be determined by analysis of at least one water sample taken from each new well that is installed within forty-five (45) days of certified well completion or at the next semi-annual sampling event, whichever comes first, for the parameters listed in Rule 62-701.510 8(a) and 8(d), F.A.C.

### ***C. Water Quality Monitoring Reporting***

1. In the event of an emergency and/or discharge to ground water, the Licensee shall notify the Department in person or by telephone within one business day of the discovery of the incident and shall submit a written report describing the incident to the Department within three business days of the discovery of the incident. In addition, a final written report shall be sent to the Department within two (2) weeks of the incident. The final report shall contain a complete description and discussion of the cause of the emergency and/or discharge, the anticipated time that the discharge, if any, will continue, the steps that will be taken to evaluate, reduce, eliminate, and prevent recurrence of the event, and all other information deemed necessary by the Department.

2. The monitoring wells listed below and as shown on Exhibit A (Monitoring Well Locations and ZOD attached) shall be sampled and analyzed semi-annually (May and November) for the parameters listed in Rule 62-701.510(8)(a), F.A.C. The semi-annual analytical results for ground water shall be submitted to the Department pursuant to Rule 62-701.510(9)(a), F.A.C., unless written approval of time extension is granted by the Department.

Background Monitoring Wells are labeled:

S7W-1,            S7W-As,        S7W-Ai,  
S7W-2,            S7W-102,      S7W-Bs,  
S7W-Bi, and    S7W-3

And Detection Monitoring Wells are labeled:

S7W-Cs,        S7W-Ci,        S7W-15,  
S7W-15A,      S7W-107,      S7W-7,

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S7W-Ds, S7W-Di, S7W-Es,  
S7W-Ei, S7W-Fs, S7W-Fi,  
S7W-Gs, S7W-Gi, S7W-Hs,  
S7WH-i, S7W-Ls, S7W-Li,  
S7W-Ms, S7W-Mi, S7W-16,  
S7W-16A, S7w-10R, and S7W-10s.

And Detection Monitoring Wells when installed as a part of phased landfill cell development are labeled:

S7W-Is, S7W-Ii, S7W-106,  
S7W-6, S7W-12, S7W-12A,  
S7W-Js, S7W-Ji, S7W-Ks, and  
S7W-Ki,

### 3. Electronic Reporting

a. Pursuant to Rule 62-701.510(9), F.A.C. and Rules 62-160.240(3), 62-160.340(4), F.A.C., the landfill owner or operator shall report water quality monitoring reports and all ground water, surface water and leachate analytical results electronically. Water quality monitoring reports shall be submitted in 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 into Department databases. The Licensee shall include Form 62-701.900(31), Water Quality Monitoring Certification, effective date January 6, 2010, hereby incorporated by reference, with each report certifying that the laboratory results have been reviewed and approved by the Licensee. The report shall include at least the following:

- i. Cover letter
- ii. The facility name and identification number, sample collection dates, and analysis dates;
- iii. All analytical results, including all peaks even if below maximum contaminant levels;
- iv. Identification number and designation of all surface water and ground water monitoring points;
- v. Applicable water quality standards;
- vi. Quality assurance, quality control notations;
- vii. Method detection limits;
- viii. STORET code numbers for all parameters;
- ix. Water levels recorded prior to evaluating wells or sample collection. Elevation reference shall include the top of the well casing and land surface at each well site at a precision of plus or minus 0.01 foot (using a consistent, nationally recognized datum);
- x. An updated ground water table contour map signed and sealed by a professional geologist or professional engineer with experience in hydrogeologic

## SECTION B: SPECIFIC CONDITIONS

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investigations, with contours at no greater than one-foot intervals unless site-specific conditions dictate otherwise, which indicates ground water elevations and flow direction; and

xi. A summary of any water quality standards or criteria that are exceeded.

b. All submittals in response to this specific condition shall be sent to:

Florida Department of Environmental Protection  
Southeast District Solid Waste Section  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401-2913

And to:

Florida Department of Environmental Protection  
Solid Waste Administrator, MS 4565  
Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, FL 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.]*

4. In accordance with Rule 62-701.510(9)(b), F.A.C., a technical report, signed and sealed by a professional geologist or professional engineer with experience in hydrogeologic investigations, shall be submitted to the Department every two and one-half years during the active life of the landfill, and every five years during the long-term care period. The report shall summarize and interpret the water quality and leachate monitoring results and water level measurements collected during the past two and one-half years. The report shall contain, at a minimum, the following:

a. Tabular displays of any data which shows that a monitoring parameter has been detected, and graphical displays of any leachate key indicator parameters detected (such as pH, specific conductance, TDS, TOC, sulfate, chloride, sodium and iron), including hydrographes for all monitor wells;

b. Trend analyses of any monitoring parameters consistently detected;

c. Comparisons among shallow, middle, and deep zone wells;

d. Comparisons between background water quality and the water quality in detection and compliance wells;

e. Correlations between related parameters such as total dissolved solids and specific conductance;

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- f. Discussion of erratic and/or poorly correlated data;
- g. An interpretation of the ground water contour maps, including an evaluation of ground water flow rates; and
- h. An evaluation of the adequacy of the water quality monitoring frequency and sampling locations based upon site conditions.

5. All field and laboratory records specified in Rules 62-701.500(13), F.A.C., shall be made available to the Department.

6. The Department's Southeast District office, Waste Cleanup Section, shall be notified in writing at least fourteen (14) days prior to any well installation or regular sampling event so that the Department may, if desired, observe the drilling, sampling, or collect split samples.

### ***D. Water Quality Evaluation Monitoring and Prevention Measures.***

1. Pursuant to Rule 62-701.510(7), F.A.C., if indicator parameters are detected at concentrations significantly above background water quality, or that are at levels above the Department's water quality standards or criteria specified in Chapter 62-520, F.A.C., the Licensee may resample the wells within thirty (30) days after the Licensee's receipt of the data, to confirm the data. The Department's Waste Cleanup Section must be notified seven (7) days prior to any confirmatory resampling event at this site. Should the Licensee choose not to resample, the Department will consider the water quality analysis as representative of current ground water conditions at the facility. If the data is confirmed, or if the Licensee chooses not to resample, the Licensee shall notify the Department in writing within fourteen (14) days of this finding. The Department may require additional monitoring wells or samples to be taken if analyses indicate that groundwater contamination must be more specifically defined in extent or concentration. Upon notification by the Department, the Licensee shall initiate evaluation monitoring as follows:

a. Routine monitoring of all monitoring wells, surface water monitoring locations and leachate sampling locations shall continue according to the requirements of Rule 62-701.510 (6), F.A.C..

b. Except as provided in Rule 62-701.510 (7)(b), F.A.C., within 90 days of notification from the Department to initiate evaluation monitoring and annually thereafter, the Licensee shall sample and analyze a representative sample of the background wells and all affected detection wells for the parameters listed in Rule 62-701.510 (8)(d), F.A.C. Any new parameters detected and confirmed in the affected downgradient wells shall be added to the routine ground water monitoring parameter lists required in Rule 62-701.510 (6), F.A.C. for the affected wells.

c. Within 90 days of notification from the Department to initiate evaluation monitoring, the Licensee shall install and sample compliance monitoring wells at the compliance line of the zone of discharge and downgradient from the affected detection monitoring wells. These wells shall be installed according to the requirements of paragraph Rule 62-701.510 (3)(d), F.A.C., and, except as provided in Rule 62-701.510 (7)(b), F.A.C., samples from these wells and the affected detection wells shall be analyzed quarterly for the parameters listed in paragraph Rule 62-701.510 (8)(a), F.A.C. and any other parameters detected in the affected detection and downgradient wells sampled in Rule 62-701.510 (7)(a) 2, F.A.C., and

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annually for the parameters listed in Rule 62-701.510 (8)(d), F.A.C. If any contaminants are detected and confirmed in compliance wells in concentrations that exceed both background levels and Department water quality standards or criteria, then the provisions of Rule 62-701.510 (7)(c), F.A.C. apply; otherwise, the following paragraphs apply.

2. Within 180 days of notification from the Department to initiate evaluation monitoring, the Licensee shall submit a contamination evaluation plan to the Department. This plan shall be designed to delineate the extent and cause of the contamination, in order to predict the likelihood that Department water quality standards will be violated outside the zone of discharge, and to evaluate methods to prevent any such violations. After the Department and the Licensee agree that the plan is so designed, the Licensee shall implement this plan and submit a contamination evaluation report in accordance with the plan. All reasonable efforts shall be made by the Licensee to prevent further degradation of water quality from the landfill activities.

3. If the contamination evaluation report indicates that water quality standards or criteria are likely to be violated outside the zone of discharge, the Licensee shall, within 90 days, submit a prevention measures plan to the Department. Upon approval, the Licensee shall initiate prevention measures to prevent such violations.

4. The Licensee shall not discontinue evaluation monitoring, and return to routine monitoring only, until authorized to do so by the Department. The Department shall make this determination based upon the results of the contamination evaluation report and other relevant water quality data.

5. If the parameters detected in the detection wells identified in Rule 62-701.510(7) (a), F.A.C. consist only of iron, aluminum, manganese, sulfates, or total dissolved solids (TDS), either individually or in any combination, then only the detected parameters are required to be monitored in the representative background wells, affected detection wells and downgradient compliance wells required in this section rather than the parameters listed in Rule 62-701.510(8)(a) and (8)(d), F.A.C.

### ***E. Water Quality Corrective Actions.***

1. In accordance with Rule 62-701.510 (7) (c), F.A.C., if any contaminants are detected and confirmed in compliance wells in concentrations that exceed both background levels and Department water quality standards or criteria, the Licensee shall notify the Department within 14 days of this finding and shall initiate corrective actions pursuant to the applicable portions of Chapter 62-780, F.A.C. Evaluation monitoring shall continue according to the requirements of Rule 62-701.510 (7)(a), F.A.C.

3. For purposes of this License, Chapter 62-780, F.A.C., is intended to apply only to violations of ground and surface water quality standards and criteria outside of the facility's permitted zone of discharge. Nothing herein is intended to limit a person's liability for site rehabilitation resulting from unauthorized spills, leaks, or discharges of pollutants or hazardous substances.

a. The provisions in Chapter 62-780, F.A.C., regarding assessment and remediation of contamination in soils do not apply.

b. The provisions in Chapter 62-780, F.A.C., regarding source removal, de minimis discharges, emergency response actions, interim source removal, do not apply.

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c. To the extent that any requirements in Chapter 62-780, F.A.C., regarding notice, quality assurance, professional certification, frequency of sampling events, emergency response, or long-term care may conflict with similar requirements in Chapter 62-701, F.A.C., or these Conditions, the requirements in Chapter 62-701, F.A.C., or this license, shall govern.

4. For purposes of this license, the following definitions in Chapter 62-780, F.A.C., shall have the following meanings:

a. “Cleanup target level” means primary and secondary ground water standards, ground water minimum criteria, surface water standards, and surface water toxicity and human health criteria, which are specified in Chapter 62-777, F.A.C.

b. “Contaminated site” means any surface water or ground water outside of the facility’s zone of discharge that contains contaminants that may be harmful to human health or the environment.

### ***F. Leachate sampling.***

1. Leachate samples will be collected annually at the lift stations labeled S7L-A, S7L-B, S7L-C, and S7L-D and analyzed for the parameters listed in Rule 62-701.510(8)(c), F.A.C. and Rule 62-701.510(8) (d), F.A.C. The sampling analysis reports shall be submitted concurrently with the ground water analyses reports.

2. Pursuant to Rule 62-701.510(6) (c), F.A.C., if this annual analysis indicates that a contaminant listed in Title 40 Code of Federal Regulations (C.F.R.), Part 261.24 exceeds the regulatory level listed therein, the Licensee shall initiate monthly sampling and analysis and shall notify the Department in writing. If in any three consecutive months no listed contaminant is found to exceed the regulatory level, the Licensee may discontinue the monthly sampling and analysis and return to a routine sampling schedule pursuant to this license.

### ***G. Water Quality Monitoring Program Review***

The water quality monitoring program may be reviewed annually by the Department, and a determination made as to the necessity and extent of continuation of the program. Aspects of the program related to sampling, monitoring, reporting, and related time schedules may be modified in accordance with the provisions of Section A, Condition XXIII. Modification of Certification.

### ***H. Solid/Hazardous Waste***

1. Operation of the associated landfill shall be done in accordance with all applicable portions of Chapter 62-701, F.A.C., including prohibitions, procedures for closing of the landfill, and final cover requirements, or, as provided in this Section B, Condition I.H. Solid/Hazardous Waste in its entirety. The plans of the final landfill design shall be provided to the Department for review and approval at least 90 days prior to start of construction. The final plans for this Facility shall include provisions for the isolated temporary handling of suspected hazardous, toxic or pathological wastes. No solid wastes shall be placed in new lateral expansion cells after November 1, 1994, until water quality and leachate monitoring plans are approved pursuant to ss 62-701.510, F.A.C., and such plans are implemented. The maximum height of the Class I and III landfills shall be 160 feet NGVD with side slopes not steeper than

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3H:1V (three feet horizontal to one foot vertical rise) in accordance with the application amendment dated April 29, 1994.

2. No suspected or known hazardous, toxic, or infectious wastes as defined by federal, state or local statutes, rules, regulations or ordinances shall be burned or landfilled at the site. The Licensee shall prepare and submit for approval to the Southeast District Office a written training program on the detection and handling of hazardous, toxic or infectious wastes.

3. Rodent and insect control shall be provided as necessary to protect the health and safety of site employees and the public. Pesticides used to control rodents, flies, and other vectors shall be as specified by the Florida Department of Agriculture and Consumer Services.

4. Storage of putrescible waste for processing shall not exceed storage capacity of the refuse bunker or tipping floor as designed on the approved plan, or be stored on the tipping floor for more than 48 hours.

5. Ash prior to transport to the landfill shall be stored in an enclosed building on an impervious surface or other method approved by the Southeast District Office. Final disposal of the ash shall be into the lined landfill or other method approved by the Southeast District Office. Any leachate generated within the building shall be collected and disposed of by a method approved by the Southeast District Office. The Southeast District Office shall notify the SFWMD of the plans and specifications regarding the above referenced method.

6. The landfill operator is responsible for leachate level monitoring, sampling, analysis of the landfill leachate, and for providing copies of the leachate analysis to the Department.

7. The Household Hazardous Waste Collection Facility (HHWCF) shall be constructed and operated in conformance with the Department's Standard Operating Procedures, as published by the Department and as may be updated on their web page. Design drawings of the facility, as well as standard operating procedures, personnel training records, contingency plans, and closure plans shall be available for inspection on the site by the Department, PBCHD, and SFWMD.

8. The landfill operator is responsible for the operation of the leachate collection and removal system and for maintaining the system as designed for the design period. Leachate shall be collected and treated as necessary so that water quality standards and criteria are not violated. If the leachate is classified as a hazardous waste, it shall be managed in accordance with Chapter 62-730, F.A.C. Leachate treatment or disposal facilities that may be used shall be identified in the operating plan, and the Department shall be notified as to which facility is actually being used.

9. Leachate may be discharged to an off-site treatment plant. The landfill operator is responsible for having a written contract or agreement with the off-site treatment plant to discharge leachate to the plant.

10. On-site leachate treatment or pretreatment systems are part of the leachate collection and removal system and shall be designed according to the expected characteristics of the leachate. The design may include adjustments to the system as necessary to accommodate changing leachate characteristics.

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11. The landfill operator shall have a prepared contingency plan to handle leachate collection, removal, and treatment problems such as interruptions of discharges to a treatment plant.

12. If the nature of materials received at the facility becomes altered, either due to modification of Conditions, i.e., the facility is allowed to incinerate already known hazardous wastes such as pesticides, or if groundwater monitoring reveals abnormal groundwater conditions which may be attributable to the landfilling of this residue, then a subsequent analysis may be required at that time.

13. Quantities of leachate collected by the leachate collection and removal system shall be recorded in gallons per day before on-site treatment or transport off-site, and shall be included with the operating record.

14. The Licensee shall provide the Southeast District office with a set of full-sized (24"x 36") engineering drawings and supporting information, signed and sealed by an engineer registered in the State of Florida for the operational and closure phases of the landfill for review and approval at least 90 days prior to implementation of those phases. Within 90 days after completion on the closure phase of the project, the Licensee shall submit certified as-built plans signed and sealed by a Florida Registered Professional Engineer.

15. A recording rain gauge shall be installed, operated, and maintained to record precipitation at the landfill. Precipitation records shall be included with the operating record and shall be maintained and used by the Licensee to compare with leachate generation rates.

16. New leachate collection systems in the landfill shall be water pressure cleaned or inspected by video recording after construction but prior to initial placement of wastes. Existing leachate collection systems shall be water pressure cleaned or inspected by video recording at least once every five (5) years. Results of the collection system cleanings or inspections shall be available to the Department upon request.

17. No later than April 1st of each year, the Licensee shall submit an Application for Recovered Materials Certification to DEP's Bureau of Solid and Hazardous Waste, Recovered Materials Certification and Reporting Program, as applicable, in accordance with Section 62-722.400(1), F.A.C., unless otherwise exempt from this requirement. [Rule 62-722.400(1), F.A.C.]

18. Gas monitoring: All landfills that have received degradable wastes shall implement a gas management system to meet the applicable requirements of Rule 62-701.530, F.A.C.

19. Disposal of ash residue shall be in a landfill with a leachate collection and removal system and liner system which comply with the applicable requirements of Rule 62-701, F.A.C. Rule 62-701, F.A.C., specifically applies to all existing ash disposal facilities.

20. Ash residue shall be analyzed every three months by the operator of a solid waste combustor for priority pollutant metals. Representative composite samples shall be prepared for analysis by total digestion, using EPA Method 3050 Acid Digestion of Sediments, Sludges, and Soils, "Test Methods for Evaluating Solid Waste Physical/Chemical Methods," EPA Publication SW-846 (3rd edition as amended by Update I December, 1987). Samples shall

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be collected and analyzed by the methods listed in the Quality Assurance/Quality Control plan approved by the Department.

21. Leachate shall be analyzed every three months for priority pollutant metals in accordance with Rule 62-702.570(3), F.A.C.

22. The results of the ash and leachate analyses shall be submitted annually to the Department in a report which presents and summarizes the data. If the ash analyses indicate significantly elevated levels of metals concentrations compared to metals concentrations in ash at other facilities in the State, the facility, following notification by the Department, shall carry out an investigation to determine the source(s) of these metals in the waste stream. The facility shall submit the results of the investigation to the Department, along with a plan to reduce or eliminate the sources of the metals. If the metals concentrations in the leachate exceed the regulatory levels in 40 CFR 261.24, the facility shall report to the Department the steps it intends to take to reduce the metals concentration in the leachate. Leachate containing metals above the regulatory levels shall be treated on-site to reduce its metals content.

### ***I. Operational Contingency Plans***

#### **1. Operating Procedures**

Within 90 days after the commencement of commercial operations of Renewable Energy Facility #2, the Licensee shall furnish the Southeast District a copy of written operating instructions for all aspects of the operation which are critical to keeping the facility working properly. The instructions shall also include procedures for the handling of suspected hazardous, toxic and infectious wastes.

#### **2. Contingency Plans**

Within 90 days after the commencement of commercial operations of Renewable Energy Facility #2, the Licensee shall furnish the Southeast District Office written contingency plans for the continued operation of the system in event of breakdown. Stoppages which compromise the integrity of the operations must have appropriate contingency plans. Such contingency plans should identify critical spare parts to be maintained on site.

#### **3. Current Engineering Plans**

The Licensee shall maintain a complete current set of modified engineering plans, equipment data books, catalogs and documents in order to facilitate the smooth acquisition or fabrication of spare parts or mechanical modifications.

#### **4. Application Modifications**

The Licensee shall furnish appropriate modifications to drawings and plot plans submitted as part of the application, including operational procedures for isolation and containment of hazardous wastes.

### ***J. RMPF and Landfill Operations and Maintenance Buildings***

1. The licensee is hereby granted permission to construct and operate a Solid Waste Resource Recovery and Materials Recycling Facility (SWRRMRF) in accordance with the letter, documents and plans submitted on August 9, 1990. The operations of the associated facility shall be pursuant to all applicable portions of Chapter 62-701, F.A.C. This SWRRMRF shall be relocated when the future landfill foot-print expansion is necessitated pursuant to the

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future landfill phasing plans, phases IV and final, Job No. 22-046.10, SHW #875-0987D, Sheets 4 of 5 and 5 of 5, dated September 29, 1987, prepared by Post, Buckley, Schuh and Jernigan, Inc.

2. The new (relocated ) recovered materials processing facility (new RMPF) will be constructed as described in the licensee’s petition for modification dated November 16, 2007 and subsequent additional information submitted in support of the petition. The Landfill operations and maintenance building will be constructed as described in the licensee’s petition for modification dated March 20, 2008 and subsequent additional information submitted in support of the petition.

### 3. RMPF SWMS

The surface water management system for the new RMPF shall be constructed in accordance with the signed and sealed drawings included in Appendix D of the Petition for Modification dated November 2007 and updated drawings dated 12/31/07 on file with the Siting and DEP Southeast District Offices. Retention Pond 1 and Pond 2 bottom shall be @ 16.70 feet NGVD and top of bank elevation shall be at 19.0 feet NGVD. Outfall structures shall be equipped with pollutant retardant baffles. The discharge control structures shall consist of control structure CS-A and CS-B as described below:

<b>Structure</b>	<b>Description (inches)</b>	<b>Crest Elevation (ft. NGVD)</b>	<b>Discharge Culvert</b>
CS-A	Weir: 1-24”(span) by 19.44”( rise) 3-inch circular bleeder	17.28 15.7 (invert)	2 - 24-inch RCP
CS-B	Weir: 1-36”(span) by 19.44”( rise) 3-inch circular bleeder	16.98 15.7 (invert)	2 - 24-inch RCP

Prior to site preparation for, or construction of, the new RMPF, the wetland jurisdiction line of the western marsh wetland and the landward boundary of the “30’ Wetland Buffer” surrounding it, as shown on the drawing “Wetlands Exhibit” (Attachment D) shall be clearly marked on site. Marking intervals shall be close enough for visual reference between one flag and the next. It should be noted that the boundary of the wetlands east of the project area has not yet been verified by the Department. Regarding that area, the Department has determined only that the eastern project limits are not in wetlands. The licensee is advised to clearly mark onsite the “Limit of Disturbance” as shown on the referenced drawing and to avoid impacts to areas east of this line. [Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]

Once the buffer has been marked as indicated above, a clearly visible effective construction barrier (silt fence, etc.) shall be placed along the landward boundary of the buffer as shown on the “Wetlands Exhibit” drawing (Attachment D). Construction impacts shall not occur within the 30-foot buffer area or within the wetlands. The licensee shall request an inspection and approval of the marked wetland and buffer line, and of the barrier placement location, prior to commencing any other site preparation or construction activities. [Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]

### 4. Operations and Maintenance Building Project SWMS

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The surface water management system for the new Operations and Maintenance Building Project shall be constructed in accordance with the signed and sealed drawings (Sheets G-1 to G-4, Sheets 1 to 4, C-1 to C-12, CD-1 to CD-6) dated September 2008 and on file with the Southeast District. The system shall consist of Retention Pond-1 and Pond-2 with bottom elevation @ 18.0 feet NGVD and top of bank elevation @ 21.5 feet NGVD, providing a storage volume of 0.27 ac-ft.. Outfall structures shall be equipped with pollutant retardant baffles. All building floors shall be set at or above 22.5 NGVD.

The discharge control structures shall consist of control structure CS-2 as described below:

Structure	Description (inches)	Crest Elevation (ft. NGVD)	Discharge Culvert
CS-2	Weir: 1-11.5" wide 20 deg. V-Notch	19.10 17.0 (invert)	1 - 24-inch RCP. (To Jog Road Swale System)

*[Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]*

5. Perpetual operation and maintenance of the storm water system for the new RMPF and the new operations and maintenance buildings are the responsibility of the Solid Waste Authority of Palm Beach County. A maintenance schedule shall be implemented to ensure that the storm water management systems are functioning as designed.

*[Chapter 40 E-4, 40 E-40, and SFWMD Basis of Review]*

6. Wastewater Management for New RMPF

a. Washwater: Wash water from the new RMPF, including the washbay area, shall be pumped to a double-walled, high density polyethylene, above ground storage tank. The storage tank will be fitted with high level alarms and leak detection. The wash water shall be temporarily held in the storage tank prior to shipment to an offsite licensed treatment facility.

*[Applicant Request]*

b. Domestic Wastewater: Domestic wastewater generated at the new RMPF shall be discharged to a domestic sewage pump station and conveyed via pipeline to the City of West Palm Beach domestic wastewater treatment plant.

*[Applicant Request]*

7. Wetland Buffers – New RMPF

The licensee shall maintain the wetland buffer zone required by 3above. Buffer areas shall be maintained free of invasive exotic plants (Florida Exotic Pest Plant Council’s 2003 Category I Invasive Exotic Species, trash, and construction and fill material.

*[Chapter 40E-4.301]*

**K. Transmission Lines**

The directly associated transmission lines from the Resource Recovery Facility electric generators to the existing Florida Power and Light Company transmission system shall

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be cleared, maintained and prepared without the use of herbicides. Construction of a substation on the certified site east of the Turnpike shall not be allowed without a supplemental application and demonstration of compliance with sections 403.508(1) and (2), F.S

### ***L. Potable Water System***

The potable water system (wells, pipes, pumps and treatment facilities) shall be designed, constructed and operated in conformance with the applicable provisions of Chapters 62-550 and 62-555, F.A.C. Plans and specifications for these facilities shall be provided to the Southeast District Office and the Palm Beach County Health Department for review and approval 90 days prior to construction.

### ***M. Environmental Resource -SWMS***

1. The Surface Water Management System (SWMS) for the Renewable Energy Facility No. 2 shall be constructed in accordance with the signed and sealed drawings by Malcolm Pirnie (Sheets 1 to 24) dated July 9th, 2010 and on file with the Southeast District. The system shall be design to serve the developed project area of 60.63 acres. The proposed stormwater management system shall treat runoff from the 25-year, 72-hour storm event (design storm) from the Palm Beach Renewable Energy Facility No. 2 area and portions of the existing renewable energy facility that drain north.

2. The proposed stormwater management system shall route stormwater overflow from the Jog Road drainage system through the site to the conservation area on the western side. The gravity collection system consists of several inlet and pipe networks discharging to a dry retention system designed to treat the required runoff volume from the 25-year, 72-hour storm event (design storm) from the project area in accordance with FDEP and SFWMD criteria. The dry retention system discharges into an on-site preservation area that provides additional storage, and also through a control structure that eventually discharges into the conservation area at the existing outfall location.

### ***N. Protection of Vegetation***

The Licensee shall develop the construction site so as to retain endangered and threatened plants, or replant these plants in another suitable environment. Any endangered or threatened plants should be staked in the field or relocated, as appropriate, prior to commencement of any construction or site preparation activities.

### ***O. Wetlands***

These Conditions do not authorize dredging or filling in wetlands. Wetland areas or water bodies which are outside the specific limits of construction authorized by this license shall be protected from erosion, siltation, scouring and/or dewatering. There shall be no storage of cleared vegetation, excess lumber, scrap wood, trash, garbage, and any other type of debris within wetlands.

### ***P. Environmental Control Program***

An environmental control program shall be established under the supervision of a qualified individual to assure that all construction activities conform to applicable environmental regulations and the applicable Conditions.

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If harmful effects or irreversible environmental damage not anticipated by the application or the evidence presented at the certification hearing are detected during construction, the Licensee shall notify the Southeast District Office as required by Section A. General Conditions, Condition VIII. Notification.

### ***Q. Construction Completion Notification***

Upon or immediately prior to completion of construction of the resource recovery facility or a phase thereof and upon or immediately prior to completion of all necessary preparation for the operation of each landfill cell, the Southeast District Office, PBCHD and SFWMD will be notified of a date on which a site or facility inspection should be performed in accordance with Section A. General Conditions, Condition X. Right of Entry, and the inspection shall be performed within fourteen (14) days of the date of notification by Licensee.

## **II. DEPARTMENT OF TRANSPORTATION**

### ***A. Access Management to the State Highway System***

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

### ***B. Overweight or Overdimensional Loads:***

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

### ***C. Use of State of Florida Right of Way or Transportation Facilities***

All usage and crossing of State of Florida right of way or transportation facilities will be subject to Rule Chapter 14-46, Utilities Installation or Adjustment, Florida Administrative Code; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual. State Road 710 and State Road 702 have been identified as Florida Intrastate Highway System (FIHS) and Strategic Intermodal System's (SIS) facilities. The placement of the transmission line and pipeline should take into consideration the planned widening of these facilities. The cost of relocating or reconstructing the transmission line and pipeline will be borne by the Licensee to the extent required by Section 337.403, Florida Statutes, and Rule Chapter 14-46, Florida Administrative Code.

### ***D. Standards:***

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

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Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

### *E. Drainage*

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

### *F. Use of Air Space*

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

### *G. Level of Service on State Roadway Facilities:*

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

### *H. Best Management Practices*

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

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

Placing a bulletin board on site for car pooling advertisements.

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

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

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

### III. DEPARTMENT OF COMMUNITY AFFAIRS

The Licensee shall develop a comprehensive emergency management plan that addresses natural disasters, including hurricanes, and other operational emergencies at the Palm Beach Renewable Energy Facility project site. The comprehensive emergency management plan shall be submitted to the Department of Community Affairs and Palm Beach County Emergency Management prior to the Renewable Energy Facility #2 becoming operational.

### IV. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

#### A. *General Listed Species Survey*

1. The Licensee shall coordinate with the Florida Fish and Wildlife Conservation Commission (FWC) to obtain and follow the current survey protocols for all listed species that may occur within the project site and appropriate buffers as defined by the listed species' survey protocols, prior to conducting detailed surveys.

2. Surveys shall be conducted prior to clearing and construction in accordance with the survey protocols. The results of those detailed surveys shall be provided to FWC in a report, and coordination shall occur with the FWC on appropriate impact mitigation methodologies.

*[Article IV, Sec. 9, Florida Constitution (Fla. Const.); Section 379.2291, Florida Statutes (FS.); Sections 403.507 and 403.5113(2), FS; and Rules 62-1 7. 191, 68A-2 7, 68A-4, and 68A-16 Florida Administrative Code (FA. C)]*

#### B. *Everglades Snail Kite*

1. A survey (USFWS South Florida Ecological Services Office Draft Snail Kite Survey Protocol, May 18, 2004) is necessary when the project site is within the snail kite consultation area and suitable habitat is present. The following criteria can be used to judge the adequacy of the habitat for snail kites.

- Appropriate foraging habitat present [paspalidum (*Paspalidium geminatum*), spikerushes (*Eleocharis* spp.), panicum (*Panicum* spp.), or beakrushes (*Rhynchospora* spp.)].

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- Perching and/or nesting substrate present, i.e., [willows (*Salix caroliniana*), melaleuca (*Melaleuca quinquenervia*), or pond cypress (*Taxodium ascendens*)]; or [sawgrass (*Cladiumjamaicense*), cattail (*Typha spp.*), giant bulrush (*Scirpus validus*), or reed (*Phragmites australis*)], respectively.
- Appropriate water depth (0.2-1.3 m deep) under nesting substrate.
- Nesting substrate an adequate distance (> 150 m) from upland.
- Proximity of nearest wading bird colony.

2. If suitable habitat is present or snail kites are reported on the project site, the following survey procedures shall be used to document their occurrence. To maximize the chances of finding snail kites the survey should be conducted in January to May during the breeding season. A visual survey of suitable habitat should be made for birds and nests. A boat may be needed for the survey as the best nesting habitat may be a considerable distance (> 150 m) from uplands. Check small trees such as willow, melaleuca, and pond cypress along the open water edge for nests or perching birds. If snail kites are observed, then nests can be located through the bird's behavior. When flushed from a nest the adult tends to circle upward, whereas non-nesting birds that are flushed fly more horizontally away from the disturbance (Bennetts et al. 1988). Nests also can be found by following kites carrying sticks, adults carrying apple snails, aerial courtship displays, vocalizations of adults or begging calls of the young, and through a thorough search of areas where adults are repeatedly observed (Bennetts et al. 1988).

3. In the event that surveys determine that a project has the potential to impact snail kites, the following measures shall be used post-certification to minimize and mitigate for these impacts.

- Authority and FWC will meet to discuss the specific issues and mitigation alternatives.
- Authority will then provide a detailed mitigation plan to address the specific impacts, which must be reviewed and approved by FWC, and be consistent with all other Conditions or federal permit conditions.
- Authority will provide a monitoring report after a designated period to document effectiveness of the mitigation plan.

### ***C. Gopher Tortoise Protection***

Prior to any site preparation or construction activities on the site, the licensee shall obtain the appropriate authorization from the Florida Fish and Wildlife Conservation Commission regarding protection/relocation of gopher tortoises on the site (as necessary) pursuant to Rules 68A-27.002 and 68A-27.004 (F.A.C.). A copy of the authorization should be forwarded to the DEP SED Office within 30 days of issuance.

*[Rules 68A-27.002 and 68A-27.004, F.A.C.]*

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### V. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES

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

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

### VI. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

#### A. Legal/Administrative Conditions

##### 1. General

##### a. Responsible Entity

The Licensee shall be responsible for compliance with the Certification Conditions. If contractual rights, duties, or obligations are transferred under this Certification, notice of such transfer or assignment, including the identification of the entity responsible for compliance with the Certification, shall immediately be submitted to the Florida Department of Environmental Protection and the SFWMD by the previous certification holder (Licensee) and the Assignee. Any assignment or transfer shall carry with it the full responsibility for the limitations and Conditions of this Certification. The previous Licensee shall be responsible for informing the Assignee of all authorized facilities and uses and the Conditions under which they were authorized. The previous Licensee shall remain liable for corrective actions that may be required as a result of any violations prior to transfer or assignment of any contractual rights, duties, or obligations under this Certification.

*[Sections 373.044, 373.113, 373.223, and 373.342, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.1 01 (1), F.A.C.]*

##### b. Minimum Standards

This Certification is based on the Licensee's submitted information to the SFWMD which reasonably demonstrates that harm to the site water resources will not be caused by the authorized activities. The plans, drawings and design specifications submitted by the Licensee shall be considered the minimum standards for compliance.

*[Sections 373.219, 373.223, 373.229, 373.308, and 373.316, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.500-531.]*

##### c. Compliance Requirements

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

##### d. Off-site Impacts

It is the responsibility of the Licensee to ensure that harm to the water resources does not occur during the construction, operation, and maintenance of the project.

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*[Sections 373.223 and 373.309, F.S.; Rules 40E-2.091, 40E-2.381, 40E-3.301 (3), and 40E-3.301 (4), F.A.C.]*

e. Liability

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

*[Section 373.223, F.S.; Rules 40E-2.091, and 40E-2.381, F.A.C.]*

f. Construction, Operation, and Maintenance Responsibilities

The Licensee shall be responsible for the construction, operation, and maintenance of all facilities installed for the proposed project.

*[Section 373.309, F.S.; Rule 40E-3.301, F.A.C.]*

g. Access

SFWMD representatives shall be allowed reasonable escorted access to the power plant site, the water withdrawal facilities and any associated facilities to inspect and observe any activities associated with the construction of the proposed project and/or the operation and/or maintenance of the on-site wells in order to determine compliance with the Conditions of this Certification. The Licensee shall not refuse entry or access to any SFWMD representative who, upon reasonable notice, requests entry for the purpose of the above noted inspection and presents appropriate credentials.

*[Sections 373.223 and 373.319, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.]*

h. Post Certification Information Submittals

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

*[Rule 62-17.191, F.A.C.]*

i. Enforcement

The SFWMD may confer with DEP to request DEP to take any and all lawful actions that are necessary to enforce any Condition of this Certification based on the authorizing statutes and rules of the SFWMD.

*[Sections 373.223, 373.319, 373.603, and 403.514, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.461, F.A.C.]*

2. Processing of Informational Requests

a. Completeness and Sufficiency Review

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

*[Sections 373.219 and 373.342, F.S.]*

b. Compliance Review and Confirmation

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

*[Sections 373.219 and 373.342, F.S.]*

c. Revisions to Site Specific Design Authorizations

The Licensee shall submit, consistent with the provisions of Condition A.2., any proposed revisions to the site specific design authorizations specified in this Certification to the SFWMD for review and approval prior to implementation. The submittal shall include all the information necessary to support the proposed request, including detailed drawings, calculations and/or any other applicable data. Such requests may be included as part of the appropriate additional information submittals required by this Certification provided they are clearly identified as a requested amendment or modification to the previously authorized design.

*[Sections 373.085, 373.219, 373.223, 373.313, and 373.342, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-3.461, F.A.C.]*

d. Dispute Resolution

Since this Certification is the only form of permit required from any agency, it is understood that the Licensee and the SFWMD shall strive to resolve disputes by mutual agreement.

*[Sections 373.044, 373.085, 373.113, and 373.129, F.S.; Rule 40E-1.601, F.A.C.]*

e. Objections

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

f. Changes to Information Requirements

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

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*[Sections 373.085 and 373.229, F.S.; Rules 40E-2.1 01 (1) and 40E-3.101(2), F.A.C.]*

### **B. Water Use Conditions**

#### 1. General

##### a. Water Shortage Compliance

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

*[Section 373.246, F.S.; Rule 40E-2.381, F.A.C.]*

##### b. Interference with Existing Legal Uses

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

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

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

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

*[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

##### c. Harm to Existing Off-Site Land Uses

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

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

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

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

*[373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

d. Harm to Natural Resources

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

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

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

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

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

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

*[Sections 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

e. Well System Operation

At any time, if there is an indication that the well casing, valves, or controls associated with the on-site well system leak or have become inoperative, the Licensee shall be responsible for making the necessary repairs or replacement to restore the well system to an operating condition acceptable to the SFWMD. Failure to make such repairs shall be the cause for requiring that the well(s) be filled and abandoned in accordance with the procedures outlined in Chapter 40E-3, F.A.C.

*[Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.1 01, 40E-3.411, and 40E-3.500-531, F.A.C.]*

2. Site Specific Design Authorizations/Requirements

a. Authorized Monthly Withdrawals

This Certification authorizes a maximum monthly withdrawal of 53.94 MGM from the Surficial aquifer for industrial, process, and landscape irrigation water.

b. Authorized Annual Withdrawals

This Certification authorizes an average annual withdrawal of 647 MGY from the Surficial aquifer for industrial, process, and landscape irrigation water.

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c. Authorized Withdrawal Facilities

- 1 - 12" x 60' x 655 GPM well cased to 30'
- 1 - 6" x 125' x 600 GPM well cased to 55'
- 1 - 12" x 49' x 365 GPM well cased to 28'
- 1 - 12" x 60' x 500 GPM Well cased to 28'
- 1 - 12" x 115' x 600 GPM well cased to 22'
- 1 - 12" x 60' x 180 GPM well cased to 30'
- 1 - 12" x 112' x 625 GPM well cased to 22'
- 1 - 12" x 52' x 180 GPM well cased to 30'
- 1 - 14" x 55' x 600 GPM well cased to 17'
- 1 - 12" x 52' x 450 GPM well cased to 35'
- 1 - 12" x 115' x 600 GPM well cased to 22'
- 12 - 6" x 42' x 30 GPM wells cased to 22'
- 1 - 2" x 60' x 35 GPM well cased to 42'
- 1 - 2" x 60' x 35 GPM well cased to 40'
- 1 - 4" x 94' x 100 GPM wells cased to 60'
- 1 - 4" x 94' x 120 GPM well cased to 60'
- 2 - 4" x 100' wells cased to 50' (standby - no pump installed)
- 1 - 14" x 55' well cased to 15' (standby - no pump installed)

d. Alternative Water Supply Sources

The Licensee shall obtain industrial water supply for future expansions to the Energy Park, in excess of the current authorized allocations, from sources other than the surficial aquifer. Should reclaimed water become available, the Licensee shall provide the SFWMD with an End User Feasibility Evaluation, pursuant to Section 3.2.3.2 of the Water Use Basis of Review.

e. Emergency Withdrawals

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

f. Consistency Review of Authorized Withdrawals

Within five years from the date of issuance of the Certification Order for Renewable Energy Facility #2 and every five years thereafter, unless extended by mutual agreement between the Licensee and the SFWMD, the Licensee shall submit to the

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

g. Request for Modification of Withdrawals

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

h. Dewatering Activities

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

- 1) A detailed site plan which shows the location(s) for each proposed dewatering area;
- 2) The method(s) used for each dewatering operation;
- 3) The maximum depth for each dewatering operation;
- 4) The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;
- 5) The duration of each dewatering operation;
- 6) The discharge method, route, and location of receiving waters generated by each dewatering operation, including the measures (Best Management Practices) that will be taken to prevent water quality problems in the receiving water(s);

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7) An analysis of the impacts of the proposed dewatering operations on any existing on and/or off-site legal users, wetlands, or existing groundwater contamination plumes;

8) The location of any infiltration trench(es) and/or recharge barriers; and

9) All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

*[Sections 373.229 and 373.308, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-3.500-531, F.A.C.]*

### i. Reporting Requirements

Prior to commencement of operation of Renewable Energy Facility No.2, the Licensee shall equip each Energy Park withdrawal facility with a SFWMD-approved operating water use accounting system and submit a report of calibration to the SFWMD, pursuant to Section 4.1 of the Basis of Review For Water Use Permit Applications. Recalibration reports for the water use accounting system for each water withdrawal facility (existing and proposed) authorized under this Certification shall be submitted to the SFWMD every five years from each previous calibration, continuing at five year increments. The Licensee shall report monthly withdrawals for each withdrawal facility to the SFWMD quarterly. The Licensee shall specify the water accounting method and means of calibration on each report. The existing landscape irrigation withdrawals shall be exempt from the quarterly reporting requirements.

*[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

### j. Existing Well Repair, Replacement, Abandonment

If any of the existing on-site wells require repair, replacement, and/or abandonment, the Licensee shall submit the information described in Chapter 40E-3, F.A.C., for review by the SFWMD prior to initiating such activities.

*[Sections 373.308 and 373.316, F.S.; Rules 40E-3.041, 40E-3.1 01, 40E-3.411, and 40E-3.500-531, F.A.C.]*

### k. New Well Construction

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

*[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

### l. Water Conservation Plan

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Prior to commencement of construction of Renewable Energy Facility No.2, the Licensee shall submit a revised Water Conservation Plan, as required by Chapter 40E-2, F.A.C., in effect at that time, for review and approval by SFWMD staff. The plan shall, at a minimum, incorporate the following components:

- 1) An audit of the amount of water needed in the Licensee's operational processes. The following measures shall be implemented within one year of audit completion if found to be cost effective in the audit:
  - a) Implementation of a leak detection and repair program;
  - b) Implementation of a recovery/recycling or other program providing for technological, procedural or programmatic improvements to the Licensee's facilities; and
  - c) Use of processes to decrease water consumption.
- 2) Development and implementation of an employee awareness program concerning water conservation.

*{Sections 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.}*

### **VII. CITY OF WEST PALM BEACH**

#### **A. General**

Prior to construction of new buildings or additions to existing buildings of 1,000 or more gross square feet at the site, the Licensee shall demonstrate that it complies with Section 94-35 (Site Plan Review) of the City Of West Palm Beach Code of Ordinances.

*[Section 94-35 (Site Plan Review) City Of West Palm Beach Code of Ordinances, and 403.511(4), F.S.]*

#### **B. Renewable Energy Facility #2**

1. These Conditions apply to the Palm Beach Renewable Energy Facility #2 (PBREF #2) affected project site only except, as noted.

2. These conditions of certification shall not apply if they are pre-empted by other state or federal requirements.

3. Any contractor who will perform demolition or construction activity on property included within the SWA Site Certification boundary shall be registered to work in the City of West Palm Beach prior to commencing the demolition or construction activity.

*[Sections 18-3 and 22-101 of the City of West Palm Beach Code of Ordinances]*

4. The demolition, construction and operation of PBREF #2 shall comply with the air quality standards of its Air Permit No. 0990234-017-AC (PSD-FL-413).

5. Demolition, construction and operation occurring at the SWA facilities shall comply with Section 94-310(e) "Vibration" of the West Palm Beach Code of Ordinances, not create direct or indirect light exceeding 0.5 foot candles when measured in a residential district, or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise.

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*[Section 34-35 and Section 94-310(d) of the City of West Palm Beach Code of Ordinances]*

6. The layout of PBREF #2, including all new permanent structures, landscape, construction trailer location, parking, drive aisles, buffering, ADA compliance, etc., shall conform with all City Codes and be submitted for review and approval as a Level I Site Plan (Informal Site Plan Review) at least 90 days prior to commencement of construction on PBREF #2.

*[Section 94-35 of the City of West Palm Beach Code of Ordinances]*

7. The landscape plan included as part of the Level I Site Plan for PBREF #2 shall include landscape material to screen the existing Palm Beach Renewable Energy Facility #1 (PBREF #1) structures that were constructed as part of the recent modernization and to enhance the buffer planting along the common boundary with the Ironhorse Residential Planned Development.

*[Section 94-35 and Article XIV of the City of West Palm Beach Code of Ordinances]*

8. Concurrent with the submittal of the Level I Site Plan for PBREF #2 structures and improvements, the SWA shall pay the City of West Palm Beach's standard filing fees for staff review of the documents required as part of the Level I Site Plan, to include Construction Services, Fire, Engineering and Land Development.

*[Section 94-41 of the City of West Palm Beach Code of Ordinances; City of West Palm Beach Ordinance No. 4098-07]*

9. At least 60 days prior to commencement of construction on PBREF #2, the SWA shall submit a Construction Site Security and Management Plan which shall include, but is not limited to, temporary lighting, security personnel, vehicle barriers, construction/visitor pass, reduce/minimize entry/exit points, encourage subcontractors to secure machinery, tools at end of work day, fencing with screening and or any other measure deemed appropriate to provide a safe and secure working environment for review and approval by the City of West Palm Beach Police Department Crime Prevention Through Environmental Design official.

*[City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3 and Policy 2.3.2]*

10. Immediately, after site clearing and placement of construction trailers, the SWA shall institute the security measures outlined in the Construction Site Security and Management Plan and maintain the measures throughout until the construction of PBREF #2 is complete.

*[City of West Palm Beach Comprehensive Plan Future Land Use Element Objective 2.3]*

11. Tree Alteration Calculations are required for removal of any non-invasive trees. The tree alteration calculations and mitigation plans for any lost canopy shall be submitted with the Level 1 Site Plan application for PBREF #2. The fee to review the Tree Alteration plan shall be submitted concurrently with the mitigation plan.

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*[Sections 94-41 and 94-448 of the City of West Palm Beach Code of Ordinances]*

12. The SWA shall continue to eradicate all non-native and invasive non-native vegetation within the boundaries of the North County Resource Recovery Facility (excluding within the area designated as the Rookery).

13. The SWA shall provide the City's Engineering Services Department a copy of the Stormwater Pollution Prevention Plan included as part of the required NPDES permit for the construction of PBREF #2. The Stormwater Pollution Prevention Plan shall be submitted to the City concurrent with the NPDES submittal for PBREF #2 to the Florida Department of Environmental Protection. The SWA shall pay the applicable City of West Palm Beach Engineering Services Department standard filing fees for staff review of the documents required as part of Stormwater Pollution Prevention Plan. A copy of the approved NPDES Permit shall be submitted to the Engineering Services Department within 5 days of its issuance.

*[City of West Palm Beach Comprehensive Plan Utilities Element, Stormwater Management Sub-element Policy 1.1.1; Sections 90-201 to 90-207 and Section 94-450 of the City of West Palm Beach Code of Ordinances; City of West Palm Beach Ordinance No. 4098-07]*

14. At least 60 days prior to commencement of construction on the utilities infrastructure (drainage, water, waste water, etc.) for PBREF #2, the SWA shall submit to the City's Engineering Services Department completed construction plans for review and approval. The SWA shall pay the City of West Palm Beach Engineering Services Department standard filing fees for staff review of the plans.

*[Chapters 78 & 90 of the City of West Palm Beach Code of Ordinances and City of West Palm Beach Ordinance No. 4098-07]*

15. The City of West Palm Beach recognizes and accepts the Solid Waste Authority's right to claim an exemption from compliance with the Florida Building Code for certain aspects of the project pursuant to Chapter 553.73(10)(f), Florida Statutes. However, no similar provision exists to exempt this project from inspection or review as required under Chapters 633.025(2) and 633.121 (State and Local Fire Marshal and the Florida Fire Prevention Code), or Chapter 403.885, Florida Statutes, along with Chapter 62 of the Florida Administrative Code which is mandated through 40 CFR 122.6 (Water, Sewer, Surface Water Management, and the National Pollutant Discharge Elimination System [NPDES]). Accordingly, full submission for those portions of the project which are not exempt and for the entire project related to fire safety and water, sewer, and surface water management shall be provided to the City in order to facilitate the necessary reviews. Those portions which are exempt from specific regulation will be afforded the appropriate exemptions. The SWA shall pay all applicable filing fees for staff review of the plans.

*[Resolution is 367-09]*

16. At least 60 days prior to commencement of construction of each portion of PBREF #2 not directly involved in the generation, transmission or distribution of electricity pursuant to Chapter 553.73(10)(f), Florida Statutes, the SWA shall submit to the City of West Palm Beach, for its review and approval, completed City building permit forms and drawings demonstrating that the portion of PBREF #2 structures and improvements covered by each

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associated building permit conform with all provisions of the City of West Palm Beach Code of Ordinances, to include Construction Services, Fire, Engineering and Land Development.

*[Section 18-32 of the City of West Palm Beach Code of Ordinances]*

17. Concurrent with the submittal of the applicable building permit forms and drawings for the PBREF #2 structures and improvements not directly involved in the generation, transmission or distribution of electricity pursuant to Chapter 553.73(10)(f), Florida Statutes, the SWA shall pay the applicable City of West Palm Beach's fees for staff review, to include Construction Services, Fire, Engineering and Land Development, of the documents, inspections, and any other fees related to the building permits.

*[Sections 18-1 and 94-41 of the City of West Palm Beach Code of Ordinances; City of West Palm Beach Ordinance No. 4098-07]*

18. The SWA shall request inspections in accordance with the requirements of the applicable building permits issued for any PBREF #2 structures or improvements.

*[Section 18-32 of the City of West Palm Beach Code of Ordinances]*

19. Within thirty (30) days from the completion of construction of PBREF #2, any disturbed area shall be brought to grade, tilled and planted with ground cover to include sodding or seeding which shall have irrigation (automatic or manual) or be landscaped in accordance with the landscape plan approved as part of the Level I Site Plan.

*[Section 94-450(e)(1)(f) of the City's Zoning and Land Development Regulations]*

20. The SWA shall adhere to the following Conditions included as part of the Traffic Concurrency Letter issued by the Palm Beach County Traffic Engineering Division for PBREF #2 on August 2, 2010:

a. Upon any facility relocations or expansions after the certification of the PBREF #2, the Solid Waste Authority shall hire a traffic engineering consultant to provide a traffic impact study in conjunction with the Traffic Performance Standards in Article 12 of the Palm Beach County Land Development Code. The study shall include a peak hour traffic circulation analysis for North Jog Road, covering both the Beeline Highway and 45<sup>th</sup> Street intersections. This study shall include "Existing" and "Five Years" traffic scenarios. The study shall also look into potential traffic diversions onto and from North Jog Road due to changes in the regional roadway network and include a section identifying potential network improvement needs due to heavy truck operations.

b. No building permits for facility relocations or expansions, other than phased landfill cell development already certified, are to be issued by the City after December 31, 2015 (build-out date for PBREF #2) until completion of an associated traffic impact study.

*[Article 12 of the Palm Beach County Land Development Code]*

21. Construction work within the limits of the affected area boundaries for PBREF #2 shall not begin until the hour of 7:00 a.m. and shall cease at the hour of 7:00 p.m., Monday through Friday, and shall be limited to between the hours of 8:00 a.m. and 8:00 p.m., Saturday, Sunday and official City holidays. Notwithstanding the foregoing, no work shall be

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permitted on Christmas Day and Thanksgiving Day. For all other holidays, the SWA shall notify the City, Ironhorse and Gramercy Park in writing of its need to work on a holiday as soon as the need is identified but not later than seven (7) days prior to the holiday. The construction activity on Sundays and holidays shall not generate noise in excess of 55 dBA when measured with a sound meter at the boundary of the complaining landowner. It shall be within the discretion of the mayor or his/her designee to grant a written exception to the construction hour restrictions when it can be shown that the extended hours of construction are required to construct certain components of PBREF #2 and that such construction shall not create adverse effects on the residents or inhabitants of the City in the vicinity of the construction. [

*[Section 34-72 of the City of West Palm Beach Code of Ordinances]*

22. All activity, to include construction and operation, for the PBREF #2 project site shall adhere to the applicable City of West Palm Beach Code of Ordinances.

*[Chapters 18, 22, 34, 38, 78, 86, 90 and 94 of the City of West Palm Beach Code of Ordinances]*

23. The SWA shall provide the City of West Palm Beach Public Utilities Department a copy of the Cross Connection Control Plan that is being required by the Department of Environmental Protection (DEP) concurrently with its submittal to the DEP.

*[Section 90-33 of the City of West Palm Beach Code of Ordinances]*

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## SECTION C. REF#1 SPECIFIC CONDITIONS

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The following Specific Conditions were adopted and made applicable to the Renewable Energy Park during the certification of Renewable Energy Facility #1. Construction of REF #1 has been completed and requirements in this Section C. REF #1 Specific Conditions have been satisfied.

#### I. CONSERVATION EASEMENT

Before the commencement of any construction herein authorized for Renewable Energy Facility #1 (REF#1), the Licensee shall file and have recorded, in the same manner as any other instrument affecting the title to real property, a conservation easement pursuant to Section 704.06, Florida Statutes, in the office of the Clerk of the Circuit Court, Palm Beach County, for the designated conservation area identified in the mitigation plan, west of Jog Road and the Resource Recovery Facility west to the Water Catchment Area excluding operational areas.

The Licensee shall pay all recording fees. The conservation easement shall be in favor of the Department of Environmental Protection and shall restrict any activity including dredging and filling of land, cutting, eradicating or pruning of endemic vegetation beyond the scope of the approved mitigation plan indicated in Section 4.2 of the application and Section C. REF#1 Specific Conditions, Condition X. Mitigation. A draft conservation easement and a certified survey with a legal description shall be submitted to the Southeast District office for review and approval before it is filed (by the County) with the Clerk of the Circuit Court Palm Beach County.

Written notice from the Department indicating that the above requirements have been satisfied shall be obtained by the Licensee prior to the beginning of any construction of REF #1. All mitigation in the shell pit area shall be in accordance with the time schedule outlined in the mitigation plan approved per Section C. REF#1 Specific Conditions, Condition X. Mitigation.

#### II. MITIGATION

##### A. *On-Site Restoration and Mitigation.*

1. Within ninety (90) days of certification issuance, the Palm Beach Solid Waste Authority shall submit an on-site restoration and mitigation plan (hereinafter "The Plan"). The purpose of the Plan and its implementation is the mitigation of the impact of the project on the site's wetlands and values associated therewith. The Plan shall indicate in a detailed manner the on-site measures and improvements necessary to accomplish all restoration and mitigation, (I) set forth in the application as amended, (ii) as required below and (iii) as may be required by the department of Environmental Protection.

2. The Plan shall include but not be limited to a specification of the commencement and completion dates of all anticipated restoration and mitigation work including a specification of all revegetation of the shell pit mining areas, creation of littoral zones around all lakes, interconnection of wetland areas, areas of wetlands to be created (including the type and extent thereof which shall be not less than 190 acres), dredge and fill volumes, elevations, methods of construction, nature and extent of required improvements to accomplish the above referenced work, and planting schedules together with methods to insure vegetative survival for each area. As part of the plan it shall also be required that (I) littoral zones will be constructed around all existing and proposed borrow lakes, (ii) where it can be done with a reasonable probability of success, cypress trees proposed for elimination shall be transplanted to areas of

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wetland creation or roost enhancement, and (iii) willow, cypress and other hardwood species shall be planted on the spoil windrows of the abandoned pit south of the roost area to provide future roost availability, and the existing roost shall be monitored over a seven year period.

3. The Plan shall be submitted to the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the U.S. Fish and Wildlife Service, Treasure Coast Regional Planning Council, and other appropriate governmental authorities or agencies.

4. The Department of Environmental Protection shall review the Plan and it shall be subject to the approval of the Department of Environmental Regulation in consultation with the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service and Treasure Coast Regional Planning Council. The Palm Beach County Solid Waste Authority in the event of disapproval of the Plan by the Department of Environmental Protection shall include such revisions therein as may be required by the Department of Environmental Protection.

5. The Palm Beach County Solid Waste Authority shall complete all restoration and mitigation work set forth in the Plan approved by the Department of Environmental Protection in accordance with the time schedules set forth in the approved Plan.

### ***B. Off-Site Restoration and Mitigation.***

1. The off-site restoration and mitigation area is an area of approximately 3400 acres in the L-8 Marsh area of the J. W. Corbett wildlife management area designated by the Florida Fish and Wildlife Conservation Commission and shown on Exhibit B attached hereto and made part hereof (hereinafter referred to as the "preservation area").

2. The Solid Waste Authority shall perform a detailed hydrological study the scope and content of which shall be subject to approval by the Department of Environmental Protection in consultation with the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service and Treasure Coast Regional Planning Council. The purpose of the hydrological study shall be to identify and detail those modifications and improvements that would be necessary to the preservation area in order to restore a hydroperiod to this area which approximates the natural wetland hydroperiod. The Solid Waste Authority shall pay all costs, engineering and otherwise, for such study and the study shall be completed within two years from the date that certification has been issued. The Solid Waste Authority will at its sole cost and expense make such modifications and improvements to the preservation area including but not limited to payment of all engineering and permitting fees, all costs of labor, material, equipment and physical improvements (all of the foregoing being collectively hereinafter referred to as the "improvements") as identified in the approved hydrological study to restore a hydroperiod to the preservation area which approximates the natural wetland hydroperiod for such area.

3. The hydrological study shall be submitted to the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service and Treasure Coast Regional Planning Council and other appropriate governmental authorities or agencies.

4. The Department of Environmental Protection shall review the hydrological study and the Proposed implementation thereof. The study and the implementation shall be subject to the approval of the Department of Environmental Protection in consultation

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with the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service and Treasure Coast Regional Planning Council.

5. The Palm Beach County Solid Waste Authority in the event of disapproval of the recommendations contained in the hydrological study by the Department of Environmental Protection shall include such revisions therein as may be required by the Department of Environmental Protection.

6. In the event that the improvements required by the approved hydrological study are projected to significantly exceed \$420,000.00 plus the inflation factor as set forth below then the Palm Beach County Solid Waste Authority may apply to the Department of Environmental Protection for consideration to (i) reduce the size and scope of the mitigation and restoration project or (ii) utilize alternative methods to accomplish the required mitigation and restoration as set forth above. The fact that the cost of the improvements in the approved hydrological study are projected to significantly exceed the amount set forth above, shall not, entitle the Palm Beach County Solid Waste Authority, as a matter of right, to reduce or modify the mitigation required herein. Whether, and the extent to which, the mitigation or restoration requirements shall be reduced or modified shall rest solely in the discretion of the Department of Environmental Protection in consultation with the Florida Fish and Wildlife Conservation Commission, U.S. Fish and Wildlife Service and Treasure Coast Regional Planning Council.

7. The Palm Beach County Solid Waste Authority shall complete all restoration and mitigation work set forth in the approved hydrological study including the implementation measures contained therein, within five years from the date of certification issuance.

8. Inflation Factor:

In paragraph B.6 above, the sum of \$420,000.00 is referred to. The actual number to be utilized in place of \$420,000.00 in Condition B.6. shall be a sum using \$420,000.00 as a base and adding any increase in the index thereto; i.e., in the event there has been a 10% increase in the index from December 3, 1985, through the end of the time period under consideration then there shall be an increase of 10% in the sum of \$420,000.00. The Solid Waste Authority shall make no application for modification of the mitigation and restoration until after the completion of the approved hydrological study. For purposes of projecting and determining the actual amount to be utilized in Condition B.6. with reference to the \$420,000.00, as to improvements to be constructed in the future, there shall be added to the \$420,000.00 the following: (i) a sum which represents the percentage increase in the index from December 3, 1985, through the date of approval of the hydrological study and (ii) a sum representing the estimated percentage increase in the index through the date a specific improvement is projected to be constructed in the approved hydrological study. The estimated percentage increase shall be the average annual increase in the index from December 3, 1985, through the date of approval of the hydrological study; i.e., if the average annual increase has been 10% and a specific improvement is to be constructed nine months after the approval of the hydrological study there shall be added [in addition to the amount referred to in (i)] to the \$420,000.00 the sum of \$31,500.00 representing three quarters of the 10% increase.

Index: The term index as utilized herein shall mean: The Engineering News-Record, Construction Cost Index, published by McGraw-Hill, Inc.

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In the event that the Construction Cost Index is discontinued then the Department of Environmental Protection shall choose another index similar in nature to utilize in connection with this off-site mitigation and restoration Condition.

## SECTION D. HISTORY

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### HISTORY

Issued 07/29/86; signed by Governor Graham  
Modification 01/13/92; signed by Secretary Browner  
Modification 11/09/94; signed by Secretary Wetherell  
Modification 12/19/95; signed by Secretary Wetherell  
Modification 03/27/96; signed by Secretary Wetherell  
Modification 08/29/97; signed by Secretary Wetherell  
Modification 12/07/2000, signed by Deputy Secretary Green  
Modification 4/10/2006, signed by Siting Administrator Oven  
Modification 8/27/2007; signed by Siting Administrator Halpin  
Modification 04/08/2008; signed by Siting Administrator Halpin  
Modification 12/12/2008; signed by Siting Administrator Halpin  
Modification 02/16/2010; signed by Siting Administrator Halpin  
Certification 09/01/2011; signed by Secretary Vinyard