

1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2                   **FLORIDA POWER & LIGHT COMPANY**

3                   **TESTIMONY OF MICHAEL W. SOLE**

4                   **DOCKET NO. 20210007-EI**

5                   **JULY 30, 2021**

6  
7   **Q.     Please state your name and address.**

8   A.     My name is Michael W. Sole and my business address is 700 Universe  
9           Boulevard, Juno Beach, Florida 33408.

10 **Q.    By whom are you employed and in what capacity?**

11 A.     I am employed by NextEra Energy, Inc. (“NEE”) as Vice President of  
12          Environmental Services.

13 **Q.    Have you previously filed testimony in this docket?**

14 A.     Yes.

15 **Q.    What is the purpose of the testimony that you are filing at this time?**

16 A.     The purpose of my testimony is to present for Commission review and  
17          approval Florida Power & Light Company’s (“FPL” or the “Company”)   
18          request for recovery through the Environmental Cost Recovery Clause  
19          (“ECRC”) of a new project, the FPL Miami-Dade Clean Water Recovery  
20          Center (“CWRC”) Project. My testimony also explains the variances in costs  
21          associated with operation & maintenance (“O&M”) expenses and capital  
22          investments included in FPL’s ECRC Actual/Estimated True-up for the period

1 of January 2021 through December 2021.

2 **Q. Have you prepared, or caused to be prepared under your direction,**  
3 **supervision, or control, any exhibits in this proceeding?**

4 A. Yes, I am sponsoring the following exhibits:

- 5 • Exhibit MWS-9 – MDC and FPL Agreement
- 6 • Exhibit MWS-10 – Turkey Point Conditions of Certification
- 7 • Exhibit MWS-11– South Florida Water Management District letter to FPL
- 8 • Exhibit MWS-12 – MDC Board of County Commissioners Resolution
- 9 and Memorandum recommending approval

10

11 **CWRC Project**

12

13 **Q. Please briefly describe FPL’s proposed CWRC Project.**

14 A. Pursuant to an agreement with Miami-Dade County (“MDC”), and to further  
15 compliance with environmental and reclaimed water reuse requirements, FPL  
16 plans to construct and operate a wastewater reuse system comprised of a  
17 waterline from Miami-Dade County Water and Sewer Department’s South  
18 District Wastewater Treatment Plant to the Turkey Point Clean Energy Center  
19 (“Turkey Point”), an advanced reclaimed water treatment facility, and an  
20 underground injection control (“UIC”) system. The wastewater reuse system  
21 will transport and further treat reclaimed water for use at Turkey Point’s natural  
22 gas plant, Unit 5.

1     **Q.     Did the Florida Legislature recently revise the definition of environmental**  
2           **compliance costs to include the type of costs that will be associated with**  
3           **the CWRC Project?**

4     A.     Yes. On June 29, 2021, Governor DeSantis signed legislation that revised the  
5           definition of “environmental compliance costs” to include “costs or expenses  
6           prudently incurred by an electric utility after July 1, 2021, pursuant to an  
7           agreement between the electric utility and a governmental wastewater utility  
8           for the exclusive purpose of the electric utility constructing and operating a  
9           wastewater reuse system where operation of the system will serve to further  
10          compliance with environmental laws or regulations that apply to the electric  
11          utility and where the system fully or partially satisfies a local government’s  
12          reclaimed water reuse requirements under s. 403.064 or s. 403.806.” That new  
13          definition is codified at Section 366.8255(1)(d)9 of the Florida Statutes  
14          (“F.S.”). The new statutory language also requires that “at least 50 percent of  
15          the reclaimed water the system produces must be used in conjunction with the  
16          water requirements of an electrical generating facility or facilities owned by  
17          the electric utility in order to offset all or part of the electric utility’s water use  
18          authorized by permit.” Section 366.8255(1)(d)9, F.S.

19    **Q.     Please describe what activities related to the CWRC Project FPL needs to**  
20          **complete.**

21    A.     FPL plans to design, permit, finance, construct, own, operate and maintain in  
22          good working order, a water reuse system comprised of an approximately

1 eight-mile waterline, an advanced reclaimed water treatment facility at the  
2 Turkey Point site with capacity to treat up to 15 million gallons per day  
3 (“MGD”) of reclaimed water for Unit 5 cooling tower makeup, a UIC well  
4 system, and any other infrastructure necessary to transport, treat, and utilize  
5 the reclaimed water.

6 **Q. Do the costs associated with the CWRC meet the requirements provided**  
7 **in Section 366.8255(1)(d)9, F.S.?**

8 A. Yes. The CWRC Project meets all the requirements outlined in Section  
9 366.8255(1)(d)9, F.S. On July 6, 2020, MDC and FPL entered into an  
10 agreement for the exclusive purpose of FPL constructing and operating an  
11 advanced wastewater reuse system to transport, treat, and use reclaimed water  
12 at the FPL Turkey Point Clean Energy Center. Under the agreement, MDC  
13 will provide up to 15 MGD of water to FPL for treatment and use by FPL in  
14 Unit 5’s cooling towers. FPL intends to utilize 100% of the water generated by  
15 the CWRC for the purpose of cooling Unit 5. The CWRC Project will assist  
16 Florida in achieving the state’s objective to reuse reclaimed water, further  
17 FPL’s compliance with Turkey Point’s Conditions of Certification (“COC”),  
18 offset Unit 5’s groundwater use authorized by the COC, and partially satisfy  
19 MDC’s reclaimed water reuse requirements under 403.064 and 403.086, F.S.  
20 The agreement is attached as Exhibit MWS- 9.

21 **Q. Does the CWRC serve to further compliance with environmental laws or**  
22 **regulations applicable to FPL?**

1     A.     Yes. FPL's Turkey Point Clean Energy Center is permitted through the COC  
2           issued by the Florida Department of Environmental Protection ("FDEP")  
3           pursuant to the Power Plant Siting Act. The COC contains the South Florida  
4           Water Management District's ("SFWMD") groundwater use authorization,  
5           which includes an allocation of 14.06 MGD of Floridan aquifer groundwater  
6           for use as cooling water for Unit 5 and process water for Units 1, 2, 3, 4 and 5.

7  
8           Condition XIII.C.2. of the COC requires that, "Upon written notification from  
9           the SFWMD that a reliable source of reclaimed water is available at the project  
10          site to serve Unit 5 in a quantity and quality acceptable to the Licensee for  
11          cooling purposes for Unit 5, the Licensee shall provide the SFWMD with a  
12          schedule for use of reclaimed water, for the SFWMD's review and approval,  
13          within 90 days of such notification. Once the use of reclaimed water has been  
14          established, the use of Floridan Aquifer water shall be reduced in proportion  
15          to the volume of reclaimed water made available to Unit #5..."

16  
17          This condition implements SFWMD's lowest quality water source requirement  
18          (Applicant's Handbook for Water Use Permit Applications, incorporated by  
19          reference in Rule 40E-2.091, F.A.C.), which prescribes that consideration must  
20          be given to the availability of the lowest quality water which is acceptable for  
21          the intended use. If a water source of lower quality is available and feasible,  
22          this lower quality water must be used. A copy of Turkey Point's COC is

1 attached as Exhibit MWS-10.

2 **Q. Has FPL received written notification from the SFWMD related to**  
3 **Condition XIII.C.2?**

4 A. Yes. FPL received written notification from the SFWMD on June 29, 2021  
5 pursuant to COC Condition XIII.C.2. The notification requires FPL provide  
6 the SFWMD with a schedule for use of reclaimed water. See Exhibit MWS-  
7 11.

8 **Q. How does the CWRC partially satisfy MDC's reclaimed water use**  
9 **requirements under Sections 403.064 and 403.086, Florida Statutes?**

10 A. Section 403.064, F.S., requires MDC to implement wastewater reuse to the  
11 degree it is feasible. Furthermore, Section 403.086(10)(c), F.S. ("Ocean  
12 Outfall Statute") requires MDC to implement a functioning reuse system that  
13 provides 117.5 MGD of reuse capacity that is environmentally, economically,  
14 and technically feasible. As noted in the agreement between FPL and MDC,  
15 and the June 16, 2020 memorandum from MDC Mayor Carlos Gimenez  
16 recommending approval of the agreement to the MDC Commission, the  
17 CWRC partially satisfies MDC's requirements by providing a feasible reuse  
18 project with a capacity of up to 15 MGD. The June 16, 2020 memorandum  
19 and the MDC resolution approving the FPL and MDC agreement are attached  
20 as Exhibit MWS-12.

21 **Q. Will at least 50% of the reclaimed water the system produces be used in**  
22 **conjunction with the water requirements of an electric generating facility**

1           **owned by FPL to offset all or part of the FPL facility's water use**  
2           **authorized by permit?**

3    A.    Yes. Turkey Point's groundwater use is permitted via the facility's COC. It is  
4           anticipated that 100% of the reclaimed water produced by the CWRC will be  
5           utilized to meet the water requirements of Turkey Point's Unit 5 cooling  
6           towers. As required by the COC, use of this reclaimed water will reduce  
7           Turkey Point's groundwater use authorized by the COC in proportion to the  
8           amount of reclaimed water made available for use in the Unit 5 cooling towers.

9    **Q.    Will groundwater still be used for Turkey Point Unit 5's cooling towers?**

10   A.    Yes. Groundwater will still be available as a secondary source to meet Turkey  
11          Point Unit 5's cooling water demands when reclaimed water is not available in  
12          the quantity or quality that is required for plant operations.

13   **Q.    Will the CWRC increase the resiliency of Unit 5 operations?**

14   A.    Yes. The provision of reclaimed water to cool Unit 5 increases the resiliency  
15          of Unit 5 operations by providing primary (reclaimed) and backup  
16          (groundwater) sources of cooling water.

17   **Q.    What is the estimated O&M expense associated with the proposed CWRC**  
18          **Project that FPL is requesting to recover through the ECRC?**

19   A.    FPL does not anticipate it will incur any O&M expenses in 2021. O&M  
20          expenses will be incurred once the facility becomes operational, which is  
21          anticipated to occur at the end of 2024. Pursuant to the agreement with MDC,  
22          FPL will receive \$6.5 million annually from MDC to support operations of the

1 Project. The O&M payment provided by MDC will be reflected as a revenue  
2 credit in the ECRC. FPL will only recover incremental O&M expenses  
3 associated with the CWRC Project if the annual amount exceeds \$6.5 million.

4 **Q. What are the main drivers of O&M expenses for the CWRC Project?**

5 A. The main drivers of the O&M expenses for the Project include water treatment  
6 chemicals, equipment preventive/corrective maintenance, and operating  
7 expenses.

8 **Q. Does FPL expect to incur any capital costs associated with the proposed**  
9 **CWRC project?**

10 A. Yes. FPL estimates that the total capital cost associated with the CWRC Project  
11 will be approximately \$315 million. FPL expects that these expenditures will  
12 be incurred between 2021 and the end of 2025.

13 **Q. What are the main components of capital costs associated with the**  
14 **proposed CWRC Project?**

15 A. The main components of the capital costs associated with the project include  
16 the design, procurement, and installation of the reclaimed waterline, the  
17 advanced wastewater treatment systems associated with the CWRC, and the  
18 interconnection facilities at the Miami-Dade County South District  
19 Wastewater Treatment facility.

20 **Q. Please describe the capital costs that FPL expects to incur for the CWRC**  
21 **Project in 2021.**

22 A. The 2021 capital expenditures are estimated to be \$2,644,000 for engineering



1 and permitting efforts.

2 **Q. Please describe the measures FPL is taking to ensure that costs of the**  
3 **CWRC Project are reasonable and prudently incurred.**

4 A. In general, FPL competitively bids the procurement of materials and services.  
5 FPL benefits from strong market presence allowing it to leverage corporate-  
6 wide procurement activities to the specific benefit of individual procurement  
7 activities. For the CWRC project, FPL will competitively bid the engineering,  
8 procurement and construction of the project. FPL's Project Controls group  
9 maintains the project scope, budget, and schedule and tracks project costs  
10 through various approval processes, procedures, and databases.

11 **Q. Did FPL anticipate that it would need to perform these activities at the**  
12 **time that it prepared the Minimum Filing Requirements ("MFR") for its**  
13 **2021 rate case?**

14 A. No. The legislation that allowed for recovery of the type of costs associated  
15 with this project did not exist at the time FPL prepared the MFRs for its 2021  
16 rate case.

17 **Q. Is FPL recovering through any other mechanism the costs for the CWRC**  
18 **Project for which it is petitioning for ECRC recovery?**

19 A. No.

20

21

22

1 **Variance Explanations**

2

3 **Q. How do the actual/estimated project costs for January 2021 through**  
4 **December 2021 compare with original projections for the same period?**

5 A. Form 42-4E (Appendix I, page 4) shows that total O&M project costs are  
6 \$2,978,736 lower than projected, and Form 42-6E (Appendix I, page 9) shows  
7 that total capital project revenue requirements are \$177,121 lower than  
8 projected. Individual project variances are provided on Forms 42-4E and 42-  
9 6E. Revenue requirements for each capital project for the 2021  
10 actual/estimated period are provided on Form 42-8E (Appendix I, pages 15  
11 through 70).

12 **Q. Please explain the reasons for any significant variance in costs associated**  
13 **with O&M and capital investments.**

14 A. The significant variances in FPL's 2021 recoverable O&M expenses and  
15 capital revenue requirements from projection amounts are associated with the  
16 following projects:

17

18 **O&M Variance Explanations**

19

20 Project 1 – Air Operating Permit Fees

21 Project expenditures are estimated to be \$45,450, or 24.6% higher than  
22 previously projected. The variance is primarily due to higher than originally

1 projected gas and oil fuel usage, which resulted in increased permit fees paid  
2 in 2021 for unit operation in 2020. FPL pays permit fees based on the actual  
3 tons of pollutants emitted in the prior year. The annual Title V fee projection  
4 calculation is based on FPL fuel consumption projections and the Department  
5 of Environmental Protection's ("DEP") per ton fee for pollutant tons emitted.

6  
7 Project 5 – Maintenance of Stationary Above Ground Fuel Storage Tanks

8 Project expenditures are estimated to be \$142,141, or 36.2% lower than  
9 previously projected. The variance is primarily due to an error in forecasting  
10 maintenance costs for Port Everglades Tank #3 in clause recovery and  
11 subsequently determining that this tank is not recoverable through ECRC. This  
12 is partially offset by higher vendor quotes on Manatee Terminal Tank #1272  
13 for painting and repairs, and lower than estimated costs for tank inspections  
14 and repairs at the Fort Myers site.

15  
16 Project 19a - Substation Pollutant Discharge Prevention & Removal –  
17 Distribution

18 Project expenditures are estimated to be \$444,789, or 15.2% higher than  
19 projected. The variance is primarily due to the ability to obtain equipment  
20 clearances (i.e., de-energize equipment) required for equipment repair, which  
21 is resulting in a higher than projected number of transformers being  
22 repaired. FPL obtained additional equipment clearances by utilizing a mobile

transformer.

Project 22 - Pipeline Integrity Management

Project expenditures are \$77,502, or 100% lower than previously projected.

The decrease is a result of no findings noted in the 2020 inspection that needed attention in 2021. No post-inspection confirmatory digs were required from the 2020 inspection report.

Project 24 - Manatee Plant Reburn

Project expenditures are estimated to be \$208,861, or 98.4% lower than previously projected. The decrease is primarily due to the anticipated dismantlement of Manatee Units 1&2 and the determination that scheduled inspections on the reburn systems are no longer needed.

Project 28 - CWA 316(b) Phase II Rule

Project expenditures are estimated to be \$106,327, or 21.1% lower than previously projected. The decrease is primarily due to the delayed renewal of the Industrial Wastewater (“IWW”) Permit for the Port Everglades Energy Center (“PEEC”). PEEC was projected to begin a two-year Impingement Optimization Study (“IOS”) during calendar year 2021. However, the renewed IWW permit was not issued during the second quarter of 2021 as anticipated, thereby delaying the study. FPL anticipates the renewed IWW permit will be

1 issued in the end of 2021/early 2022 and will contain the requirement to  
2 complete the IOS.

3  
4 Project 33 - MATS Project

5 Project expenditures are estimated to be \$802,154, or 33.1% lower than  
6 previously projected. The variance is primarily due to lower than projected  
7 operation of Scherer Unit 4, which resulted in lower operating costs for the  
8 sorbant injection system.

9  
10 Project 37 - DeSoto Next Generation Solar Energy Center

11 Project expenditures are estimated to be \$157,834, or 28.9% lower than  
12 previously projected. The variance is primarily due to less full-time employee  
13 support required to maintain the Desoto site than originally projected.  
14 Additionally, planned contractor services for the combiner boxes and tracker  
15 assemblies were deemed to be capital work in nature and removed from the  
16 O&M forecast.

17  
18 Project 42 - Turkey Point Cooling Canal Monitoring Plan

19 Project expenditures are estimated to be \$1,579,504, or 16.2% lower than  
20 previously projected. The variance is primarily due to the reduced need for  
21 well maintenance and testing and the decision to maintain, rather than increase,  
22 the current sediment removal rate to achieve desired thermal efficiency for the

1           cooling canal system.

2

3           Project 45 - 800 MW Unit ESP

4           Project expenditures are estimated to be \$189,099, or 71.6% lower than  
5           previously projected. The decrease is primarily due to the anticipated  
6           dismantlement of Manatee Units 1&2 and the determination that scheduled  
7           ESP work was no longer required.

8

9           Project 47 - NPDES Permit Renewal Requirements

10          Project expenditures are estimated to be \$85,230, or 105.2% lower than  
11          estimated. The variance is primarily due to St. Lucie Nuclear Plant projections  
12          inadvertently including costs associated with chemicals which are recovered  
13          through base rates.

14

15          Project 123 - The Protected Species Project

16          Project expenditures are \$100,000, or 100% lower than estimated. All costs  
17          associated with the manatee calf rehabilitation activities were removed from  
18          ECRC recovery.

19

20

21

22

1 **Capital Variance Explanations**

2

3 **Project 47 – NPDES Permit Renewal Requirements**

4 Project revenue requirements are estimated to be \$68,806, or 22.8% higher  
5 than previously projected. The variance is primarily due to materials &  
6 equipment and engineering costs which were not known at the time of the 2021  
7 Projection Filing.

8

9 **Project 50 – Steam Electric Effluent Guidelines Revised Rule**

10 Project revenue requirements are estimated to be \$275,511, or 71.5% lower  
11 than previously projected. The variance is primarily due to the 2020 Steam  
12 Electric Reconsideration Rule, which went into effect subsequent to FPL's last  
13 projection filing. The new rule extended compliance dates, which postponed  
14 capital expenditures.

15 **Q. Does this conclude your testimony?**

16 **A. Yes.**

**EXECUTION VERSION**

**AGREEMENT FOR RECLAIMED WATER PROCESSING, TREATMENT AND USE  
AT THE FLORIDA POWER & LIGHT TURKEY POINT COMPLEX**

THIS AGREEMENT FOR RECLAIMED WATER PROCESSING, TREATMENT AND USE (this “**Agreement**”), is made and entered into this June [ ], 2020, by and between Miami-Dade County, a political subdivision of the State of Florida, (the “**County**”), and Florida Power & Light Company, a Florida corporation (“**FPL**”), and together with the County, the “**Parties**”).

**WITNESSETH:**

**WHEREAS**, the Miami-Dade Water and Sewer Department (the “**Department**”) operates and maintains the County’s wastewater treatment and reclamation system; and

**WHEREAS**, the County currently provides wastewater treatment within Miami-Dade County through three treatment facilities owned and operated by the County (the “**County Wastewater Facilities**”); and

**WHEREAS**, FPL owns power generation facilities located in southeastern Miami-Dade County, Florida (the “**Turkey Point Complex**” or “**TP Complex**”); and

**WHEREAS**, the Florida Department of Environmental Protection (“**FDEP**”) requires the County to process and treat wastewater in part to produce water technically and economically feasible for reuse (“**Reclaimed Water**”) pursuant to Section 403.064, F.S.; and

**WHEREAS**, FPL is encouraged to utilize Reclaimed Water at the TP Complex should it become available in the necessary quality and quantity; and

**WHEREAS**, on April 10, 2018, the Miami-Dade County Board of County Commissioners (“**Board**”) approved Resolution No. R-292-18 (“**Resolution**”); and

**WHEREAS**, the Resolution authorizes the County Mayor or his designee to execute a Joint Participation Agreement with FPL for development of an Advanced Reclaimed Water Project (“**Project**”) and to further negotiate a Reclaimed Water Service Agreement (“**RWSA**”) to implement such Project subject to approval by the Board; and

**WHEREAS**, the project design discussed at the time of the Resolution has been modified to exclude discharge of Reclaimed Water to the Turkey Point cooling canals, or surface waters of surrounding wetlands and Biscayne Bay as a component of this project, and

**WHEREAS**, the Parties recognize and acknowledge that the County’s primary goals in entering this Agreement are the beneficial use of County reclaimed water at the Turkey Point Complex to replace the existing use of Floridan water in cooling towers in a manner which will also protect water resources in the surrounding environment, and



## EXECUTION VERSION

**WHEREAS**, the Advanced Reclaimed Water Project will serve to provide an alternative source of cooling water for Turkey Point Unit 5 Forced Draft Cooling Towers, thereby allowing FPL to seek authorization to redirect Floridan Aquifer water otherwise allocated for this purpose for use in managing salinity levels in the cooling canal system; and

**WHEREAS**, the Parties have negotiated this Agreement as the RWSA; and

**WHEREAS**, FPL has identified an opportunity to utilize up to 15,000,000 gallons of Process Water per day at the TP Complex that will help the County satisfy the reuse objectives set forth in Section 403.064, Florida Statutes; and

**WHEREAS**, FPL desires to construct an advanced reclaimed water treatment facility and associated pipelines and wells necessary to process and further treat up to 15 million gallons per day ("MGD") of Reclaimed Water for use at the TP Complex (the "**FPL Facilities**"); and

**WHEREAS**, the 15 MGD of Process Water for cooling purposes at TP Unit 5 is consistent with the objectives of the October 7, 2015 Consent Agreement between the County and FPL; and

**WHEREAS**, the County is prepared to deliver up to 15 MGD of Reclaimed Water from the County Wastewater Facilities to the FPL Facilities; and

**WHEREAS**, FPL will be responsible for all costs of constructing the FPL Facilities estimated to be \$300 million; and

**WHEREAS**, the County will provide \$6.5 million annually to FPL to support operations of the Project;

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations set forth herein, the County and FPL hereby agree as follows.

### ARTICLE I. DEFINITIONS; INTERPRETATION

1.01 Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Additional Facilities" shall have the meaning set forth in Section 6.04(b)(i).

"Advanced Reclaimed Water Project" ("ARWP" or "Project") shall mean the siting, permitting, construction, commissioning, operation and maintenance of the Advanced Wastewater Treatment Facility, the FPL Facilities and the County Facilities for transporting, delivering, and processing Reclaimed Water from the County Facilities into Processed Water for use by FPL at the TP Complex for the Unit 5 existing Forced Draft Cooling Towers.

"Advanced Reclaimed Treatment Facility" means the advanced reclaimed treatment facility that would process Reclaimed Water into Processed Water.

## EXECUTION VERSION

“Agreement” shall have the meaning set forth in the preamble hereto, and includes all exhibits, schedules and appendices attached hereto.

“Board” shall mean the Miami-Dade County Board of County Commissioners.

“Business Day” means any day on which the Federal Reserve Member Banks in Miami, Florida are open for business.

“County” shall have the meaning set forth in the preamble hereto.

“County Event of Default” shall have the meaning set forth in Section 9.01.

“County Facilities” shall mean facilities necessary for the delivery of up to 15 MGD of Reclaimed Water to the Delivery Point at the SDWWTP as shown on Figure B-1.

“Delivery Point” shall mean the location near the SDWWTP and at the point designated on Figure B-1 where the County will deliver Reclaimed Water to FPL.

“Department” shall have the meaning set forth in the recitals hereto.

“Dispute” shall have the meaning set forth in Section 11.01.

“Effective Date” shall mean the sooner of (1) the date of the expiration of the County Mayor’s veto period subsequent to the approval of this Agreement by the Board without the County Mayor vetoing the Board’s resolution approving same or (2) the date on which the County Mayor approves the Board-approved resolution authorizing the execution of this Agreement.

“Event of Default” shall mean a County Event of Default or an FPL Event of Default as the context requires.

“Extension Term” shall have the meaning set forth in Section 2.02.

“Force Majeure” shall have the meaning set forth in Section 10.01.

“FPL” shall have the meaning set forth in the preamble hereto.

“FPL Event of Default” shall have the meaning set forth in Section 9.02.

“FPL Facilities” shall mean (i) facilities necessary for the transportation of up to 15 MGD of Reclaimed Water from the County Wastewater Facilities to the FPL treatment facilities at Turkey Point, (ii) the FPL water treatment facility and associated pipelines and equipment to facilitate use of Reclaimed Water, (iii) deep injection well facilities to dispose of Process Wastewater

“Initial Term” shall have the meaning set forth in Section 2.02.

“Incremental Facilities” shall mean any additional pipeline requested by the County for conveyance of future Reclaimed Water volumes in excess of FPL needs up to 60 mgd.

“MGD” shall mean million gallons per day.

## EXECUTION VERSION

“Maximum Daily Quantity” shall have the meaning set forth in Exhibit C.

“Meter” shall have the meaning set forth in Section 7.05(a).

“Minimum Daily Quantity” shall have the meaning set forth in Exhibit C.

“O&M” means Operations and Maintenance.

“Operating Agreement” shall have the meaning set forth in Section 5.03.

“Parties” has the meaning specified in the preamble to this Agreement.

“Pipelines” means the pipelines that transport Reclaimed Water from the Delivery Point(s) to the Advanced Reclaimed Treatment Facility at the TP Complex and associated pipelines required for operation of the project.

“Process Wastewater” shall mean non-hazardous waste residuals produced by the FPL Facilities, including blowdown from the Unit 5 cooling towers.

“Process Water” shall mean Reclaimed Water that has been further processed by the FPL Facilities.

“Quality Standard” shall mean those standards for Reclaimed Water that are set forth on Exhibit A to be met at the Delivery Point

“Reclaimed Water” means treated wastewater delivered by the County at the Delivery Point that satisfies the Reclaimed Water Quality Requirements.

“Sentinel Limit” shall mean the water quality limits as defined in Exhibit A, Table A-2.

“Service Initiation Date” means that date on which the County first delivers Reclaimed Water to the Delivery Point for processing and treatment by FPL.

“SDWWTP” shall mean the Water & Sewer Department’s South District Waste Water Treatment Plant located in south Miami-Dade County approximately 10 miles north of Turkey Point.

“Target Value” shall mean the water quality limits as defined in Exhibit A, Table A-1.

“Term” shall have the meaning set forth in Section 2.02.

“True Accuracy” shall have the meaning set forth in Section 7.05(a).

“Turkey Point Complex” or “TP Complex” means FPL’s power generation site located in southeastern Miami-Dade County.

“Upper Limit” shall mean a upper water quality limit for each of the parameters set forth in Exhibit A, Table A-1.

## EXECUTION VERSION

1.02 Interpretation. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an “Exhibit” or “Schedule” refers to an Exhibit or Schedule to this Agreement. The Appendices, Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Appendix, Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Appendix, Exhibit or Schedule.

(b) Certain Terms. The words such as “herein,” “hereinafter,” “hereof,” and “hereunder” refer to this Agreement (including the Appendices, Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words “to the extent” when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word “or” shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party’s successors and permitted assigns. Unless stated herein, a reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). References “written” or “in writing” include in electronic form. Any reference to “days” shall mean calendar days unless Business Days are expressly specified.

(c) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any “Section” are to the corresponding Section of this Agreement unless otherwise specified.

## ARTICLE II. CONDITIONS PRECEDENT; TERM

2.01 Conditions Precedent. Notwithstanding the execution and delivery of this Agreement by the Parties, the obligations of the Parties contained herein shall only become effective upon the completion or waiver of those activities set forth in Exhibit D.

2.02 Term. The initial term of this Agreement (“**Initial Term**”) shall commence upon the Effective Date and shall, unless this Agreement is either (1) earlier terminated or (2) extended, in either case in accordance with this Agreement, continue through December 31, 2053.

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This Agreement and each subsequent Extension Term (as defined below) shall automatically renew for a period of five (5) additional years (each such five-year period, an “**Extension Term**”), unless either Party provides written notice to the other of its intention to not have this Agreement renew, not less than one (1) year prior to the end of the Initial Term or Extension Term, as applicable.

2.03 Purchase Right. If FPL has provided notice to the County of its intention not to renew this Agreement, then the County shall have the right to purchase FPL Facilities including access rights to said facilities, at the higher of the book value or the then fair market value as determined by an independent, third-party appraiser agreed to by the Parties and on terms to be negotiated by the Parties acting in good faith. If the County desires to exercise its right to purchase the FPL Facilities, it must notify FPL no later than six (6) months prior to the end of the Initial Term or Extension Term, as applicable.

### ARTICLE III. OBLIGATIONS OF FPL

3.01 Ownership and Operation. FPL shall design, permit, finance, construct, own, operate and maintain in good working order, consistent with industry practice, the FPL Facilities from and on the FPL side of the Delivery Point shown on Figure B-1, such that the Advanced Reclaimed Water Project meets the delivery requirements identified in Exhibit C.

3.02 Responsibilities for County and FPL Facilities.

(a) FPL shall finance, design and construct the County Facilities located on County property if necessary and subject to the County’s approval, to transfer the reclaimed water from the property line at the SDWWTP (the County Facilities) shown on Figure B-1 or such other location approved by the County to the TP Complex. For any work done by FPL on County property pursuant to this Agreement, FPL shall provide certificates of insurance as required by the County and shall include the County as an additional insured on all requisite insurance policies. County will own, operate and maintain the County Facilities and be responsible for the costs associated with such responsibilities.

(b) FPL will design and construct the Incremental Facilities requested by the County to provide future pipeline capacity for reclaimed water to the Turkey Point site. If the County requests FPL to construct Incremental Facilities, such Incremental Facilities will be delivered to the County for the County to own, operate and maintain and FPL shall provide the County with access to the Incremental Facilities for operational and maintenance purposes. Subject to the County’s review and approval of costs, County will reimburse FPL for all reasonable costs to design, finance, and construct the Incremental Facilities. County will own, operate and maintain the Incremental Facilities and be responsible for the costs associated with such responsibilities.

3.03 Acceptance of Reclaimed Water. Except as otherwise provided herein, FPL shall accept at the Delivery Point (as described in Exhibit B) up to fifteen-million gallons of Reclaimed Water per day (15,000,000 gpd) from the County (the “Maximum Daily Quantity”) delivered in accordance with the delivery requirements set forth on Exhibit C.

3.04 Delivery and Processing of Reclaimed Water. FPL shall notify the County

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in writing of the volume of Reclaimed Water it requires each day. The County shall control the rate of delivery of Reclaimed Water. FPL shall process and treat, or shall cause to be processed and treated, Reclaimed Water that it has requested up to the Maximum Daily Quantity in accordance with this Agreement, in order to produce Process Water.

3.05 Use of Process Water. FPL shall utilize the Processed Water in the forced draft cooling towers for Turkey Point Unit 5. FPL shall not use Process Water for any other purpose without prior approval from applicable federal, state, and local regulatory agencies. If FPL plans to seek additional legal use(s) for reclaimed water at the TP Complex, FPL will advise the County as to the proposed use(s) and seek County input. Furthermore, FPL shall not discharge or dispose of Process Water or Process Wastewater into the Cooling Canal System.

3.06 Disposal of Process Wastewater. FPL is responsible for disposal of the Process Wastewater. FPL shall dispose of the Process Wastewater in compliance with all conditions of the applicable permits, authorizations and approvals.

3.07 Provision of Alternative Sources. FPL shall maintain an alternative source of cooling water for Turkey Point Unit 5 sufficient to provide FPL's needs, in the event of system failures, forced outages, maintenance or Force Majeure events at any portion of the ARWP or a failure of the County to provide Reclaimed Water in accordance with this Agreement.

3.08 Plant Management. FPL shall assign a qualified personnel to act as FPL ARWP Manager and discharge the duties described in Article V.

3.09 FPL Cooperation. FPL shall cooperate with the County in providing available data and information relating to the Project that is requested by the Department of Regulatory and Economic Resources, Division of Environmental Resources Management for the preparation of reports to the Board.

## ARTICLE IV. OBLIGATIONS OF THE COUNTY

4.01 Delivery of Reclaimed Water. The County shall, at its sole cost and expense, deliver to FPL, at the Delivery Point the required volumes of Reclaimed Water as specified by the FPL ARWP Manager pursuant to Section 3.04, all of which shall meet the Quality Standards as contained in Exhibit A.

4.02 County Facilities. The County shall facilitate, seek to obtain permits, accept, own, operate and maintain the facilities located on County property necessary to transfer Reclaimed Water as required for the ARWP and, in general, cooperate with the development, permitting and construction of the ARWP. Coordination with existing and ongoing renovations at the SDWWTP site will be provided to safely and cost-effectively incorporate the ARWP.

4.03 Provision of Alternative Disposal Method. The County shall, at its sole cost and expense, develop or maintain an alternative method of disposal of the Reclaimed Water in the event of system failures, forced outages, facility maintenance or Force Majeure events at the Project or a failure of FPL to accept, process and treat Reclaimed Water in accordance with this Agreement.

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4.04 Payment for Processing and Treatment. The County shall timely make all payments required pursuant to Article VIII.

4.05 Participation in Plant Operational Review. The County may assign qualified personnel to participate in the review of periodic reports provided by the FPL ARWP Manager.

### ARTICLE V. OPERATIONAL MANAGEMENT

5.01 Authority. FPL will appoint an ARWP Manager who will be responsible for the routine supervision and direction of ARWP operations, maintenance, regulatory compliance, financial management and reporting as described herein. The ARWP Manager will be the point of contact for all communications and inquiries related to the functioning of the ARWP and coordination of operations with the County's SDWWTP. The County shall pay FPL an annual amount of \$6.5 million to support the ARWP and FPL shall be responsible for all ARWP operations, maintenance, regulatory compliance, financial management and reporting, excluding those costs identified in Section 4.01.

5.02 Standard of Care. All actions taken by the FPL ARWP Manager shall be consistent with: (i) FPL and County Required Approvals, (ii) all applicable laws, rules and regulations, including, with respect to the maintenance, repair and replacement of the FPL Facilities, Section 606 of County Ordinance No. 93-134, (iii) good industry practices, and (iv) the health and safety of the public, County and FPL employees, contractors, or agents.

5.03 Operating Agreement. Following completion of final design and permitting for the FPL and County Facilities, the Parties will coordinate to develop an Operating Agreement that will describe the operating protocols, sequences, systems, limits, notifications, communications and reporting requirements necessary for safe and efficient operations of the ARWP. Such Operating Agreement will be reviewed and updated annually and utilized by the Parties to train and direct staff and shall govern day-to-day operations of the ARWP.

5.04 Review. If the Agreement is not meeting the County's goals of beneficial use of County reclaimed water at the Turkey Point Complex to replace the use of Floridan water in the existing cooling towers in a manner which will also protect water resources in the surrounding environment within one year of the Service Initiation Date, the County shall notify FPL in order for the Parties to revisit the terms of the Agreement.

### ARTICLE VI. QUALITY STANDARDS

6.01 Reclaimed Water Supply. The County shall ensure that all Reclaimed Water delivered to the Project meets the Reclaimed Water Quality Standards, as set forth in Exhibit A.

6.02 Testing. Testing of the Reclaimed Water shall be conducted in accordance

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with Section 7.04 and Exhibit A (as applicable).

6.03 Right of Rejection - FPL. If at any time any of the parameters of the Reclaimed Water exceeds any of the Target Values of the Reclaimed Water Quality Standards specified in Exhibit A, Table A-1 or the Sentinel Limits of Table A-2, and such exceedance is confirmed by resampling and analysis by the County, FPL may stop receipt of all or any portion of the Reclaimed Water. Following such failure to meet the Quality Standards or Sentinel Limits, FPL shall be under no obligation to re-commence accepting Reclaimed Water until such time as it is satisfied, through additional testing, that the Reclaimed Water does not exceed the Target Values or Sentinel Limits.

### 6.04 Exceedances of Reclaimed Water Quality Standards (Table A-1).

(a) If there is an exceedance of the Upper Limits of any of the Reclaimed Water Quality Standards specified in Exhibit A, Table A-1, more than three (3) times in any rolling six (6) month period that is confirmed by the County through its own resampling and analysis, FPL will notify the County and the County shall, within twenty (20) days of its receipt of such notice, develop and deliver to FPL a recovery plan setting out the steps the County will undertake to rectify the repeated exceedances.

(b) If there are no exceedances of the Upper Limits of the Reclaimed Water Quality Standards specified in Exhibit A, Table A-1, over a period of three (3) months following execution of the activities indicated in the County's recovery plan, the count of exceedances will reset to zero. If, however, exceedances persist, FPL, in its sole discretion, shall either (i) require the County to repeat the actions set forth in its recovery plan, (ii) require the County to provide a revised recovery plan, or (iii) independently develop or engage (in consultation with the County and, if the County concurs, at the County's expense) a third party consultant to develop a recovery plan which the County shall execute.

(i) The recovery plan(s) may include new facilities to address and prevent exceedances of the Reclaimed Water Quality Standards ("Additional Facilities"). Additional Facilities, if required by the County, will be paid for by the County.

(ii) If there are no exceedances of the Upper Limits of the Reclaimed Water Quality Standards specified in Exhibit A, Table A-1, over a period of three (3) months following execution of the activities indicated in the second recovery plan, the count of exceedances will reset to zero. If, however, exceedances persist it will be deemed a County Event of Default, as described in Section 9.01(c).

### 6.05 Exceedence of Sentinel Limits (Table A-2).

(a) If there is an exceedance of any of the Sentinel Limits (Table A-2), more than three (3) times in any rolling six (6) month period that is confirmed by the County through its own resampling and analysis, FPL will notify the County and the County shall, within twenty (20) days of its receipt of such notice, submit a report that will identify the root cause, potential for continued exceedances and steps to be taken to prevent future exceedances, if such steps are possible. If the issue can be addressed by reasonable process adjustments or other mitigating steps within the SDWWTP facility and at no additional costs, such changes or mitigating steps will be



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taken.

(b) If there are no exceedances of the Sentinel Limits (Table A-2), over a period of three (3) months following execution of the activities indicated in the County's recovery plan, the count of exceedances will reset to zero. If, however, exceedances persist or the County report of Section 6.04(a) identifies no mitigating action can be taken by the County, the County and FPL will jointly determine what Additional Facilities could be added to SDWWTP operations or the ARWP to address the exceedances.

(c) The recovery plan(s) may include new facilities to address and prevent exceedances of the Reclaimed Water Quality Standards ("Additional Facilities"). The capital costs of Additional Facilities under this Section 6.04, if required, will be equally shared by the County and FPL.

6.06 Notice. If FPL must stop receiving all or any portion of the Reclaimed Water because it fails to meet the Reclaimed Water Quality Standards or the Sentinel Limits, it shall notify the County as soon as is reasonably practicable, per the notification requirements of Section 7.06.

## ARTICLE VII. OPERATIONS, MAINTENANCE & METERING

7.01 Generally. FPL will ensure that the FPL Facilities will be operated and maintained, and related additions and repairs made, in accordance with prudent industry practice and in compliance with all applicable water quality and environmental protection regulations in the governing permits and authorizations for the ARWP. Further, FPL will ensure operations are conducted in accordance with the Operating Agreement.

7.02 Staffing. FPL shall provide sufficient qualified staff and resources to operate the FPL Facilities in normal and reasonably anticipated atypical modes.

7.03 Emergencies. Notwithstanding any other provision in this Agreement, FPL may take any action it reasonably believes is necessary to address a situation or circumstance that threatens the safe or reliable operation of the Project, threatens to cause damage to the Project or a portion thereof or as required to comply with applicable laws or regulations, in accordance with prudent industry practice and using commercially reasonable efforts to keep its annual O&M costs within the Operating Budget.

### 7.04 Water Quality Testing.

(a) FPL and the County shall include in the Operating Agreement of Section 5.03, a sampling plan to facilitate the following:

(b) Periodic sampling by FPL and the County and analysis of influent Reclaimed Water to determine whether such Reclaimed Water meets the Reclaimed Water Quality Standards and Sentinel Limits, as set forth in Exhibit A. The sampling plan shall include sampling frequency and define sample collection points. Sampling methodologies and laboratory analysis shall be in accordance with applicable state and federal regulations or best practices as applicable.

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Standard analytical methods and certified laboratories shall be used at all times to determine water quality and the County shall have the right to conduct its own testing to verify water quality.

(c) FPL shall conduct all required testing of Process Water effluent from the Project to demonstrate compliance with all applicable permits, approvals and authorizations.

### 7.05 Metering.

(a) FPL shall, at its own expense, own, install, operate and maintain any required flow meters and associated measuring and recording equipment (the “**Meter**”) necessary to provide an accurate determination of the quantities of Reclaimed Water, delivered daily under this Agreement and make available to the County, at no cost to the County, all of the data from such Meter. The Meter(s) shall indicate flow with an error not to exceed plus or minus 2% of full scale reading (“**True Accuracy**”); and

(b) FPL shall exercise reasonable care in the maintenance and operation of the Meter(s) so as to assure to the maximum extent reasonably practicable an accurate determination of the quantities of Reclaimed Water delivered under this Agreement; and

(c) The accuracy of the FPL’s Meter(s) shall be tested and verified by FPL and the County, at FPL’s sole expense, once every six months. FPL shall provide the results of the verification to the County no later than thirty (30) days after each Meter is checked. If the County desires to be present for such Meter checks, it shall be the County’s responsibility to contact FPL and make arrangements to be present.

7.06 Notification of abnormal conditions. If abnormal conditions prevent the County from delivering all or a portion of the Maximum Daily Quantity, or meeting the Quality Standards, County will notify FPL as soon as practicable. If abnormal conditions prevent FPL from receiving all or a portion of the Maximum Daily Quantity, FPL will notify County as soon as practicable. The parties will use all reasonably practicable efforts to expedite a return to normal operations.

## ARTICLE VIII. COMPENSATION & PAYMENT

8.01 Annual Fee. Commencing on the Service Initiation Date and for the term of this Agreement, County shall pay to FPL, an annual fee in the amount of \$6.5 million. FPL shall invoice the County for the annual fee by June 1 of each year, and the County will make payment within 45 days of receipt of the invoice. The initial and final invoices shall be prorated according to the number of days of service between the Service Initiation Date and June 1 for the initial invoice and for the number of days of service from June 1 to the termination of the agreement for the final invoice.

## ARTICLE IX. EVENTS OF DEFAULT

9.01 County Events of Default. Each of the following shall constitute an event

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of default by the County (each a “**County Event of Default**”):

- (a) the County fails to provide support reasonably required for the County to carry out its obligations set forth in this Agreement;
- (b) the County fails to make a payment due to FPL that is not subject to a good-faith dispute within forty-five (45) calendar days after notice from FPL that such payment is due under this Agreement;
- (c) the Reclaimed Water has failed to meet the Upper Limits of the Reclaimed Water Quality Standards as described in Exhibit A, Table A-1, and the recovery plans of Section 6.03 have not resolved the issue(s);
- (d) The County fails to achieve any of its milestones necessary to complete or operate the ARWP; provided, it shall not be considered a default of the County if the failure to achieve such milestone is caused by force majeure or by a failure on the part of FPL in the performance of its milestones;
- (e) If, during any month following the Service Initiation Date, the County fails, for ten (10) consecutive calendar days or fifteen (15) days in any thirty (30) day period, to make available to FPL the quantities of Reclaimed Water in the FPL ARWP Manager’s forecast and generally set forth in Exhibit C, and such failure is not excused by reason of Force Majeure; or
- (f) The County is in default of any material provision of this Agreement (including water quality provisions) not specifically mentioned in this Section 9.01. and the County has failed to cure such default within ten (10) calendar days after notice of such default from FPL to the County. If it is not feasible to correct such default within ten (10) calendar days after FPL has delivered notice of such default to the County, but it remains feasible to correct within thirty (30) calendar days, and (ii) if within ten (10) calendar days after said notice from FPL, the County provides FPL notice of its intention to cure such default and evidence that it remains feasible to correct such default within thirty (30) calendar days after such notice from FPL, it shall not constitute a County Event of Default hereunder until the earliest feasible date within such thirty (30) calendar days period when a cure could be effected so long as (i) corrective action by the County is instituted within ten (10) calendar days following the notice from FPL, (ii) such corrective action is diligently pursued, (iii) the County provides FPL weekly written reports as to the nature and progress of such corrective action, and (iv) such cure is effected within thirty (30) calendar days of the notice from FPL.

9.02 FPL Events of Default. Each of the following shall constitute an event of default by FPL (each an “**FPL Event of Default**”):

- (a) FPL refuses, in writing, to receive the Reclaimed Water and such refusal is not (i) subject to good faith dispute, or (ii) excused by reason of Force Majeure;
- (b) FPL is in default of any material provision of this Agreement not specifically mentioned in this Section 9.02. and FPL has failed to cure such default within ten calendar (10) days after notice of such default from the County to FPL. If it is not feasible to correct such default within ten (10) calendar days after the County has delivered notice of such

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default to FPL, but it remains feasible to correct within thirty (30) calendar days, and if within ten (10) calendar days after said notice from the County, FPL provides the County notice of its intention to cure such default and evidence that it remains feasible to correct such default within thirty (30) calendar days after such notice from the County, it shall not constitute an FPL Event of Default hereunder until the earliest feasible date within such thirty (30) calendar day period when a cure could be effected so long as (i) corrective action by FPL is instituted within ten (10) calendar days following the notice from the County, (ii) such corrective action is diligently pursued, (iii) FPL provides the County bi-weekly written reports as to the nature and progress of such corrective action, and (iv) such cure is effected within thirty (30) calendar days of the notice from the County;

(c) FPL fails to achieve any of its milestones necessary to complete or operate the ARWP; provided, it shall not be considered a default of FPL if the failure to achieve such milestone is caused by force majeure or by a failure on the part of the County in the performance of its milestones

9.03 Remedies for a County Event of Default. Upon the occurrence of any County Event of Default, FPL may, in its sole discretion:

(a) terminate this Agreement without penalty or further obligation to FPL by providing written notice to the County; and

(b) require that the County, and the County covenants that it shall, purchase the FPL Facilities from FPL at book value on terms to be negotiated by the Parties acting in good faith;

(c) exercise any other right or remedy available to FPL under generally applicable law, under this Agreement or in equity.

9.04 Remedies for an FPL Event of Default. Upon the occurrence of any FPL Event of Default, the County may, in its sole discretion:

(a) if the FPL Event of Default occurs pursuant to Section 9.02(a), terminate this Agreement without penalty or further obligation to the County by providing written notice to FPL;

(b) if an FPL Event of Default results from a material non-compliance with applicable water quality and environmental protection regulations in the governing permits and authorizations specifically for the ARWP (Section 7.01), the County may withhold delivery of Reclaimed Water until such material non-compliance is resolved.

(c) exercise any other right or remedy available to the County under generally applicable law, under this Agreement or in equity.

9.05 Specific Performance. In addition to the remedies set forth in Section 9.03 and 9.04, each Party shall be entitled to seek a decree compelling specific performance with respect to, and shall be entitled, without the necessity of filing any bond, to seek the restraint by injunction of any actual or threatened breach of any material obligation of the other Party under this Agreement.

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9.06 Pre-Termination Liabilities. No termination under this Article IX (or otherwise under this Agreement) shall affect the liability of either Party for obligations arising prior to such termination or for damages, if any, resulting from breach of this Agreement.

### ARTICLE X. FORCE MAJEURE

10.01 Force Majeure. Except as otherwise provided in this Agreement, each Party shall be excused, pursuant to the procedures set forth in this Article X, from performance of its obligations under this Agreement to the extent its nonperformance is caused by Force Majeure. “**Force Majeure**” shall mean an act of God which includes but is not limited to sudden, unexpected or extraordinary forces of nature such as floods, washouts, storms, fires, earthquakes, landslides, hurricanes, epidemics, explosions or other forces of nature, strikes, lockouts, other industrial disturbances, wars, blockades, acts of terrorism, insurrections, riots, federal, state, or local governmental restrictions, regulations and restraints, military action, civil disturbances, or conditions in federal, state or local permits.

10.02 Notification. In the event of any delay or nonperformance resulting from Force Majeure, the Party suffering an occurrence of Force Majeure shall notify the other of the nature, cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any date(s) for performance may be affected thereby. Such notice shall be given to the other Party as soon as practicable but in no event later than three (3) business days after the claiming Party’s awareness of the Force Majeure and shall provide such substantiating documentation as may reasonably be required to verify such event or circumstances and its effects within ten (10) days of such notice. The Party claiming Force Majeure shall notify the other Party of the status of its efforts in such form and with such frequency as the other Party reasonably may request under the circumstances (but not less than weekly). When the Party claiming Force Majeure is able to resume performance of its obligations under this Agreement, such claiming Party shall give the other Party prompt notice to such effect.

10.03 Mitigation. Any Party suffering an occurrence of Force Majeure shall use commercially reasonable efforts to remedy the cause(s) preventing its performance of this Agreement as promptly as possible.

### ARTICLE XI. DISPUTES, VENUE AND GOVERNING LAW

11.01 Disputes. In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a “**Dispute**”), the FPL Plant Manager shall attempt in the first instance to resolve such Dispute through friendly consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the Turkey Point Site Vice President and the Mayor of Miami-Dade County or his/her designee for resolution. If the Dispute has not been resolved within twenty (20) business days after such referral to the Turkey Point Site Vice President and the Mayor of Miami-Dade County or his/her designee, then either Party may pursue all available remedies. The Parties agree to attempt

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to resolve all Disputes promptly, equitably and in a good faith manner.

### 11.02 Venue, Relief, Remedies.

(a) Any and all suits brought by either Party shall be instituted and maintained in any court of competent jurisdiction in Miami-Dade County, Florida.

(b) Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.

(c) Any failure of a Party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that Party of any claim for damages it may have by reason of the default. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement. Waiver by either Party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.

11.03 Governing Law. This agreement shall be governed by and construed according to the laws of the State of Florida.

## ARTICLE XII. INDEMNIFICATION; LIMITATION OF LIABILITY

12.01 Indemnification. FPL and the County shall each be responsible for its own facilities, for protection of its own systems, and for ensuring adequate safeguards for FPL and the County customers, and the personnel and equipment of the County and FPL. To the extent permitted by law, and subject to the limitations set forth in Section 768.28, F.S., the County shall indemnify, defend and hold FPL harmless, and FPL shall indemnify, defend and hold the County harmless, from any and all claims, demands, costs or expenses, for loss, damage or injury to persons or property caused by, arising out of, or resulting from: (a) any act or omission by the respective Party or that Party's contractors, agents, servants and employees in connection with the development, construction or operation of that Party's facilities or systems, or the operation thereof in connection with the other Party's facilities or systems, (b) any defect in, failure of, or fault related to, a Party's facilities or systems, or (c) the negligence of the respective Party or negligence of that Party's contractors, agents, servants or employees. The respective Party shall pay all claims, costs, damages and losses in connection with (a), (b) or (c) above, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the other Party, where applicable, including appellate proceedings and shall pay all costs, judgment and attorney's fees that may issue thereon. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, F.S., nor shall the same be construed to constitute agreement by either Party to indemnify the other Party for such other Party's negligent, willful, or intentional acts or omissions. The provisions of this Section 12.01 shall survive termination, cancellation, suspension, completion or expiration of this Agreement.

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12.02 Limitation of Liability. To the fullest extent permitted by law, neither the County nor FPL, nor their respective officers, directors, agents, employees, members, parents, subsidiaries or affiliates, successors or assigns, or their respective officers, directors, agents, employees, members, parents, subsidiaries or affiliates, successors or assigns, shall be liable to the other Party or their respective officers, directors, agents, employees, members, parents, subsidiaries or affiliates, successors or assigns, for claims, suits, actions or causes of action for incidental, indirect, special, punitive, multiple or consequential damages connected with or resulting from performance or non-performance of this agreement, or any actions undertaken in connection with or related to this agreement, including without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty, strict liability, statute, operation of law, under any indemnity provision or any other theory of recovery. If no remedy or measure of damages is expressly provided herein, the obligor's liability shall be limited to direct damages of up to One Million Dollars (\$1,000,000) for each such breach, and such direct damages shall be the sole and exclusive measure of damages and all other remedies or damages at law or in equity are waived; provided, however, that this sentence shall not apply to limit the liability of a party whose actions giving rise to such liability constitute gross negligence or willful misconduct. The provisions of this Section 12.02 shall apply regardless of fault and shall survive termination, cancellation, suspension, completion or expiration of this contract. Nothing contained in this agreement shall be deemed to be a waiver of a Party's right to seek injunctive relief

12.03 No Liability for Exercise of Police Power. Notwithstanding and prevailing over any contrary provision in this Agreement, nothing in this Agreement shall bind the County, the Department of Regulatory and Economic Resources or successor department, or any other County, federal, or state department or authority, committee, or agency: to grant or leave in effect any environmental permit approvals, zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld, or revoked in the discretion of the County or other applicable Governmental Bodies in the exercise of its police power; or to withhold, revoke, or modify any actions taken by the County or other applicable Governmental Bodies to enforce ordinances, regulations, or other laws, including, without limitation, the Consent Agreement entered into on October 7, 2015, between FPL and the County, through its Department of Regulatory and Economic Resources, Division of Environmental Resources Management, regarding the Cooling Canal System located at Turkey Point. The County shall be released and held harmless by FPL from any liability, responsibility, claims, consequential or other damages, or losses to FPL or to any third parties resulting from denial, withholding, or revocation (in whole or in part) of any such approvals of any kind or nature whatsoever. This limitation on liability for the exercise of the County's police power shall specifically, and without limitation, prevail over the County obligations in this Agreement: to cooperate with the development, permitting and construction of the ARWP;; to execute documents or give approvals, regardless of the purpose required for such execution or approvals; to apply for or assist FPL in applying for any County or third party permit or needed approval; and to contest, defend against, or assist FPL in contesting or defending against any challenge of any nature.

**EXECUTION VERSION**

**ARTICLE XIII.  
MISCELLANEOUS**

13.01 Assignment, or Sale, Etc. Neither the County nor FPL may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party; provided, that without the prior consent of FPL, the County may assign its rights and interests under this Agreement to a financial institution as collateral security, or create a security interest in favor of the financial institution over its rights and interests in this Agreement. Any attempt by a Party to make any assignment, sale, lease, transfer or other disposition described in this Section 13.01 shall be void *ab initio*.

13.02 Notice. All notices required under this Agreement shall be in writing unless expressly specified otherwise herein, and shall be delivered in person, by registered or certified mail or by a nationally recognized overnight courier, return receipt requested, or by facsimile transmission or electronic mail, if an electronic mail address is provided, with confirmation by voice or automatic answer-back service promptly following such facsimile transmission or electronic mail, as specified below:

As to the County:

Miami-Dade County

c/o The Director

Miami-Dade Water and Sewer Department

3071 SW 38th Avenue

Miami, Florida 33146

Facsimile: (786) 552-8647

With a copy to:

Miami-Dade County Attorney

111 NW First St. Suite 2810

Miami, Florida 33128

As to FPL:



## EXECUTION VERSION

Florida Power & Light Company  
c/o Site Vice-President of Turkey Point

With a copy to:

Florida Power & Light Company  
Law Department (Law/JB)  
c/o Managing Attorney—Commercial Transactions  
700 Universe Boulevard  
Juno Beach, Florida 33408  
Facsimile: (561) 691-7305

Notices shall be effective upon receipt; provided, that in the event a Party fails to notify the other of the correct person and address for notices pursuant to this Section 13.02, any notice to that Party shall be deemed effective on the third day following the date such notice is sent to the person and address last provided by such Party. Either Party may, at any time, by notice designate any different person(s) or different address(es) or phone number(s) for receipt of notices and correspondence.

13.03 Amendments. This Agreement shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless set forth in a written instrument authorized and executed by the Parties. This Agreement, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties respective successor-in-interest and permitted assigns.

13.04 Survival. The obligations, rights, and remedies of the Parties hereunder, which by their nature survive the termination of this Agreement, shall survive such termination and inure to the benefit of the Parties.

13.05 Construction of Agreement. The Parties expressly agree that no provision of this Agreement should be construed against or interpreted to the disadvantage of any Party by any court or other governmental or judicial authority by reason of such Party having been deemed to have structured or dictated such provision.

13.06 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any person other than the Parties and their permitted successors and assigns any right or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise except as specifically provided in this Agreement.

## EXECUTION VERSION

13.07 Complete Agreement. This Agreement is intended as the complete and exclusive statement of the agreement with respect to the subject matter hereof between the Parties. Parol or extrinsic evidence shall not be used to vary or contradict the express terms of this Agreement and recourse may not be had to alleged prior drafts, negotiations, prior dealings, usage of trade, course of dealing or course of performance to explain or supplement the express terms of this Agreement. Except as specifically set forth in this Agreement, there shall be no warranties, representations or other agreements among the Parties in connection with the subject matter.

13.08 Relationship of Parties. The Parties understand and agree that no Party is an agent, employer, contractor, vendor, representative or partner, that (except as expressly set forth in writing) no Party shall owe a fiduciary duty to any other Party, that no Party shall hold itself out as such to third parties and that no Party is capable of binding any other Party to any obligation or liability without the prior written consent of the other Party. Neither the execution and delivery of this Agreement, nor consummation of the transactions contemplated hereby, shall create or constitute a partnership, joint venture or any other form of business organization or arrangement among the Parties.

13.09 Representations and Warranties. Each Party represents and warrants that (a) it is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized and is qualified to do business in all jurisdictions where it is required to be qualified; (b) it has the necessary power and authority to enter into and perform its obligations under this Agreement; (c) it has duly authorized the person(s) signing this Agreement to execute this Agreement on its behalf; and (d) the execution and delivery of this Agreement and its performance by such Party will not violate, result in a breach of or conflict with any law, rule, regulation order or decree applicable to such Party, its organizational documents or the terms of any other agreement binding on such Party.

13.10 Compliance with Certain Legal Requirements. Each Party shall comply and cause its contractors and consultants to comply with Applicable Laws in performing their respective duties, responsibilities and obligations pursuant to this Agreement. The Parties shall not unlawfully discriminate in the performance of their respective duties under this Agreement. Such laws include but are not limited to the following: Miami-Dade County Resolution No. R-385-95, which creates a policy prohibiting contracts with firms violating the Americans with Disabilities Act of 1990 ("ADA") and other laws prohibiting discrimination on the basis of disability, Miami-Dade County Ordinance No. 72-82 (Conflict of Interest), Resolution No. R-1049-93 (Affirmative Action Plan Furtherance and Compliance), Resolution No. R-185-00 (Domestic Leave Ordinance) and Ordinance No. 02-68 (Security).

13.11 Inspector General. FPL acknowledges that the Office of the Miami-Dade County Inspector General ("IG") has the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions pursuant to Section 2-1076 of the Miami-Dade County Code.

13.12 Audit. The County retains the right to audit and access all relevant non-proprietary files, correspondence and documents directly related to the cost of the work performed under this Agreement.

## EXECUTION VERSION

13.13 Public Records. FPL acknowledges that the County, as a public entity, is subject to Florida's public records law. Said law establishes a right of access to any public record made or received in connection with the official business of any public body, except those records specifically exempted or made confidential by Florida law. The County agrees to use reasonable efforts to notify FPL of any request for disclosure. Failure of FPL to provide written objection to such disclosure within 48 hours shall be considered a waiver of any confidentiality to the requested information and consent to the disclosure. In the event FPL objects to the disclosure, FPL shall within 48 hours of notice to seek an injunction restricting the disclosure of the information. This provision shall survive termination of this Agreement.

13.14 General Interpretative Provisions. Whenever the context may require, terms used in this Agreement shall include the singular and plural forms, and any pronoun shall include the corresponding masculine and feminine forms. The term "including", whenever used in any provision of this Agreement, means including but without limiting the generality of any description preceding or succeeding such term. Each reference to a Person or Party shall include reference to such Person or Party's successors and assigns. All references to "Sections" shall be references to the Sections to this Agreement, except to the extent that any such reference specifically refers to another document. Each of the Parties has agreed to the use of the particular language of the provisions of this Agreement and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the draftsman.

13.15 No Waiver. Any waiver by either Party of its rights with respect to a default (including Events of Default) under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default (including Events of Default) or other matter. The failure of either Party to enforce strict performance by the other Party of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance.

13.16 Integration. This Agreement contains the entire Agreement of the parties with respect to the subject matter and replaces and supersedes all prior agreements or understandings, oral or written, with respect to such subject matter, and such agreements or understandings are now void and no longer in effect.

13.17 Severability. If any Section of this Agreement is found by a court of competent jurisdiction to be null and void, the other Sections shall remain in full force and effect and the Parties shall work in good faith to renegotiate the provisions found to be null and void so that they (i) comply with the law, and (ii) maintain the commercial and legal benefits and obligations of each Party as originally negotiated for as much as is practicable.

13.18 Preparation. Each Party shall bear its own costs and expenses (including fees of counsel and outside advisors) in connection with the preparation, negotiation and execution of this Agreement and in connection with performing its obligations under this Agreement.

13.19 Counterparts. This Agreement may be executed and delivered in counterparts, and may be delivered by facsimile transmission.

EXECUTION VERSION

IN WITNESS WHEREOF, the County and FP&L have executed this Agreement acknowledging their mutual agreement thereto and the obligations and requirements contained herein.

ATTEST:

Harvey Ruvin, Clerk

MIAMI-DADE COUNTY, a political  
subdivision of the State of Florida

Olga Valverde  
Deputy Clerk



By: Carlos Gimenez 07/06/2020  
Mayor

MAURICE L. KEMP  
DEPUTY MAYOR  
MIAMI-DADE CTY, FL

FLORIDA POWER & LIGHT COMPANY,  
a Florida corporation

By: Olga Valverde, Clerk  
[NAME]  
[Title]

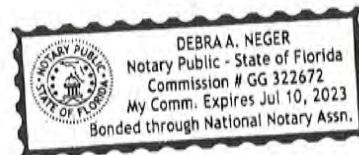
By: Eric Silagy  
Eric Silagy  
President & CEO  
Florida Power & Light Company

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of: (check one)  
☒ physical presence; or ☐ remote audio-visual means, this 29<sup>th</sup> day of May 2020, by Eric Silagy, as President, and FP&L, as Secretary, of FP&L, a Florida Corporation, on behalf of the corporation. He/She/They is/are personally known to me or has/hasn't/have/haven't produced identification and did/did not take an oath.

Debra A. Neger  
Notary Public  
Debra Neger  
Print Name

GG322672  
Serial Number



**EXECUTION VERSION**

**Exhibit A**

**Table A-1 Reclaimed Water Quality Standards**

Parameter	Units	Target Value	Upper Limit
TSS	mg/l	5	20
pH	units	6.0 – 8.0	8.5

**Table A-2 Sentinel Limits**

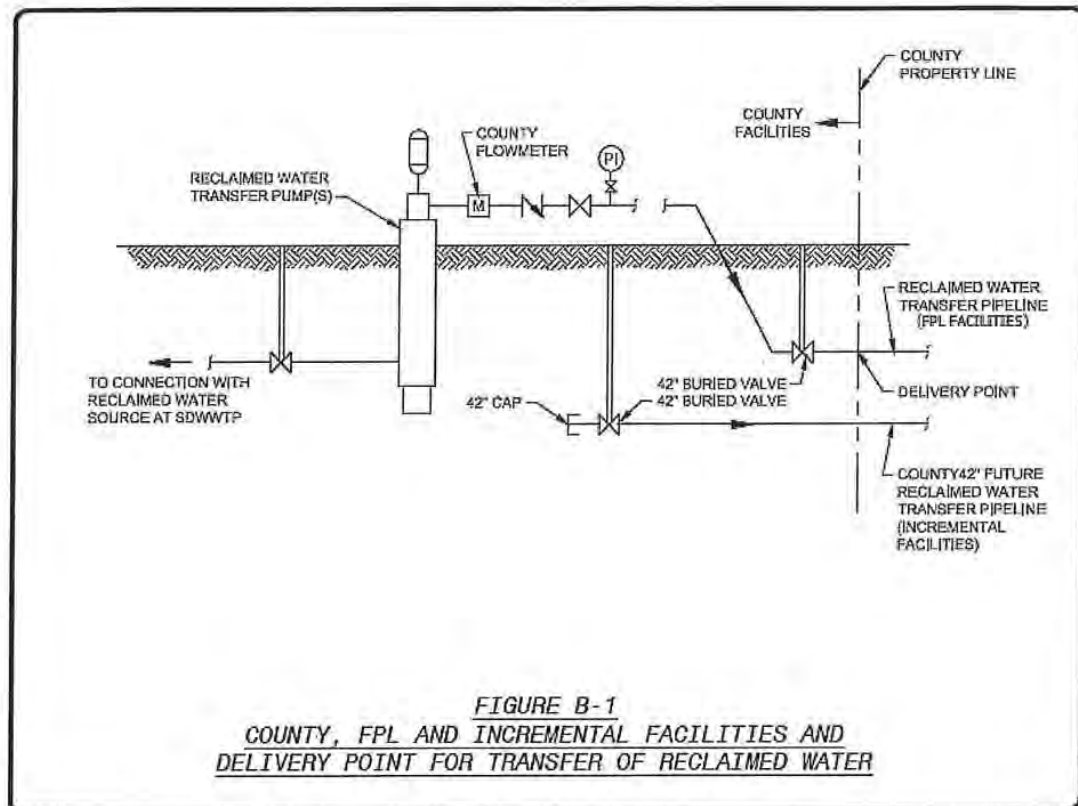
Parameter	Units	Limit
TDS	mg/L	500
Chloride	mg/L	160
Alkalinity (as CaCO <sub>3</sub> )	mg/L	250
Total Phosphorous	mg/L	4.0
Ammonia (as N)	mg/L	35
Nitrate	mg/L	3.5
Nitrite	mg/L	2.5
Magnesium (as Mg)	mg/L	20
Sodium	mg/L	210

**Notes:**

1. Persistent production of Reclaimed Water in excess of Upper Limits of Table A-1 that is not resolved by a recovery plan is a County Event of Default, as described in paragraph 9.01(c).
2. Standard frequency of testing for each parameter will be established by FPL and the County in the sampling plan, that will be part of the Operating Agreement as described in paragraph 5.03. The Sentinel Limits will be reviewed when the sampling plan is developed to verify the appropriateness of these limits in relation to the final ARWP design and final permits and authorizations.
3. The County will fully cooperate on monitoring other water quality parameters that are important to the effective operation of the Advanced Reclaimed Water Treatment System but which are not regulated or treated at the South District Wastewater Treatment Plant.

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**Exhibit B  
Delivery Point, FPL Facilities and County Facilities**



**Notes:**

1. County Facilities include the Reclaimed Water transfer pumps and motors, transfer piping, valves, instruments and electrical components on SDWWTP property including the buried 42" valve adjacent to the SDWWTP Property Line (Delivery Point). County Facilities also includes the Incremental Facilities necessary to provide additional pipeline capacity of up to 60 MGD for Reclaimed Water transport to the Turkey Point site. Incremental Facilities will include a parallel 42" pipeline and related components and will terminate 10' inside the TP Complex property line and 10' inside the SDWWTP property line.
2. FPL Facilities include the Reclaimed Water transfer pipeline from the SDWWTP property line to the FPL treatment facilities at Turkey Point, the FPL treatment facilities and associated Process Water and Process Wastewater pipelines and equipment, the

**EXECUTION VERSION**

cooling tower basins, the deep injection well facilities on the Turkey Point site, and, possibly, on-site Process Wastewater disposal.

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**Exhibit C**  
**Delivery and Coordination Requirements**

<u>Parameter</u>	<u>Quantity</u>
Maximum Daily Quantity (MGD):	15 MGD
Average Daily Quantity (MGD):	9 MGD
Minimum Daily Quantity (MGD):	3.5 MGD
Rate of Change Limit (gpm/hour):	Note 1
Measurement Methodology at Delivery Point:	Note 1

Note 1. An Operating Agreement (Section 5.03 of the Agreement) will be developed in conjunction with the permitting and final design of the ARWP to describe the responsibilities of the Parties in regards to coordinated operations and maintenance of the FPL and County Facilities.



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**Exhibit D**

**Conditions Precedent & Sequence of Events**

**A. Conditions Precedent:**

1. FPL receives approval / assurance that the costs incurred in connection with the FPL Facilities can be recovered.
2. FPL receives Subsequent License Renewal Approval for Turkey Point Units 3 & 4.
3. County receives approval / assurance that it will receive the appropriate reclaimed credits for the project in accordance with Section 403.064, Florida Statutes for the duration of this Agreement.
4. FPL and County receive necessary and appropriate permits, approvals and authorizations from regulatory authorities that support execution of the project. Examples include modifications to any existing permit, authorization or certification that are necessary to proceed with the project.
5. FPL and County receive the necessary and appropriate approvals from the respective authorizing entities; NextEra Energy Board of Directors and Miami-Dade County Board of County Commissioners.

**B. Expected Sequence of Events:**

1. FPL receives Subsequent License Renewal Approval for Units 3 & 4. (December 2019).
2. The Reclaimed Water Service Agreement is presented to FPL management and Miami-Dade County Board of County Commissioners for approval (Summer 2020).
3. Upon Board of County Commission and FPL management approval, FPL and County execute the Reclaimed Water Service Agreement (Summer 2020), subject to any applicable or necessary regulatory approvals.
4. FPL obtains assurance that it can recover the costs it incurs in connection with the Reclaimed Water Service Agreement (Fall 2021).
5. FPL and County identify and obtain all necessary permits, modifications to existing permits, authorizations, or certifications to proceed with project
6. FPL and County commence detailed design, engineering and initiate permitting

## **EXECUTION VERSION**

process.

7. FPL and County complete cost and schedule estimates for their respective facilities, in accordance with the Reclaimed Water Service Agreement.
8. FPL and the County commence construction of FPL and County Facilities in accordance with the terms of the Reclaimed Water Service Agreement.
9. FPL and the County develop the Operations Agreement reflecting the ARWP final design, permits, approvals and authorizations.
10. FPL and the County complete construction of the FPL and County Facilities.
11. FPL test period with intermittent delivery of Reclaimed Water from County.
12. Full delivery of Reclaimed Water for processing into Processed Water and utilization at the TP Complex commences (NLT 12/31/2025).

**STATE OF FLORIDA  
DEPARTMENT  
OF  
ENVIRONMENTAL PROTECTION**



**Conditions of Certification**

**Florida Power & Light Company  
Turkey Point Plant  
Units 3 and 4 Nuclear Power Plant  
Unit 5 Combined Cycle Plant**

**PA 03-45E**

**03/29/2016**

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#### **List of Exhibits**

Exhibit A: Site Plan Wetland Impacts

Exhibit B: Emergency Response Capability Agreement

#### **List of Appendices**

Appendix A: Title V Air Operation Permit No. 0250003-11-AV

Appendix B: Air PSD Construction Permit No. PSD-FL-388

Appendix C: Title V Air Operation Permit No. 0250003-010-AV

Appendix D: NPDES Permit No. FL0001562-004-IW1N

## **I. CERTIFICATION CONTROL**

A. Pursuant to s. 403.501-518, F.S., the Florida Electrical Power Plant Siting Act, this certification is issued to Florida Power & Light Company (FPL) as owner/operator of the Turkey Point Plant. The Department recognizes that Nuclear Units 3 & 4 and Fossil Unit 5 are under the control of different divisions of FPL. Unless otherwise specified, FPL shall be responsible for the compliance with the conditions herein. Violation of any conditions specific to Units 3, 4, or 5 shall solely affect the license of the responsible generating units. Under the control of these Conditions of Certification FPL may operate a 1,150 MW (nominal) facility (Unit 5) consisting of four 170 MW natural gas fired combustion turbines with light oil as back-up fuel, four heat recovery steam generators and one 470 MW steam turbine, and one nuclear plant consisting of two 800 MW (nominal) pressurized water reactors (Units 3 & 4), and all ancillary equipment. Unit 5 is located on approximately 90 acres of the existing 11,000 acres Turkey Point site in Miami-Dade County, Florida. Units 3 & 4 are located on approximately 30 acres of the existing site.

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

## **II. APPLICABLE RULES**

The construction and operation of the certified facility shall be in accordance with all applicable provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the following regulations: Chapters 403 and 373, Florida Statutes (F.S.); South Florida WMD Chapters 40E-1, 40E-2, 40E-3, 40E-4, 40E-8, 40E-21, 40E-40, 40E-45; and 62-4, 62-17, 62-256, 62-296, 62-297, , 62-302, 62-520, 62-531, 62-532, 62-330, 62-550, 62-555, 62-560, 62-600, 62-601, 62-604, 62-610, 62-620, 62-621, 62-650, 62-660, 62-699, 62-701, 62-762, 62-769, 62-777, and 62-780, Florida Administrative Code (F.A.C.), or their successors as they are renumbered.

## **III. DEFINITIONS**

The meaning of terms used herein shall be governed by the definitions contained in Chapters 373 and 403, Florida Statutes, 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:

A. "Applications" shall mean the Site Certification Applications (SCAs) for the certified facilities, as supplemented.

B. "DEO" shall mean the Florida Department of Economic Opportunity.

C. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.

D. "DERM" shall mean the Department of Environmental Resources Management of Miami-Dade County, Florida.

E. "DHR" shall mean the Florida Department of State, Division of Historical Resources.

F. "Emergency conditions" shall mean urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity, and necessitating new or replacement gas pipeline, transmission lines, or access facilities.

G. "Facility" shall mean the certified electrical power generation facilities and all associated structures, including but not limited to: nuclear steam generating units, combined cycle generating units, team turbine generators, transformers, substations, fuel and water storage tanks, air and water pollution control equipment, storm water control ponds and facilities, cooling towers, and related structures.

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

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

J. "IWW Permit" shall mean the Florida Industrial Wastewater permit issued by the Department in accordance with the federal Clean Water Act.

K. "Licensee" shall mean an applicant which has obtained a certification order for the subject electrical power plant.

L. "NPDES permit" shall mean any federal National Pollutant Discharge Elimination System permit issued in accordance with the federal Clean Water Act.

M. "NRC" shall mean Nuclear Regulatory Commission.

N. "NSPS" shall mean new source performance standards as identified in 40 CFR 60.

O. "Power plant", "facility", or "project" shall mean an electrical power generating plant as defined in Section 403.503(12), F.S. and as described in the Site Certification Application.

P. "PSD permit" shall mean the federal Prevention of Significant Deterioration air emissions permit issued in accordance with the federal Clean Air Act.

Q. "SED" shall mean the Department's Southeast District Office.

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

S. "Title III permit" shall mean any federal permit issued in accordance with Title III of the federal Clean Air Act (Hazardous Air pollutants).

T. "Title IV permit" shall mean any federal permit issued in accordance with Title IV of the federal Clean Air Act (Acid Rain).



U. “Title V permit” shall mean any federal permit issued in accordance with Title V of the federal Clean Air Act (Operation).

V. “WASD” shall mean the Water and Sewer Department of Miami-Dade County, Florida.

#### **IV. GENERAL CONDITIONS**

These General Conditions shall be applicable to all areas of the certified site. Compliance with the General Conditions shall be the joint responsibility of FPL Nuclear Plant (Units 3 & 4) and FPL Fossil Fuel Plant (Unit 5). Any violation of a General Condition shall be a violation by Florida Power & Light Company.

##### **A. Facilities Operation**

The Licensee shall at all times properly operate and maintain the Turkey Point Unit 3, 4 and 5 facilities and related appurtenances, and systems of treatment and control that are installed and used to achieve compliance with the conditions of this certification, and are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the approval and when required by Department rules.

Any directly associated linear facilities connecting the collector yard to the switchyard shall be maintained in accordance with the site certification application and any appropriate state and federal regulations concerning use of herbicides. The Licensee shall notify the Southeast District of the Department and the Siting Coordination Office of the type of herbicides to be used at least 60 days prior to their first use.

##### **B. Records Maintained at the Facility**

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

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

##### **C. Change in Discharge or Emissions**

All discharges or emissions authorized herein shall be consistent with the terms and conditions of this certification. The discharge or emission of any pollutant not identified in the application, or more frequently than, or at a level in excess of that authorized herein, shall constitute a violation of the certification. Any anticipated facility expansions, production increases, or process modifications which may result in new, different or increased discharge or

emission of pollutants, change in fuel, or expansion in steam generating capacity must be reported by submission of an appropriate application for amendment, certification or modification pursuant to Chapter 403.516, F.S.

#### **D. Compliance**

1. The Licensee shall comply with all rules adopted by the Department subsequent to the issuance of this certification, which prescribe new or stricter criteria to the extent that the rules are applicable to electric power plants. Except where express variances have been granted, subsequently adopted rules which prescribe new or stricter criteria, which are applicable to electrical power plants, shall operate as a modification pursuant to Section 403.511(5)(a), F.S.

2. Pursuant to Section 403.511(5)(b), F.S., upon written notification to the Department's Siting Coordination Office, the Licensee may choose to operate 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 this certification, so long as this operation causes no violation of standards or these Conditions of Certification.

3. If, for any reason, the Licensee does not comply with or is unable to comply with any limitation specified in this certification, the Licensee shall notify the Southeast District Office of the Department by telephone during the working day that said noncompliance occurs. After normal business hours, the Licensee shall report any condition that poses a public health threat to the State Warning Point at telephone number (850) 413-9911 or (850) 413-9912. The Licensee shall confirm this situation to the Southeast DEP District Office in writing within seventy-two (72) hours of becoming aware of such conditions and shall supply the following information:

- a. A description of the discharge and cause of noncompliance; and,
- b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and,
- c. Steps being taken to reduce, eliminate and prevent recurrence of the non-complying event.

4. 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 non-complying event.

#### **E. Right of Entry**

The Licensee shall allow authorized agency personnel, including but not limited to representatives of the Florida Department of Environmental Protection, and/or Water Management District, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, and recognizing the security that must be maintained at the facility, depending upon the nature of the concern being investigated:

- 1. To enter upon the Licensee's premises where an effluent source is located or in which records are required to be kept under the terms and conditions of this permit; and

2. To have access to and copy any records required to be kept under the conditions of this certification; and

3. To inspect the facilities, equipment, practices, or operations regulated or required under these Conditions; and

4. To sample or monitor any substances or parameters at any location necessary to assure compliance with these Conditions of Certification or Department rules.

#### **F. Enforcement**

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

2. All records, notes, monitoring data and other information relating to the construction or operation of this certified source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the certified source arising under the Florida Statutes or Department rules, except where such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

3. The specific terms of the Fifth Supplemental Agreement and the Revised Plan, referenced in Condition X of these Conditions of Certification, shall remain enforceable by the SFWMD by the terms of the Fifth Supplemental Agreement.

#### **G. Revocation or Suspension**

This certification may be suspended or revoked pursuant to Section 403.512, Florida Statutes, or for violations of any of these Conditions of Certification. This approval is valid only for the specific processes and operations identified within the application and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the certified facilities that are the cause of such action, and other facilities at the Turkey Point Plant shall remain unaffected by such action.

#### **H. 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. As provided in Section 403.511, F.S., the issuance of this certification does not convey neither any vested rights nor any exclusive privileges. Neither does it authorize any injury to human health or welfare, animal or plant life, public or private property or any invasion of personal rights.

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

**I. Property Rights**

The issuance of this certification does not convey any property rights in either real or personal property, or any exclusive privileges thereto. The applicant shall obtain title, lease, easement, or right of use from the State of Florida to any sovereign submerged lands utilized by the project.

**J. Severability**

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

**K. Procedural Rights**

No term or condition of certification shall be interpreted to preclude the post-certification exercise by the Licensee of whatever procedural rights it may have under Chapter 120, F.S.

**L. Review of Site Certification**

The certification shall be final unless revised, revoked or suspended pursuant to law.

**M. Procedural Rights**

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

**N. Modification of Conditions**

The conditions of this certification may be modified in the following manner:

1. Pursuant to Section 403.516(1), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Secretary of the Department of Environmental Protection who further delegates to the Siting Office the authority to modify, after notice and opportunity for hearing, any conditions herein which would not otherwise require approval from the Siting Board
2. 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 project. In

the event of a conflict, the more stringent of the conditions of such permits or of these Conditions of Certification shall be controlling.

3. The Secretary of the Department may modify any condition of this certification except those pertaining to a change in fuel.

4. The Secretary of the Department may modify any condition of this certification if the Secretary finds that an immediate danger to the public health, safety, or welfare requires the issuance of an immediate final order temporarily modifying these Conditions of Certification. If the Secretary elects to exercise this delegated authority, the Secretary shall prepare an immediate final order that recites with particularity the facts underlying the Secretary's finding of an immediate danger to the public health, safety, or welfare. The immediate final order and the modification to the Conditions of Certification shall be effective only for so long as is necessary to address the immediate danger and shall be applicable or enjoined from the date rendered.

5. In the event of a prolonged [thirty (30) days or more] equipment malfunction or shutdown of pollution control equipment, the Secretary of the Department may allow facility operation to resume and continue to take place under an immediate final order temporarily modifying these Conditions of Certification, provided that the Licensee demonstrates that such operation will be in compliance with all applicable ambient air quality standards and PSD increments, water quality standards and rules, solid waste rules, domestic wastewater rules and industrial wastewater rules. During such malfunction or shutdown, the operation of the facility shall comply with all other requirements of this certification and all applicable state and federal emission and effluent standards not affected by the malfunction or shutdown.

6. All other modifications to these conditions shall be made in accordance with Section 403.516, Florida Statutes.

7. Any modification to these conditions shall only affect the units or other facilities that are the subject of the modification request or the Department's proposed order of modification.

**O. Transfer of Certification**

This certification is transferable only upon Department approval in accordance with Section 403.516, F.S., and Rule 62-17.211(3) and 62-730.300, F.A.C. The Licensee shall be liable for any noncompliance of the approved activity until the transfer is approved by the Department.

**P. Safety**

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

**Q. Screening**

The Licensee shall maintain existing screening of the site to the extent feasible through the use of acceptable structures, vegetated earthen walls, or existing or planted vegetation.

**R. Toxic, Deleterious or Hazardous Materials**

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 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. Specific criteria are established for such components in Section 62-520.420, F.A.C.

2. The Licensee shall report all spills of materials having potential to significantly pollute surface or ground waters and which are not confined to a building or similar containment structure, by telephone immediately after discovery of such spill. The Licensee shall submit a written report within forty-eight hours, excluding weekends, from the original notification. The telephone report shall be submitted by calling the DEP Southeast District Office Industrial Wastewater Compliance/Enforcement Section. After normal business hours, the Licensee shall contact the State Warning Point by calling (850) 413-9911 or (850) 413-9912. The written report shall include, but not be limited to, a detailed description of how the spill occurred, the name and chemical make-up (include any Material Safety Data Sheets) of the substance, the amount spilled, the time and date of the spill, the name and title of the person who first reported the spill, the size and extent of the spill and surface types (impervious, ground, water bodies, etc.) it impacted, the cleanup procedures used and status of completion, and include a map or aerial photograph showing the extent and paths of the material flow.

3. The Licensee shall notify the Department's Siting Coordination Office of any amendments, modifications, or renewals of NRC-issued Operating Licenses.

**S. Noise**

Construction and operation noise shall not exceed noise criteria or any applicable requirements of Miami-Dade County. The Licensee shall notify area residents in advance of the onset and anticipated duration of the steam blowout of the facility's heat recovery steam generator and steam lines

**T. Flood Control Protection**

Any construction of new facilities for the certified plant and associated facilities shall be protected from flood damage by construction in such a manner as to comply with the appropriate Miami-Dade County flood protection requirements or by flood proofing or by raising the elevation of the facilities above the 100-year flood level, whichever is more stringent. However, existing facilities are not required to be modified to comply with such flood control protection standards.

**U. Historical or Archaeological Finds**

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

**V. Endangered and Threatened Species**

Prior to start of construction, the Licensee shall survey the portion of the certified site which may be affected by construction for species of animal and plant life listed as endangered or threatened by the federal government or listed as endangered by the state. If these species are found, their presence shall be reported to the Siting Coordination Office, the SED, and the Florida Fish & Wildlife Conservation Commission's Office of Policy and Stakeholder Coordination. These species shall not be disturbed, if practicable. If avoidance is not practicable, the endangered species shall be treated as recommended by the appropriate agency. Entombment of gopher tortoises shall not be allowed.

**W. Dispute Resolution**

If a dispute situation arises between the Licensee and an agency exercising its regulatory jurisdiction, the Department shall act as mediator to resolve it. If, after mediation, a mutual agreement cannot be reached between the parties, then the matter shall be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S.

**X. Laboratories and Quality Assurance**

1. The Licensee shall ensure that all laboratory analytical data submitted to the Department, as required by this certification, are from a laboratory which is approved by the Department and meets the requirements of Chapter 62-160, F.A.C.

2. The Licensee shall ensure that all samples required pursuant to this certification are taken by an appropriately trained technician following EPA and Department approved sampling procedures and chain-of-custody requirements in accordance with Rule 62-160, F.A.C. Records of monitoring information shall follow the guidelines in Rule 62-160.600, F.A.C. All chain-of-custody records shall be retained on-site for at least three (3) years and made available to the Department immediately upon request.

3. Records of monitoring information shall include:

- a. the date, exact place, and time of sampling or measurements;
- b. the person responsible for performing the sampling or measurements;
- c. the dates analyses were performed;
- d. the person responsible for performing the analyses;
- e. the analytical techniques or methods used; and,
- f. the results of such analyses.

## Y. Procedures for Post-Certification Submittals

1. The licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due-dates for information required of the licensee are identified. 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 and any affected agency or agency subunit to whom the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below or equivalent.

(62-17.191, F.A.C.)

Condition Number	Requirement and timeframe	Due Date	Name of Agency or agency subunit to whom the submittal is required to be provided

2. Purpose of Submittals: Conditions of Certification which provide for the post-certification submittal of information to DEP or other agencies by the licensee are for the purpose of facilitating monitoring by the Department of the effects arising from the certified facilities. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with the conditions of certification, without any further agency action.

3. Filings: All post-certification submittals of information by the licensee or copies of applications for separate federal permits which are to be issued by State agencies are to be filed with DEP Siting Office. Copies of each submittal shall also be simultaneously copied to any other agency indicated in the specific conditions requiring the post-certification submittals.

4. Completeness: The DEP shall promptly review each post-certification submittal for completeness. This review shall include consultation with the other agencies receiving the post-certification submittal. For the purposes of this condition, completeness shall mean that the information submitted is both complete and sufficient. If the submittal is found to be incomplete, the licensee shall be so notified. Failure to issue such a notice within forty-five (45) days after filing of the submittal shall constitute a finding of completeness. (62-17.191, F.A.C.)

5. Interagency Meetings: Within sixty (60) days of the filing of a complete post-certification submittal, DEP may conduct an interagency meeting with other agencies which received copies of the submittal. The purpose of such an interagency meeting shall be for the



agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether reasonable assurance of compliance with the conditions of certification has been provided. Failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these conditions nor to delay the time frames for review established by these conditions.

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

## **V. CONSTRUCTION**

### **A. Standards and Review of Plans**

1. All construction at the facility shall be pursuant to the design standards presented in the application or amended application and the standards or plans and drawings submitted and signed by an engineer registered in the state of Florida. The site plan layout for Unit 5 shall be consistent with or have wetland impacts less than the plan attached hereto as Exhibit A. Any subsequent revisions to the site plan shall avoid and minimize wetland impacts at least to the same extent as is accomplished in Exhibit A. Specific DEP Southeast District Office acceptance of plans will be required based upon a determination of consistency with approved design concepts, regulations, and these conditions prior to initiation of construction of any: industrial waste treatment facility; domestic waste treatment facility; potable water treatment and supply system; ground water monitoring system, storm water runoff system; solid waste disposal area; and hazardous or toxic handling facility or area. The Licensee shall present specific plans for these facilities for review by the DEP Southeast District Office at least ninety (90) days prior to construction of those portions of the facility for which the plans are then being submitted, unless other time limits are specified in the following conditions herein. Review and approval or disapproval shall be accomplished in accordance with Chapter 120, F.S., or these Conditions of Certification as applicable.

2. The Department must be notified in writing and prior written approval obtained for any material change or revision to be made to the project during construction which is in conflict with these Conditions of Certification. If there is any material change or revision made to a project approved by the Department without this prior written approval, the project will be considered to have been constructed without Departmental approval, the construction will not be cleared for service, and the construction will be considered a violation of these Conditions of Certification.

3. Ninety (90) days prior to the anticipated date of first operation, the Licensee shall provide the Department with an itemized list of any changes made to the facility design and operation plans that would affect a change in discharge, as referenced in Condition

IV.C., subsequent to the time of issuance of this Certification. This pre-operational review of the final design and operation shall demonstrate continued compliance with Department rules and standards.

4. Final drainage plans illustrating any new or modified stormwater treatment facilities and conveyances for construction phases of the certified facility site shall be submitted to the DEP Southeast District Manager and the SFWMD as applicable for review and approval prior to construction of any such conveyance or facility. The Department shall indicate its approval or disapproval within 60 days of the submittal. Analysis report of the produced ground samples shall be submitted 30 days before surface water discharge begins.

**B. Control Measures**

1. To control runoff which may reach and thereby pollute waters of the state, necessary measures shall be utilized to settle, filter, treat or absorb silt containing or pollutant laden storm water to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units (NTU) above background in waters of the state or significant degradation of Outstanding Florida Waters in violation of Rule 62-4.242, F.A.C. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5. The Licensee shall comply with the applicable nonprocedural requirements in Rules 40B-4, 40C-42, 40D-4 and/or 40E-4, F.A.C.

2. Any open burning in connection with initial land clearing shall be in accordance with Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum, and any other applicable county regulation. Any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., shall be approved by the DEP Southeast District office in conjunction with the Division of Forestry and any other county regulations that may apply. Burning shall not occur if not approved by the appropriate agency or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.

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

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

5. The Licensee shall employ proper odor and dust control techniques to minimize odor and fugitive dust emissions. The applicant shall employ control techniques sufficient to prevent nuisance conditions which interfere with enjoyment of residents of adjoining property.

6. The Licensee shall develop the site so as to retain the buffer of natural vegetation as described in the Unit 5 application and in Condition IV.Q., Screening.

7. Dewatering operations during construction shall be carried out in accordance with Rule 62-621.300(2), F.A.C.

### **C. Environmental Control Program**

An environmental control program shall be established under the supervision of a Florida registered professional engineer or other qualified person to assure that all construction activities conform to applicable environmental regulations and the applicable Conditions of Certification. If a violation of standards, harmful effects or irreversible environmental damage not anticipated by the application or the evidence presented at the certification hearing is detected during construction, the Licensee shall notify the DEP District Office as required by Condition IV.D., Compliance.

### **D. Reporting**

Notice of commencement of construction shall be submitted to the Siting Coordination Office and the DEP Southeast District Office within fifteen (15) days after initiation. Starting three (3) months after construction commences, a quarterly construction status report shall be submitted to the DEP Southeast District Office. The report shall be a short narrative describing the progress of construction.

## **VI. UNIT 5 SPECIFIC CONDITIONS**

### **A. Air**

1. The construction and operation of the Turkey Point Unit 5 project shall be in accordance with all applicable provisions of Title V Air Operation Permit No. 0250003-11-AV, and Permit No. PSD-FL-338 (DEP Permit No. 0250003-006-AC), (attached as Appendices A and B) as well as any other permit required under a federal program such as Title III, Title IV and/or Title V issued for Turkey Point Unit 5 and any revisions, amendments, corrections or modifications thereto, and of Chapters 62-210 through 62-297, F.A.C.

2. All documents related to compliance activities such as reports, tests, and notifications shall be submitted to the Compliance Authority at:

Air Quality Division  
DEP Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, Florida 33406

Copies of all such documents shall also be submitted to Miami-Dade  
County at:

Air Quality Management  
Department of Environmental Resources Management  
33 Southwest 2nd Avenue, Suite 900  
Miami, Florida 33130-1540

All documents related to applications for permits to construct, operate or modify an emissions unit shall be submitted to:

Division of Air Resource Management  
Florida Department of Environmental Protection  
2600 Blair Stone Road (MS #5505)

Tallahassee, Florida 32399-2400

and notice of all applications for permits to construct, operate or modify an emissions unit shall be submitted to:

Siting Coordination Office  
Florida Department of Environmental Protection  
2600 Blair Stone Road (MS #5500)  
Tallahassee, Florida 32399-2400

**B. Wetlands**

1. Mitigation – Mitigation shall include on-site restoration and enhancement, purchase of credits in a mitigation bank, and contribution of wetlands for conservation purposes, as described in the document “Turkey Point Expansion Project, Refined Mitigation Proposal, FPL, April 2004” or as subsequently amended or modified.

a. Initial mitigation, by planting wetland plant species and hydrologic improvements, shall occur within 30 days of completion of construction; at this time the Licensee shall submit to the Department a baseline ("time zero") report. The report shall include details on the progress of the hydrologic improvements, a list of species planted, the number of individuals planted, and the date of the plantings. The report shall contain photographs, taken from referenced locations, to represent the entire site. Additionally, a drawing shall be included to show the location and direction of the camera. Subsequent monitoring reports shall be submitted quarterly, the first report being due 90 days after the baseline report. The quarterly reports shall include the number of plants surviving from the initial planting, additional seedlings planted, and explanations if survivorship is trending toward failure. The reports shall include photographs from the locations referenced in the baseline report.

b. Mitigation will be deemed successful when all of the following criteria have been continuously met on the mitigation site for a period of at least two growing seasons (but no earlier than two years after the initial planting), without intervention in the form of irrigation, dewatering, removal of undesirable vegetation, or replanting of desirable vegetation:

- i. The percent cover of the mitigation wetland area exceeds 80% of native wetland plants
- ii. Nuisance and exotic species are limited to 5% or less of the total cover.
- iii. The desirable plants are reproducing naturally, either by normal, healthy vegetative spread, or through seedling establishment, growth and survival.
- iv. The size distribution of the desirable species increases with time.
- v. The functional assessment scores indicate that the functional value of the wetlands have made up for the functional loss of the project's impacts.

c. The Licensee shall notify the SED whenever the Licensee believes the mitigation is successful, but in no event earlier than two years after the mitigation is implemented.

i. The notice shall include a copy of the most recent Annual Progress and Mitigation Success Report and a narrative that describes how the reported data support the claim that each of the mitigation success criteria has been met. The Licensee shall allow SED personnel the opportunity to schedule and conduct an on-site inspection of the mitigation site.

ii. Within 60 days of receipt of the notice, the SED shall notify the Licensee by certified mail that:

(1) That the mitigation has been successfully completed, or

(2) That the mitigation is not successful, identifying specifically those elements of the mitigation that do not meet the success criteria, or

(3) That the mitigation cannot be determined to be successful at this time, identifying specifically those elements of the mitigation that prevent the SED from determining whether the mitigation is successful.

iii. When the SED notifies the Licensee that the mitigation is successful, or, if the SED fails to notify the Licensee within the time period prescribed by this condition, then the Licensee's mitigation obligation under the terms of this certification shall be deemed satisfied.

d. The Licensee shall prepare a revised mitigation plan if, three (3) years after completion of planting, it is determined by the SED or the Licensee that the mitigation site will not meet the success criteria. The revised plan shall be submitted to the SED for review and approval and shall include the following:

i. The plan shall discuss why the mitigation site is not meeting the success criteria and propose a plan of action by which to correct any deficiencies in the original plan.

ii. The Licensee shall propose a schedule for implementation and completion of the provisions of the revised mitigation plan. Upon approval by the SED, the Licensee shall begin implementing the revised plan within 60 days of SED approval. The approved revised plan shall be copied to the Siting Coordination Office and shall be made a part of these Conditions of Certification.

2. Narrative progress reports shall be submitted every 6 months indicating the status of the mitigation efforts. The cover page shall indicate the certification number, project name and the Licensee name. The first semi-annual progress report shall be submitted six months after the date of certification issuance. Reports shall be submitted every six (6) months thereafter until all mitigation work required by these conditions of certification has been completed. The reports shall include the following information:

a. The date activities were begun. Indicate whether work has begun on-site.

b. A brief description of the extent of work (i.e., dredge, fill, monitoring, mitigation, management, maintenance) completed since the previous report or since this certification was issued. Show on copies of the site drawings those areas where work has been completed.

c. A brief description and the extent of work (i.e. dredge, fill, monitoring, mitigation, management, maintenance) anticipated to be accomplished within the next six months. Indicate on copies of the site drawings those areas where it is anticipated that work will be done.

d. The reports shall include photographs taken from the permanent stations, some of which must be in the vegetation sampling areas, a description of problems encountered and solutions undertaken, and anticipated work for the next six months.

e. The reports shall include, on the first page and just below the title, a signed certification by the individual who supervised preparation of the report the following statement: "This report represents a true and accurate description of the activities conducted during the six month period covered by this report."

3. Best management practices for erosion control shall be implemented and maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C., or in excess of the ambient turbidity levels of Outstanding Florida Waters. Methods shall include, but are not limited to the use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and the installation of turbidity screens around the immediate project site.

4. The Licensee shall be responsible for ensuring that erosion control devices/procedures are inspected and maintained daily during all phases of construction authorized by these Conditions of Certification until all areas that were disturbed during construction are sufficiently stabilized to prevent erosion, siltation, and turbid discharges.

5. The following measures shall be taken immediately by the Licensee whenever turbidity levels within waters of the State surrounding the project site exceed 29 NTUs above background or exceed the ambient water quality levels of Outstanding Florida Waters:

a. Immediately cease all work contributing to the water quality violation. Operations may not resume until the SED gives authorization to do so.

b. Notify the SED Environmental Resource Compliance/Enforcement Section at 561/681-6643 within 24 hours of the time the violation is first detected.

c. Stabilize all exposed soils contributing to the violation. Modify the work procedures that were responsible for the violation, install additional turbidity containment devices and repair any non-functioning turbidity containment devices.

6. The Licensee shall be responsible for ensuring that the construction and operation of the Project results in no significant degradation of the adjacent Biscayne National Park, an Outstanding Florida Water, in violation of Rule 62-4.242 and 62-302, F.A.C.

### **C. Domestic and Industrial Waste**

The Licensee is hereby authorized to operate water and wastewater facilities as shown or described in the Turkey Point Unit 5 Site Certification Application and other documents on file with the Department and made a part hereof. The Licensee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment.

### **D. Stormwater**

1. Prior to construction, the Licensee shall submit a revised analysis to demonstrate that:
  - a. The post-development peak discharge rate does not exceed the pre-development discharge rate for the 25-year, 72-hour design storm, and
  - b. That the volume of the water quality treatment facility for off-site discharges is adequate to handle the post-development peak flow.
2. Final drainage plans illustrating all stormwater treatment facilities and conveyances for construction phase and for the operational phase of the Unit 5 site shall be submitted to the SED for review and approval prior to construction of any such conveyance or facility. The SED shall indicate its approval or disapproval within 60 days of the submittal or the submittal shall be considered approved.
3. Site construction activities shall be conducted in a manner which does not cause violations of state water quality standards. The Licensee shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. Temporary erosion control measures shall be implemented prior to any construction, and installation of permanent control measures shall be completed within seven (7) days of the start of any construction activity.
4. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into a receiving water body exists. Turbidity barriers shall remain in place at all locations until construction is completed, soils are stabilized, and vegetation has been established. The Licensee shall correct any erosion or shoaling that causes adverse impacts to water resources.
5. All construction at the facility shall be pursuant to the design standards presented in the application or amended application and the standards or plans and drawings submitted and signed by an engineer registered in the state of Florida. Specific SED acceptance of plans will be required based upon a determination of consistency with approved design concepts, regulations, and these conditions prior to initiation of construction of the stormwater management system. Review and approval or disapproval shall be accomplished in accordance with Chapter 120, F.S., or these conditions of certification as applicable.
6. Within 30 days after completion of construction of the Stormwater management system, the Licensee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required "Environmental Resource Permit As-Built Certification" (DEP

Form No. 62-330.310(1), F.A.C.). The statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.

**E. Solid and Hazardous Waste**

No solid or hazardous waste is to be permanently stored onsite. Any hazardous waste generated on site shall be contained and transferred for disposal to a properly licensed contractor in accordance with the Department's rules and regulations.

**VII. UNIT 3 & 4 SPECIFIC CONDITIONS**

**A. Air**

The operation of the Turkey Point Unit 3 and 4 Nuclear Plant shall be in accordance with all applicable provisions of Title V Air Operation Permit 0250003-010-AV. Title V Air Operation Permit 0250003-010-AV is incorporated by reference herein as part of this Certification and attached as Appendix C.

The provisions of the above shall be conditions of this certification. The licensee shall comply with the substantive provisions and limitations set forth in Title V Air Operation Permit Number 0250003-010-AV as part of these Conditions of Certification, 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 of Certification.

**B. Radiological**

**1. Decommissioning**

Upon application to the U.S. Nuclear Regulatory Commission (NRC) for authority to decommission the plant, the applicant shall provide the Department a copy of the plan submitted to NRC for radioactive materials removal and/or containment for the site. Should the Department's review of the written plan reveal deficiencies, the Department shall bring such deficiencies to the attention of the applicant and the NRC and maintains the right to initiate a request, consistent with NRC procedural requirements that remedial action be taken to correct the deficiencies.

**2. Emergency Plan**

The applicant shall work with the State Division of Emergency Management and the State Department of Health, Bureau of Radiation Control, and Miami-Dade County in biennial updating of the emergency procedures and evacuation planning as necessary, including but not limited to improvements in communication and warning systems and in updating predicted plume overlays.



### **3. *Radiological Release Limitations***

The recommendation in the Power Plant Site Certification Analysis that certification be issued is based in part upon the fact that in order to obtain a construction permit and operating license from NRC, the applicant must comply with all applicable regulations, requirements, and standards of the NRC which limit the release of radioactive materials in solid waste, liquid or gaseous effluents to the environment. The above NRC regulations, requirements and standards include the following:

- a. Standards for Protection Against Radiation, U.S. Nuclear Regulatory Commission Rules and Regulations, Title 10, Chapter 1, Part 20, Code of Federal Regulations, as presently in effect or hereafter amended.
- b. Limitations and conditions for the controlled release of radioactive materials in solid, liquid and gaseous effluents contained in the Radiological Environmental Monitoring Program required by Title 10, 10 CFR 50, Appendix I as presently in effect or hereafter amended.

The Department has the statutory duty to insure that the location and operation of Turkey Point 3 and 4 will produce minimal adverse effects on human health, the environment, the ecology and the land and its wildlife, and the ecology of State waters and their aquatic life. (Fla. Stat. Section 403.502.) The Department has determined that the construction and operation of Turkey Point 3 and 4 must comply with the above radiological release limitations in order to minimize adverse effects on human health and the environment. This certification is conditioned upon full compliance by the applicant with the applicable above regulations, requirements and standards.

The NRC has the duty and responsibility imposed by statute, to enforce compliance by the applicant with NRC standards and technical specifications, to assure that the construction and operation of Turkey Point 3 and 4 will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public. See Section 103(d) of the Atomic Energy Act, 42 U.S.C. section 2133(d) (1970); accord. 42 U.S.C. section 2332(a) (1970) including any revisions.

However, should the Department determine that the NRC has failed to discharge its duty and responsibility, it may bring any such deficiencies to the attention of the applicant and the NRC, and maintains the right to initiate a request, consistent with NRC procedural requirements, that appropriate enforcement action be taken to correct the deficiencies. Should such appropriate enforcement action not be forthcoming, and the Department determines that such enforcement action is necessary to insure that adverse effects on human health and the environment by continued operation of Turkey Point 3 and 4 are minimized, the Department reserves the right to take appropriate State enforcement action pursuant to Chapter 403, Florida Statutes, against the applicant for violation of any of the above radiological release limitations on the grounds that the violation of such limitations constitutes a violation of this express condition of certification.

### **4. *Monitoring***

The applicant shall comply with the most recent Department of Health Environmental Surveillance Agreement or its equivalent or future replacement. Should the

Department of Health determine that additional monitoring is required, it may take appropriate action to require such monitoring by modification of this condition of certification.

**5. *Interagency Agreement***

The applicant shall comply with the Emergency Response Capability Agreement between the Florida Department of Health and the Florida Power and Light Company effective July 1, 1982, or as may be subsequently revised. (Attached as Exhibit B.)

**6. *Reservation of Legal Rights***

The Department recognizes that the NRC has exclusive authority in certain areas related to the construction and operation of Turkey Point Units 3 and 4. These conditions of certification do not limit, expand or supersede any federal requirement or restriction under federal law, regulation, or regulatory approval or license. Compliance with the conditions herein does not constitute a waiver of the applicant's responsibility to comply with all applicable NRC requirements. Applicant's acceptance of these radiological conditions of certification does not, in and of itself, constitute a waiver by Applicant of any claim that any such radiological conditions are invalid under the doctrine of federal preemption or otherwise by law.

**7. *Annual Radiological Environmental Operating Report***

Upon submittal to the NRC, a copy of the Annual Radiological Environmental Operating Report for Turkey Point Units 3 & 4 shall be provided to the Department's Siting Coordination Office.

**VIII. INDUSTRIAL WASTE DISCHARGES**

Any discharges during construction and operation of Units 3, 4 & 5 shall be in accordance with all applicable provisions of NPDES permit No. FL0001562-004-IW1N (attached as Appendix D) as well as any subsequent modifications, amendments and/or renewals.

**IX. BISCAYNE BAY SURFACE WATER MONITORING**

As proposed, the Turkey Point Units 3 and 4 uprate project may cause an increase in temperature and salinity in the cooling canal system. Field data is needed in order to determine impacts of the proposed changes in the Turkey Point cooling canal system on Biscayne Bay.

A. No later than July 31, 2009, FPL shall submit a Biscayne Bay Surface Water Monitoring Plan (Plan) pursuant to Chapter 62-302, F.A.C. to the DEP Southeast District Office for review and approval. The submittal deadline may be extended upon agreement between the Licensee, DEP, SFWMD and Miami-Dade County. Agreements for extensions shall be submitted to the Siting Office prior to the deadline. The Plan shall include, at a minimum, the following components:

1. salinity and temperature monitoring within the surface waters of the Bay, including the Biscayne Bay Aquatic Preserve; (Specific parameters to be measured, including specific conductance and temperature, shall be sampled in accordance with Chapter 62-160, F.A.C.);

2. a minimum of five monitoring stations located near shore in the vicinity of the Turkey Point Plant; and

3. specific monitoring locations, sampling frequencies and methods, and specific parameters to be monitored.

B. This monitoring data shall be compared to data using compatible monitoring instrumentation already in place in Biscayne Bay.

C. FPL shall continue the monitoring of salinity and temperature in the cooling canals under its industrial waste water facility permit.

D. If the Department determines that the pre- and post-Uprate salinity and temperature monitoring data indicate potential adverse changes in the surface water in Biscayne Bay, then the Department may propose additional measures to evaluate or to abate such impacts to Biscayne Bay.

E. The Plan, including monitoring locations, shall be approved prior to implementation. The Department shall indicate its approval or disapproval of the submitted plan within 90 days of the originally submitted information. In the event that the Department requires additional information for the licensee to complete, and the Department to approve the Plan, the Department shall make a written request to the licensee for additional information no later than 30 days after receipt of the submitted information. Any changes to the approved Surface Water Monitoring Plan shall be approved by Coastal and Aquatic Managed Areas personnel in consultation with other FDEP personnel.

[62-160, 62-302, 62-302.700, 62-520.600, F.A.C.]

## **X. SURFACE WATER, GROUND WATER, ECOLOGICAL MONITORING**

This is a consolidated condition agreed upon by three agencies, Department of Environmental Protection (DEP), Miami-Dade County Department of Environmental Resource Management (DERM) and the South Florida Water Management District (SFWMD). This consolidated condition sets forth the framework for new monitoring and, as may be needed, abatement or mitigation measures, for approval of FPL's Turkey Point Units 3 and 4 Uprate Application. Specific monitoring and potential modeling parameters will be identified and implemented pursuant to a monitoring plan as part of a supplemental agreement between FPL and the SFWMD as described below.

A. In addition to the monitoring framework set forth in this consolidated condition, no later than July 31, 2009, FPL shall execute a SFWMD approved Fifth Supplemental Turkey Point Agreement ("Fifth Supplemental Agreement") to the original 1972 Agreement between FPL and the SFWMD pertaining to FPL's obligation to monitor for impacts of the Turkey Point cooling canal system on the water resources of the SFWMD in general and the facilities and operations of the SFWMD (the "Agreement"). Subject to the SFWMD's approval, FPL shall also amend the Agreement's Revised Operating Manual as referenced in paragraph C. "Monitoring Provisions" (the "Revised Plan") of the Fourth Supplemental Agreement, dated July 15, 1983. The Revised Plan shall be incorporated into the Fifth Supplemental Agreement and shall include assessment of potential impacts to surface water and ground water including wetlands, as needed, in the vicinity of the cooling canal system. The specific monitoring boundaries shall be

determined as part of the Revised Plan. The submittal deadline may be extended upon agreement between the Licensee, the SFWMD, DEP and Miami-Dade County. Agreements for extensions shall be submitted to the Siting Office prior to the deadline.

B. The Revised Plan shall be designed to be in concurrence with other existing and ongoing monitoring efforts in the area and shall include but not necessarily be limited to, surface water, groundwater and water quality monitoring, and ecological monitoring to:

1. delineate the vertical and horizontal extent of the hyper-saline plume that originates from the cooling canal system and to characterize the water quality including salinity and temperature impacts of this plume for the baseline condition;
2. determine the extent and effect of the groundwater plume on surface water quality as a baseline condition; and
3. detect changes in the quantity and quality of surface and ground water over time due to the cooling canal system associated with the Uprate project. The Revised Plan shall include installation and monitoring of an appropriate network of wells and surface water stations. The Revised Plan shall be approved by the SFWMD in consultation with the DEP Office of Coastal and Aquatic Managed Areas, the DEP Southeast District Office and DERM.

C. FPL shall transmit electronic copies of all data and reports required under the Fifth Supplemental Agreement and the Revised Plan in accordance with timeframes as approved in the Fifth Supplemental Agreement to:

SFWMD, Director, Water Supply (or alternative transmittal procedures to be described in the Fifth Supplemental Agreement);

Miami-Dade County, Director, DERM;

DEP, Director, Southeast District Office;

DEP Siting Coordination Office

DEP, Director, Biscayne Bay Aquatic Preserve Manager,

D. If the DEP in consultation with SFWMD and DERM determines that the pre- and post-Uprate monitoring data: is insufficient to evaluate changes as a result of this project; indicates harm or potential harm to the waters of the State including ecological resources; exceeds State or County water quality standards; or is inconsistent with the goals and objectives of the CERP Biscayne Bay Coastal Wetlands Project, then additional measures, including enhanced monitoring and/or modeling, shall be required to evaluate or to abate such impacts. Additional measures include but are not limited to:

1. the development and application of a 3-dimensional coupled surface and groundwater model (density dependent) to further assess impacts of the Uprate Project on ground and surface waters; such model shall be calibrated and verified using the data collection during the monitoring period;
2. mitigation measures to offset such impacts of the Uprate Project necessary to comply with State and local water quality standards, which may include methods and features to reduce and mitigate salinity increases in groundwater including the use of highly treated reuse water for recharge of the Biscayne Aquifer or wetlands rehydration;

3. operational changes in the cooling canal system to reduce any such impacts; and/or
4. other measures to abate impacts as may be described in the Revised Plan.

[Sections 373.016, 373.223, F.S.; Rules 40E-4.011, 40E-4.301, 40E-4.302, F.A.C.; Sections 62-302 and 62-520, F.A.C.; Section 24-42, Code of Miami-Dade County, Miami-Dade County Comprehensive Development Master Plan (CDMP) Land Use Element, Conservation Element, Intergovernmental Coordination Element, Coastal Management Element.]

## **XI. COOLING CANAL SYSTEM FLORIDAN PRODUCTION WELL MONITORING**

FPL shall monitor the proposed Floridan production wells (F-1, F-2, F-3, F-4 and F-5) on a quarterly basis for: water level or pressure; temperature; pH, Total Dissolved Solids; specific conductance; major anions/cations (including chlorides); NH<sub>3</sub>; total nitrogen; and total phosphorus. This monitoring data shall be made available to Miami-Dade County as well as FDEP and the SFWMD. On a semi-annual basis, Miami-Dade County may collect groundwater samples of the proposed Floridan production wells (F-1, F-2, F-3, F-4 and F-5) for constituents including but not limited to O18/16 and Strontium (87Sr/86Sr).

*[Pre-Hearing Joint Stipulation signed 11/20/15 and Final Order issued by the Siting Board signed 4/1/16]*

## **XII. COOLING CANAL SYSTEM**

Permits and approvals that regulate the operation of the cooling canal system are incorporated herein and attached as Appendices. These permits and approvals shall be fully enforceable by both the permitting agency and as Conditions of Certification for Units 3 and 4. Any violation of such permits and approvals, where it is determined that Units 3 and 4 are the cause, shall also be a violation of these Conditions of Certification.

## **XIII. WATER MANAGEMENT DISTRICT**

### **A. General**

1. If this Certification is transferred, pursuant to Condition IV.O., from the Licensee to another party, the Licensee from whom the Certification is transferred shall remain liable for corrective actions that may be required as a result of any violations that occurred prior to the transfer.
2. This Certification is based in part 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 with conditions XI.
3. 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), and 40E-3 (Water Wells), F.A.C.

4. 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.

5. 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.

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

7. 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 these Conditions of 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.

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

9. The SFWMD may take any and all lawful actions that are necessary to enforce any condition of this Certification based on the authorizing statutes and rules of the SFWMD. Prior to initiating such action, the SFWMD shall notify the Siting Coordination Office of DEP of the proposed action.

10. 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 conditions XIII for that portion of project. 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.

11. Within sixty (60) days of the determination by SFWMD staff that any 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 and 40E-3, F.A.C., and these Conditions of Certification. If the information is not complete or sufficient, the SFWMD shall identify what items remain to be addressed. No construction activities shall begin until the SFWMD has notified the Licensee in writing that the activities are in compliance with the applicable SFWMD criteria, or failed to notify the Licensee in writing within sixty (60) days of finding the information to be complete and sufficient.

12. The Licensee shall submit 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 an appropriate additional information submittal

required by this Certification provided they are clearly identified as a requested amendment or modification to the previously authorized design

**B. Water Use Authorizations**

1. 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.

2. The Licensee shall mitigate interference with existing legal uses that were caused in whole or in part by the Licensee's withdrawals, consistent with the approved mitigation plan. As necessary to offset the interference, mitigation will 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:

a. Inability to draw water consistent with 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; or

b. 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.

c. The inability of an existing legal user to meet its permitted demands without exceeding the permitted allocation.

3. 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:

a. 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.);

b. Damage to agriculture, including damage resulting from reduction in soil moisture resulting from consumptive use;

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

4. 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 the conditions for permit issuance includes:

- a. Reduction in ground or surface water levels that results in harmful lateral movement of the fresh water/salt water interface;
- b. Reduction in water levels that harm the hydroperiod of wetlands;
- d. Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;
- e. Harmful movement of contaminants in violation of state water quality standards; or
- f. Harm to the natural system including damage to habitat for rare or endangered species.

5. 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.

### C. Site Specific Design Authorizations

1. This Certification authorizes an average daily withdrawal of 28.06 million gallons per day (MGD) from the upper production zones of the Floridan aquifer. This allocation is further divided as follows:

14.06 MGD used for cooling water for Unit 5 and process water for Units 1, 2, 3, 4, and 5.

14.00 MGD for salinity reduction in the on-site cooling canal system (CCS).

2. Upon written notification from the SFWMD that a reliable source of reclaimed water is available at the project site to serve Unit 5 in a quantity and quality acceptable to the Licensee for cooling purposes for Unit 5, the Licensee shall provide the SFWMD with a schedule for use of reclaimed water, for the SFWMD's review and approval, within 90 days of such notification. Once the use of reclaimed water has been established, the use of Floridan Aquifer water shall be reduced in proportion to the volume of reclaimed water made available to Unit #5, such that the combined sources meet the total demand of a 90-day average withdrawal of 14.06 MGD and an average annual withdrawal of 4,599 MGY. Should reclaimed water become temporarily unavailable, the Licensee shall notify the SFWMD within 24 hours of commencing temporary withdrawals from the Floridan aquifer.

3. The Licensee is currently utilizing and authorized to construct the following wells:

#### Existing Floridan Aquifer Wells

ID	Casing Diameter (inches)	Cased Depth (feet)	Max Depth (feet)	Max Flow (gpm)
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PW-1	24	1,003	1,242	5,000
PW-3	24	1,005	1,247	5,000
PW-4	24	1,015	1,243	5,000

Authorized (never constructed) Floridan Aquifer Wells – Unit 5 Cooling

ID	Casing Diameter (inches)	Cased Depth (feet)	Max Depth (feet)	Max Flow (gpm)
PW-2	24	1,020	1,400	5,000

Proposed Floridan Aquifer Well – CCS Salinity Reduction

ID	Casing Diameter (inches)	Cased Depth (feet)	Max Depth (feet)	Max Flow (gpm)
F-1	20	1,020	1,400	2,500
F-2	20	1,020	1,400	2,500
F-3	20	1,020	1,400	2,500
F-4	20	1,020	1,400	2,500
F-5	20	1,020	1,400	2,500
F-6	20	1,020	1,400	2,500

(Cased and Max Depths indicated for proposed wells are estimated based on existing information and may change as needed to accommodate natural changes in the subsurface.)

4. Prior to the use of any proposed withdrawal facilities authorized under this Certification, the Licensee shall equip each facility with a SFWMD-approved operating water use accounting system and submit a report of calibration to the SFWMD, pursuant to Section 4.1.1 of the Applicants Handbook For Water Use Permit Applications Within the SFWMD. In addition, the Licensee shall submit a report of recalibration for the water use accounting system for each water withdrawal facility (existing and proposed) authorized -under this Certification every five years from each previous calibration, continuing at five year increments. The Licensee shall report monthly withdrawals for each withdrawal facility to the SFWMD quarterly. The Licensee shall specify the water accounting method and means of calibration on each report.

5. Prior to operating the proposed Floridan aquifer wells for the CCS salinity reduction, the Licensee shall submit an operational plan showing how the water use will vary between the wet and dry seasons.

6. *Modifications*

a. Pursuant to Section 373.236(4), F.S., every ten years from the date of certification issuance, the Licensee shall submit a water use compliance report for review and approval by SFWMD staff to SFWMD at [www.sfwmd.gov/ePermitting](http://www.sfwmd.gov/ePermitting), or Regulatory Support, MSC 9611, P.O. Box 24680, West Palm Beach, FL 33416-4680.

b. The Licensee may request a modification of the groundwater 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.

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

- a. A detailed site plan which shows the location(s) for each proposed dewatering area;
  - b. The method(s) used for each dewatering operation;
  - c. The maximum depth for each dewatering operation;
  - d. The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;
  - e. The duration of each dewatering operation;
  - f. 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);
  - g. 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;
  - h. The location of any infiltration trenches and/or recharge barriers;
- and
- i. All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

8. If, during the control of these conditions of certification, any 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.

9. Prior to construction of the proposed on-site 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 final well locations are different from those originally proposed in the site certification application, the Licensee shall also submit to the SFWMD for review and approval an evaluation of the impacts of the proposed pumpage from the alternate well location(s) on adjacent existing legal users, pollution sources, environmental features, and water bodies.

#### 10. *Groundwater Monitoring Plan*

a. Within three months of issuance of this Certification, a preliminary groundwater monitoring plan shall be submitted to the SFWMD for a determination of compliance with the non-procedural requirements of Chapter 40E-2, F.A.C. In developing the monitoring plan, the Licensee shall consider well locations, depth and method of construction, types of screens, and frequency of data collection.

b. Within six months of issuance of this Certification, the Licensee shall implement the groundwater monitoring plan.

c. Data from the monitoring described in Section X of these Conditions of Certification shall be used to evaluate the effectiveness of the CCS salinity reduction in both the CCS and the underlying Biscayne aquifer. In addition, monthly sampling for chloride concentration from the Floridan aquifer production wells used to reduce the salinity reduction in the CCS is required.

#### 11. *Water Conservation Plan*

a. Prior to the commencement of construction, the Licensee shall submit a water conservation plan, as described in Chapter 40E-2, F.A.C., for review and approval by SFWMD staff.

b. The water conservation plan shall incorporate the following components:

i. 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:

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

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

(3) Use of processes to decrease water consumption.

ii. Development and implementation of an employee awareness program concerning water conservation.

### **XIV. 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. U.S. 1 has been identified as Florida Intrastate Highway System (FIHS) and Strategic Intermodal System's (SIS) facilities.

**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 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.

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

1. Placing a bulletin board on site for car pooling advertisements.
2. Requiring that heavy construction vehicles remain onsite for the duration of construction to the extent practicable.

If the applicant uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the applicant 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.

**I. Railroad Spur**

Any newly proposed railroad crossing must comply with the criteria established in Rule Chapter 14-57, Florida Administrative Code (FAC). The following criteria must be considered in opening a new public highway-rail grade crossing on any state, county, or city roadway:

1. Safety
2. Necessity for rail and vehicle traffic.
3. Alternate routes.
4. Effect on rail operations and expenses.
5. Closure of one or more public railroad-grade crossings to offset opening a new crossing.

6. Design of the grade crossing and road approaches.
7. Presence of multiple tracks and their effect upon railroad and highway operations.

The installation of a new public highway-rail grade crossing must have as a minimum roadside flashing lights and gates on all roadway approaches to the crossing. The installation of the crossing surface and signals must be in accordance with current Manual of Uniform Traffic Control Devices (MUTCD), Federal Railroad Administration Rules and Regulations, American Association of State Highway and Transportation Officials (AASHTO) Policy, and the Department's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (Florida's Green Book).

Areas of concern to be considered in determining the rail crossing location are as follows:

1. Roads crossing the tracks at a skewed angle or where the track is curved or super-elevated;
2. Impaired sight distance for motorists and rail engineers;
3. Highway intersections within 75 feet of the crossing which create a greater potential for accidents and create minimal vehicle storage distance;
4. Crossings that are blocked for long periods of time;
5. Switching movements or turnouts;
6. Different elevations of tracks.

## **XV. EMERGENCY MANAGEMENT**

A. FPL shall incorporate the Unit 5 site into the Comprehensive Hurricane Preparation and Recovery Plan for the overall Turkey Point Power Plant Site.

B. FPL shall submit a formal update of the Comprehensive Hurricane Preparation and Recovery Plan to the State Division of Emergency Management, the Miami-Dade County Office of Emergency Management every five (5) years following commencement of commercial operation of the Unit 5 and whenever an additional electrical generating unit is brought into service at the Turkey Point Plant site.

## **XVI. MIAMI-DADE COUNTY**

### **A. General**

Construction and operation of the certified facilities shall be in accordance with all applicable nonprocedural requirements of the laws and ordinances of Miami Dade County in effect on November 14, 2003, including, but not limited to, the Miami Dade Comprehensive Development Master Plan and Chapters 8, 11C, 14, 18A, 24, and 33 of the Code of Miami Dade County, Florida.

## **B. Unit 5 Expansion Project**

### **1. Protection of Existing Legal Water Users**

a. As provided in Condition XI.B.2., if SFWMD determines that the potential exists for Licensee's proposed Floridan Aquifer withdrawals to cause interference with existing legal users, authorization for such withdrawals shall be contingent upon SFWMD establishing acceptable withdrawal rates and requiring necessary and appropriate mitigation, pursuant to SFWMD's Basis of Review for Water Use Permits, to prevent interference with existing legal users. Licensee shall submit copies of any reports on additional modeling, alternative water supplies, and mitigation plans to WASD.

b. Licensee shall provide a copy to WASD of any notice received from SFWMD pursuant to Condition XI.C.3., that a reliable source of reclaimed water is available at the Project site to serve Unit 5.

c. If reclaimed water from the South District Wastewater Treatment Plant is used as a source of makeup to the Unit 5 cooling tower, blowdown from the cooling tower shall be returned to the South District Wastewater Treatment Plant for treatment and disposal. The requirements of Section 24-11(9) of the Code of Miami Dade County, as revised in March 2004, or as subsequently revised pursuant to federal or state law, shall apply to such blowdown returned to the South District Wastewater Treatment Plant.

2. The following detailed plans must be submitted to Miami Dade County Department of Environmental Resources Management (DERM) prior to initiation of work in tidal waters or wetlands:

a. The site plan layout shall be consistent with, or have wetland impacts less than, the plans described in the document "Turkey Point Expansion Project, Refined Mitigation Proposal, FPL, April 2004" or as subsequently amended or modified.

b. Two or more sets of construction drawings and engineering calculations signed and sealed by a professional engineer registered in the State of Florida and a land survey sealed by a licensed land surveyor registered in the State of Florida for those elements of the project that involve wetlands. These plans must include sufficient detail and be prepared at a scale that clearly identifies the limits of filling in wetlands and tidal waters, on-site mitigation areas, structures other than fill in tidal waters or wetlands, and typical cross-sections of all elements of the project that affect wetlands.

c. A construction management plan which shall include methods or best management practices for preventing or controlling secondary impacts from turbidity, siltation, fugitive dust, unpermitted impacts to adjoining waters or wetlands, fill or excavated material, construction debris, noise, or artificial lighting.

d. A plan for further assessment of materials proposed to be used for filling tidal water and wetlands, including physical, chemical and biological effects tests as determined in cooperation with local and state environmental agencies. Placement of fill shall not commence until additional testing and analysis of physical, chemical, and biological characteristics of fill material have been completed in accordance with requirements of DERM.

e. A water quality and biological monitoring plan for documenting compliance with narrative and numerical water quality targets during construction.

f. A post-construction long-term water quality and biological monitoring plan for areas near or downstream of the built areas, on-site mitigation areas, and on-site restoration areas.

g. A detailed on-site mitigation and restoration plan including signed and sealed construction drawings (plan views and cross-sections), planting configuration and species list, hydraulic or tidal exchange calculations, exotic control and maintenance methods, and success criteria. This plan shall be consistent with the document “Turkey Point Expansion Project, Refined Mitigation Proposal, FPL, April 2004” or as subsequently amended or modified.

h. A plan for monitoring and responding to the occurrence of endangered (or other listed species) in the construction area.

i. A stormwater management plan, including calculations and construction drawings.

j. A plan for training all on-site construction-related workers with respect to environmental resource protection requirements.

3. The applicant shall mark in a conspicuous fashion the boundaries or limits of all work/fill areas, mitigation areas, preservation areas, or protected species habitat. This may be accomplished with fencing, flagging, buoys, silt barriers, hay bales, or other forms of durable demarcation. Field markers shall include survey benchmarks or reference points that can be compared to approved construction plans and drawings. Prior to construction in wetlands or tidal waters, the layout must be approved by DERM. The markers shall be maintained for the entirety of construction to facilitate compliance inspections and also to reduce the chance of unauthorized impacts to resources.

4. Seven days prior to the start of construction in wetlands or tidal waters, the Licensee shall allow prior approved third party access for the salvage of desirable native vegetation occurring within the areas to be filled or cleared.

5. Dredging and filling of coastal wetlands shall be limited to the minimum amount for public necessity or enhancement of biological, chemical or physical characteristics of adjacent waters.

6. On-site mitigation and restoration areas shall be maintained free (less than 1% cover) of invasive exotic vegetation in perpetuity.

7. Within 90 days of the start of construction, the Licensee shall convey title of 307 acres of wetland, as defined in the “Turkey Point Expansion Project, Refined Mitigation Proposal, FPL, April 2004” or as subsequently amended or modified, to the appropriate federal, state, or local resource management agency for conservation or restoration purposes consistent with the goals of ongoing regional restoration plans.

8. Unconsolidated shorelines created as a result of the project shall be stabilized with native vegetation, such as but not limited to mangroves. If seawalls or bulkheads are constructed in or adjacent to tidal waters, they shall include the use of rip-rap or similar wave attenuation devices in their design.



9. Construction of on-site mitigation shall be initiated within 90 days of the beginning of filling of coastal wetlands or tidal waters. Construction of on-site mitigation shall be completed within 90 days of the completion of filling of wetlands except areas to be restored after completion of project construction.

10. Restoration of temporarily filled wetlands shall commence within 60 days of completion of construction on the power block or by January 2010, whichever first occurs.

11. Should upland construction damage or require removal of upland trees, the Licensee shall be required to preserve specimen trees (trunk > 18 in. DBH) and replace upland tree canopy in accordance with the requirements of Article III. Tree Preservation and Protection Sec. 24-60 of the Code of Miami-Dade County. This requirement includes trees along entrance roads and existing landscaped areas, and shall be in addition to establishment of coastal hammocks proposed as part of on-site mitigation.

12. Exotic pest plant species on the development site uplands shall be removed prior to development.

13. Temporary and permanent fill pads shall be graded to slope away from tidal waters and wetlands.

14. Construction of permanent parking areas, walkways, and amenities shall use semi-pervious materials to reduce runoff where feasible and compatible with safety requirements.

15. This Certification does not replace or eliminate the need for appropriate annual operating permits from Miami-Dade County for any existing, new or improved facilities located at the Turkey Point Power Plant site but not within the area covered by this Certification as delineated in the Site Certification Application. If reclaimed water is used as makeup to the Unit 5 cooling tower and cooling tower blowdown is returned to the South District Wastewater Treatment Plant, FPL shall apply for such permit from DERM as may be required under Chapter 24 of the Code of Miami-Dade County for such disposal pursuant to federal law.

## **XVII. FISH AND WILDLIFE CONSERVATION COMMISSION**

### **Cooling Canal System Crocodile Population Protection**

#### **A. Continuation of Current Monitoring**

The applicant shall continue with current crocodile monitoring efforts including identification surveys, breeding surveys, nest locations monitoring, and captures, and these efforts shall continue throughout the Unit 3 and Unit 4 uprating process.

#### **B. Additional Monitoring**

Specific protocols shall be followed for additional monitoring of crocodiles within the Turkey Point cooling canal system. These protocols based upon work by Mazzotti and Cherkiss shall be followed for the additional monitoring described below.

1. Surveys shall be conducted both pre- and post- Unit 3 and 4 uprate to determine any effects of temperature and salinity changes on crocodiles in the cooling canal

system. Surveys shall be initially conducted for a one-year period, after which protocols shall be reviewed for appropriateness. Any changes shall be submitted to the FWC.

2. Additional data shall be collected to determine changes in spatial distribution within the canal system. Data shall be collected monthly from the entire system. Monthly events shall consist of 3 to 4 nights per event, and data collected shall include animal size, GPS location, salinity, and air and water temperatures.

3. Additional data shall be collected to determine changes to growth and survival of crocodiles within the cooling canal system. The entire cooling canal system shall be monitored at least twice a year for five days and four nights per event. Data collected shall include biometric data for each individual hand captured or trapped.

4. If it is determined that there is a negative effect on crocodiles within the cooling canal system due to the Uprate project, the licensee shall monitor the crocodile population outside of the system, particularly in the FPL mitigation areas, to determine if there is no net negative effect. If growth and survival is affected within the system, then using telemetry data on crocodiles moving into and out of the system may show whether or not there is an overall change in the crocodile population at Turkey Point. A summary of monitoring efforts and results shall be included in the Annual Report.

5. If negative effects on crocodile habitat occur, as evidenced by monitoring of crocodile growth, population, and survivorship, FPL shall implement corrective actions in accordance with all applicable federal, state, and local regulatory requirements for the protection of endangered species habitat.

### **C. Annual Report**

FPL shall submit an Annual Report including all data and statistical analyses resulting from the above monitoring requirements to FWC in order for FWC to assess changes in the crocodile population. The report shall be submitted beginning 12 months from initial monitoring, and every 12 months thereafter. Copies of these annual reports shall be provided to the DEP Siting Coordination Office, DERM and the Manager of the Biscayne Bay Aquatic Preserve. FPL shall notify DERM and the Manager of the Biscayne Bay Aquatic Preserve of any meeting with FWCC and DEP to address issues raised in these annual reports. [Chapter 68A – 27, F.A.C.; Miami-Dade CDMP Coastal Management – 1E]

## **XVIII. HISTORY**

Unit 5 Certified on 02/07/05; signed by Governor Bush  
Modified on 06/22/06; signed by Siting Administrator Owen  
Modified on 04/24/07; signed by Siting Administrator Halpin  
Units 3 & 4 Certified on 10/29/08; signed by Secretary Sole  
Modified on 1/6/09; signed by Siting Administrator Halpin  
Modified on 06/19/09; signed by Siting Administrator Halpin  
Modified on 03/19/15 (E.1); signed by Deputy Secretary Cobb  
Modified on 3/29/16 (E); signed by Governor Scott



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Regulation Division

June 29, 2021

Mr. Mike Sole  
Florida Power & Light Company  
700 Universe Blvd  
Juno Beach, FL 33408

**Subject: FPL Turkey Point Conditions of Certification – Reclaimed Water Notification**

Dear Mr. Sole:

The South Florida Water Management District (SFWMD) is aware of the Miami-Dade County and Florida Power & Light (FPL) agreement to utilize treated reclaimed water at FPL's Turkey Point facility to serve as the primary cooling water source for the Unit 5 cooling towers. Accordingly, to comply with Condition XIII.C.2 of the Turkey Point Conditions for Certification, the SFWMD requires FPL to provide a schedule for use of reclaimed water for SFWMD review and approval.

Obtaining and utilizing reuse water to reduce demand for groundwater is consistent with the state's objective to encourage and promote reuse of reclaimed water ((Florida Statutes 403.064 and 373.250) and complies with Condition XIII.C.2 of the Turkey Point Conditions of Certification for using reclaimed water at the project site to serve Unit 5 for cooling purposes. Please note that, pursuant to Condition XIII.C.2, use of the Floridan aquifer water shall be reduced in proportion to the volume of reclaimed water made available to Unit 5

Sincerely,

A handwritten signature in blue ink, appearing to read "Simon Sunderland".

Simon Sunderland, P.G.  
Bureau Chief, Water Use  
South Florida Water Management District

SS/ss

cc: Danielle Hall, FPL

OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
MIAMI-DADE COUNTY, FLORIDA

## MEMORANDUM

Agenda Item No. 8(O)(1)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners


**DATE:** June 16, 2020

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution approving Agreement  
for Reclaimed Water Processing,  
Treatment and Use at the Florida  
Power & Light (FPL) Turkey  
Point Complex with FPL;  
authorizing annual payments to  
FPL until 2053 in a total amount  
not to exceed \$182,000,000.00;  
and authorizing County Mayor to  
execute the Agreement and  
exercise the provisions contained  
therein including the negotiation  
and execution of an operating  
agreement

Resolution No. R-579-20

The accompanying resolution was prepared by the Water and Sewer Department and placed on the agenda at the request of Co-Prime Sponsors Commissioner Esteban L. Bovo, Jr. and Vice Chairwoman Rebeca Sosa, and Co-Sponsors Chairwoman Audrey M. Edmonson, Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan, Commissioner Joe A. Martinez and Senator Javier D. Souto.

  
\_\_\_\_\_  
Abigail Price-Williams  
County Attorney


APW/smm

# Memorandum



**Date:** June 16, 2020

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Resolution Approving Agreement for Reclaimed Water Processing, Treatment and Use at the Florida Power & Light Turkey Point Complex

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## **RECOMMENDATION**

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing execution of a Reclaimed Water Services Agreement (Agreement) between the County, through its Water and Sewer Department (WASD), and Florida Power and Light Company (FPL) for the delivery of reclaimed water from the South District Wastewater Treatment Plant to the FPL facilities at Turkey Point. The Agreement is attached as Exhibit 1.

## **SCOPE**

The impact of this Agreement is countywide, as it provides compliance of the County with the State Ocean Outfall Statute, and it facilitates the use of reclaimed water by FPL to improve overall environmental conditions at Turkey Point.

## **FISCAL IMPACT/FUNDING SOURCE**

The County will pay from WASD operating revenues \$6.5 million per year over the life of the Agreement through 2053 to support the project. Considering that the facility is scheduled to be operational beginning in 2026, the County is expected to undertake 28 payments, totaling \$182 million. FPL will provide an estimated \$300 million in capital costs and any additional operating costs needed to execute the project.

The County will be responsible for reimbursing FPL for the design and construction of any incremental facilities that the County requests to be constructed to enable the expansion of the facility for the treatment of additional reclaimed water for environmental or other uses. Any incremental facilities requested by the County are subject to Board approval. Additionally, the County expects to achieve the water quality parameters provided in the Agreement without any capital improvements to existing treatment facilities, and as such, additional costs related to reclaimed water quality standards are not anticipated. Although not anticipated, the County would be responsible for additional facilities that may be required by the County to meet such water quality standards.

## **DELEGATION OF AUTHORITY**

Pursuant to section 5.03 of this Agreement, the County and FPL will also develop an operating agreement that will describe the operating protocols, communications, and reporting requirements for the safe and efficient operations of the Reclaimed Water Facility, in accordance with all applicable permits. This resolution delegates to the County Mayor or County Mayor's Designee

Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners  
Page 2

the authority to negotiate and execute such operating agreement, provided that the operating agreement is (1) limited to operating protocols, communications, and reporting requirements of the Reclaimed Water Facility; (2) consistent with the provisions of the Reclaimed Water Services Agreement; and (3) results in no additional fiscal impact to the County beyond this Reclaimed Water Services Agreement.

### **TRACK RECORD/MONITOR**

WASD's Assistant Director of Planning and Regulatory Compliance, Josenrique Cueto, P.E., will oversee the implementation of the Reclaimed Water Services Agreement.

### **BACKGROUND**

On April 10, 2018, the Board approved Resolution No. R-292-18, authorizing the County Mayor or County Mayor's Designee to execute a Joint Participation Agreement with FPL for development of an Advanced Reclaimed Water Project and to further negotiate a Reclaimed Water Services Agreement to implement such a project, subject to Board approval. The discussion at that time focused on extensive treatment of reclaimed water from the South District Wastewater Treatment Plant for use in the restoration of the cooling canals at the Turkey Point complex.

After extensive analysis and discussion with WASD and the Division of Environmental Resources Management (DERM) staff, a more cost-effective project was developed. Under this plan, up to 15 million gallons per day (MGD) of reclaimed wastewater will be piped to Turkey Point, where it will receive additional treatment to make it suitable for use in the cooling towers for FPL's Unit five generating facility. Currently brackish water from the Floridan aquifer is being used for these cooling towers. The Floridan water will then become available to improve conditions in the cooling canals, providing additional environmental benefits.

Under the Agreement, FPL is responsible for designing and constructing the pipeline from the South District Wastewater Treatment Plant to the FPL facilities at Turkey Point, an advanced treatment system at Turkey Point to further treat the reclaimed water for use in the cooling towers, and additional pumping facilities at the South District plant should it be determined that additional capacity is required. The capital cost of all these facilities is currently estimated by FPL at \$300 million.

The obligations of the parties are subject to both parties receiving necessary and appropriate permits, approvals and authorizations from regulatory authorities that support execution of the project and the County receiving approval from the Florida Department of Environmental Protection for the appropriate reclaimed credits for the duration of the Agreement.

The County will pay an annual fee of \$6.5 million to FPL beginning when the County delivers reclaim water to FPL and continue over the life of the Agreement. The initial term of the Agreement expires at the end of 2053 and the Agreement automatically renews for five-year increments unless either party provides notice not to renew. This payment plan caps with certainty the annual financial obligation of the County, and it avoids potential disputes regarding operating costs and cost escalation provisions. The County investment is equivalent to that which was approved by the Board in 2010 when a larger reclaimed water project was authorized as part of

Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners  
Page 3

FPL's plans to construct two additional nuclear units at Turkey Point. That plan is no longer feasible.

Pursuant to provisions under the State Ocean Outfall Statute, the County is required to evaluate and implement reclaimed water projects that are technically, environmentally, and economically feasible. Because of the extraordinary water quality requirements for water in the Everglades system, it is extremely expensive and energy intensive to treat wastewater to acceptable standards. This project, which would be the fourth largest reclaimed water project in the State of Florida, presents an opportunity to use reclaimed wastewater in a more cost-effective way, and thereby free up Floridan aquifer water to be used for environmental enhancement purposes.

In order to facilitate the County's future reuse program, FPL has also agreed to design and build a second pipeline to Turkey Point and additional treatment capacity should the County and its partners determine feasible uses for additional reclaimed water in the area. Along with the County, South Florida Water Management District and other various State and Federal agencies are key stakeholders in the development and implementation of future reuse projects which benefit the environment. Further collaborative engagement is required to establish implementation and funding requirements that would enhance their efficacy. At the time that the appropriate funding partners are identified, the County will be in a position to readily expand the treatment facility and its reuse program.



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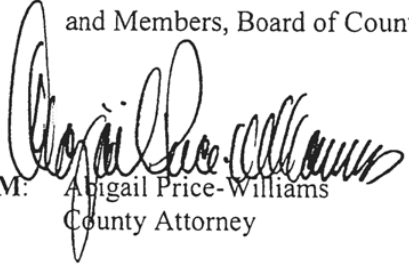
Jack Osterholt  
Deputy Mayor



## MEMORANDUM (Revised)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** June 16, 2020

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 8(O)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required



Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(O)(1)  
6-16-20

RESOLUTION NO. R-579-20

RESOLUTION APPROVING AGREEMENT FOR RECLAIMED WATER PROCESSING, TREATMENT AND USE AT THE FLORIDA POWER & LIGHT (FPL) TURKEY POINT COMPLEX WITH FPL; AUTHORIZING ANNUAL PAYMENTS TO FPL UNTIL 2053 IN A TOTAL AMOUNT NOT TO EXCEED \$182,000,000.00; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND EXERCISE THE PROVISIONS CONTAINED THEREIN INCLUDING THE NEGOTIATION AND EXECUTION OF AN OPERATING AGREEMENT

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves the Agreement for Reclaimed Water Processing, Treatment and Use at the Florida Power & Light Turkey Point Complex with Florida Power & Light; authorizing annual payments to FPL until 2053 in a total amount not to exceed \$182,000,000.00; and authorizes the County Mayor or County Mayor's designee to execute the Agreement, in substantially the form attached to the accompanying County Mayor's Memorandum, and to exercise the provisions contained therein including the negotiation and execution of an operating agreement.

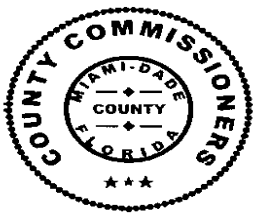
Agenda Item No. 8(O)(1)

Page No. 2

The foregoing resolution was offered by Commissioner **Rebeca Sosa**,  
who moved its adoption. The motion was seconded by Commissioner **Esteban L. Bovo, Jr.** and  
upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	<b>aye</b>	
Rebeca Sosa, Vice Chairwoman	<b>aye</b>	
Esteban L. Bovo, Jr.	<b>aye</b>	Daniella Levine Cava <b>aye</b>
Jose "Pepe" Diaz	<b>aye</b>	Sally A. Heyman <b>aye</b>
Eileen Higgins	<b>aye</b>	Barbara J. Jordan <b>absent</b>
Joe A. Martinez	<b>absent</b>	Jean Monestime <b>aye</b>
Dennis C. Moss	<b>aye</b>	Sen. Javier D. Souto <b>absent</b>
Xavier L. Suarez	<b>aye</b>	

The Chairperson thereupon declared this resolution duly passed and adopted this 16<sup>th</sup> day of June, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Melissa Adames  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

Henry N. Gillman