

RESOLUTION NO. R-2004-1372

RESOLUTION APPROVING ZONING PETITION DOA1992-014B
DEVELOPMENT ORDER AMENDMENT
PETITION OF NEW HOPE POWER PARTNERSHIP
BY GARY BRANDENBURG, PA, AGENT
(OKEELANTA CO-GEN FACILITY)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1992-014B was presented to the Board of County Commissioners at a public hearing conducted on June 16, 2004; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2.K.3.b of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA1992-014B, the petition of New Hope Power Partnership, by Gary Brandenburg, PA, agent, for a Development Order Amendment to add land area, reconfigure site plan and modify/delete conditions of approval on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 16, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

The motion was seconded by Commissioner Koons and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	-	Aye
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Addie L. Greene	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on June 16, 2004.

Filed with the Clerk of the Board of County Commissioners on 13 day of July, 2004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

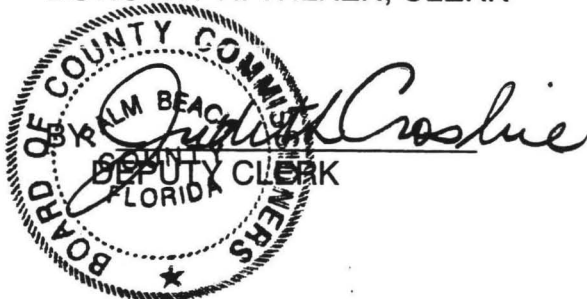


EXHIBIT A

LEGAL DESCRIPTION

A parcel of land in the Northeast Quarter of Section 16, Township 45 South, Range 36 East, Palm Beach County, Florida, described as follows:

Commencing at the Northeast corner of the Northeast Quarter of Section 16, Township 45 South, Range 36 East, said corner being the same as the Northeast corner of Section 16, Township 45 South, Range 36 East;

Thence South 0°51'19" East 793.03 feet along the East line the Northeast Quarter of said Section 16;

Thence South 89°36'38" West 50.00 feet to the point of beginning of the hereinafter described parcel:

Thence South 0°51'19" East 1170.01 feet along a line parallel with and 50 feet West of the East line of the Northeast Quarter of said Section 16;

Thence South 89°36'38" West 1700.00 feet;

Thence South 0°51'19" East 680.26 feet along a line parallel with the East line of the Northeast Quarter of said Section 16;

Thence South 89°36'38" West 864.13 feet;

Thence North 0°40'35" West 1809.16 feet along the West edge of a paved road;

Thence North 89°36'38" East 130.00 feet;

Thence North 0°51'19" West 41.00 feet along a line parallel with the East line of the Northeast Quarter of said Section 16;

Thence North 89°36'38" East 2428.43 feet to the point of Beginning.

Containing: 82.12 Acres (3577, 008 square feet)

DESCRIPTION FOR THE NOT INCLUDED FLORIDA POWER & LIGHT SUBSTATION PARCEL.

Commencing at the Northeast corner of Section 16, Township 45 South, Range 36 East, Thence South 0°51'19" East 793.03 feet along the East line of said Section 16;

Thence South 89°36'38" West 50.00 feet

Thence South 89°36'38" West 2022.43 feet

Thence South 42°05'52" West 124.65 feet;

Thence South 89°36'38" West 402.64 feet;

Thence South 0°56'16" East 75.00 feet

Thence North 89°36'38" East 145.00 feet; to the point of beginning of the hereinafter described parcel, thence South 0°56'16" East 148.00 feet;

Thence North 89°36'38" East 248.00 feet;

Thence North 0°56'16" West 148.00 feet

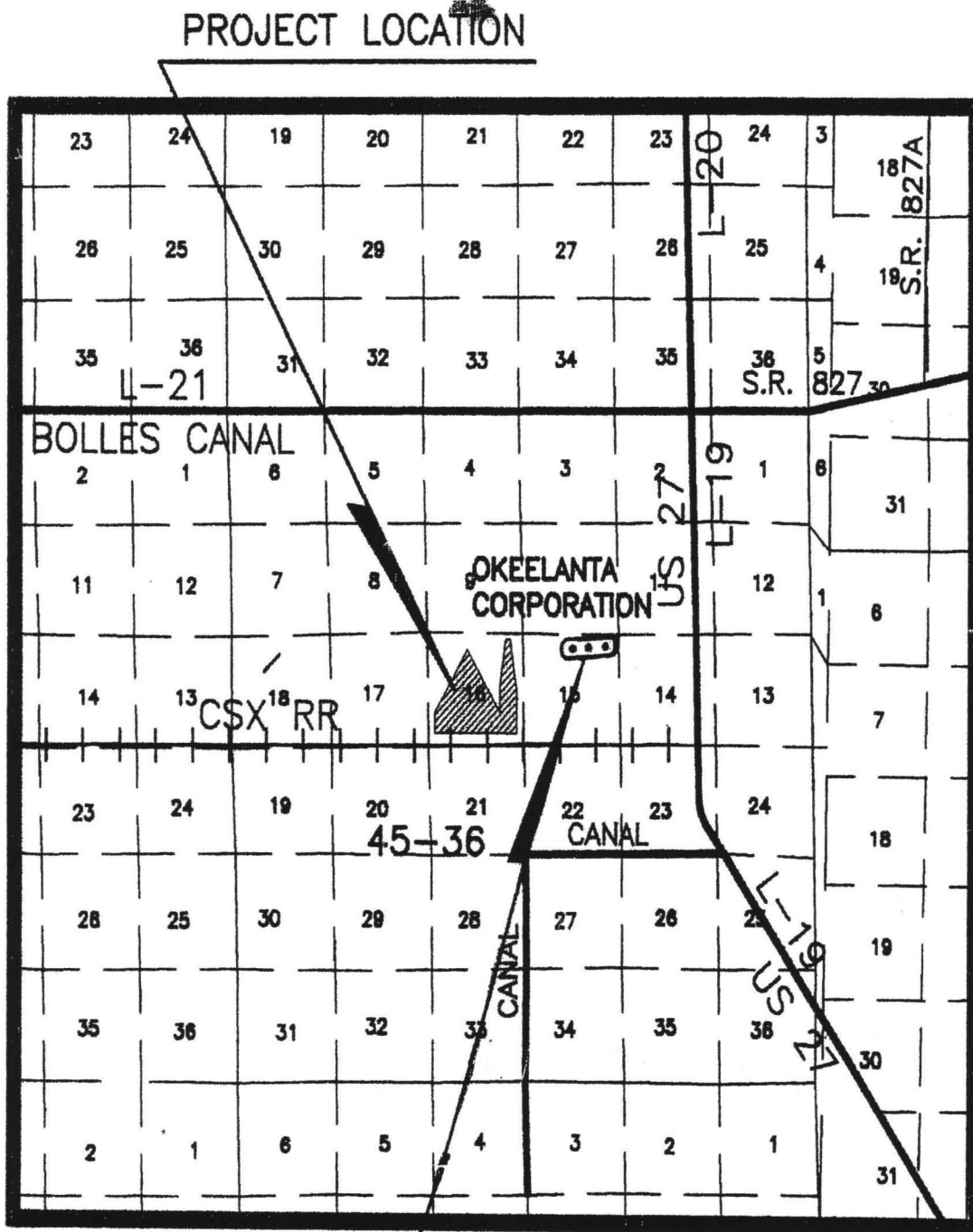
Thence South 89°36'38" West 248.00 feet to the point of beginning.

Containing 0.84 Acre (36704 square feet)

NOTE: Bearings shown on these descriptions are Grid Bearings of the Florida State Plane Coordinate System, East Zone, on the 1927 North American Datum, 1972 Free Adjustment.

NOTE: Parcel A as shown in the original cogeneration Plant Description, will not be lessed out for the proposed Cogeneration Expansion description.

EXHIBIT B
VICINITY SKETCH



PROPOSED WELL LOCATIONS
N.E. QUARTER OF SECTION 15

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. Condition A.1 of Resolution R-99-4, Petition 1992-014(A) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-93-340 (Petition 92-014), have been consolidated herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-1999-4 (Petition 1992-014(A) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated April 15, 2004. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING-Zoning)

B. BUILDING AND SITE DESIGN

1. **Maximum total floor area shall be limited to 10% of the total lot area of the subject property. (BUILDING-Zoning) (Previous Condition C.1 of Resolution R-99-4, Petition 1992-014(A))**
2. Condition B.3 of Resolution R-99-4, Petition 1992-014(A) which currently states:

Prior to site plan certification, the site plan shall be amended to indicate a maximum five (5) acre building envelope on the site and the square footage to be contained therein. All construction and development of the principal structure and accessory facilities shall occur within this envelope. All accessory uses indicated on the site plan outside of the building envelope shall be subject to the requirements and regulations of Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review). Uses and building locations within the envelope shall not be subject to this requirement. (ZONING)

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate a 8.12 acre building envelope on the site and the square footage to be contained therein. All construction and

development of the principal structure and accessory facilities shall occur within this envelope. All accessory uses indicated on the site plan outside of the building envelope shall be subject to the requirements and regulations of Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review). Uses and building locations within the envelope shall not be subject to this requirement. (DRO:ZONING-Zoning)

3. Condition K.5 of Resolution R-99-4, Petition 1992-014(A) which currently states:

The maximum height, from grade to highest point, for all fuel storage areas shall not exceed fifty (50) feet. (BLDG. PERMIT – BLDG. -Zoning)

Is hereby amended to read:

The maximum height from finished grade to highest point, for all fuel storage structures/areas, shall not exceed fifty (50) feet. (BLDG. PERMIT – BLDG. -Zoning)

4. **With the exception of clearing for access roads, survey lines, construction trailers, equipment staging areas, fencing, and specific building sites, construction shall commence within 90 days after completion of clearing and grading. Any cleared zones or areas not necessary to the operation of the site shall be planted in grass within 90 days after establishment of finished grade. (CO:LANDSCAPE-Zoning) (Previous Condition B.3 of Resolution R-99-4, Petition 1992-014(A))**

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. **Plans for all underground and above ground storage tanks must be approved by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures. (BLDG. PERMIT – ERM- ERM) (Previous Condition D.1 of Resolution R-99-4, Petition 1992-014(A))**
2. **Secondary containment for stored Regulated Substances, including but not limited to fuels, oils, solvents, or other hazardous chemicals, is required. Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BLDG. PERMIT – ERM- ERM) (Previous Condition D.2 of Resolution R-99-4, Petition 1992-014(A))**
3. **All new excavated lakes shall possess a littoral shelf area. A littoral shelf shall be an area with a slope not greater six (6) feet horizontal to one (1) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below OHW or CWL. A minimum of 30% of the surface area of all lakes shall be planted with native aquatic vegetation on a minimum of three foot centers.**
 - a. **A littoral shelf planting plan and maintenance plan shall be submitted to the Department of Environmental Resources Management concurrent with Site Plan Review application and approved by ERM prior to Site Plan certification. This information shall also be provided on a mylar for the Zoning Division as part of the site plan application. (ERM)**

- b. **Prior to the issuance of a Certificate of Occupancy and within three working days of the completion of littoral plantings ERM shall be notified. This planting shall not be credited as compensation required by wetland permits. (BLDG. PERMIT – ERM- ERM) (Previous Condition D.3 of Resolution R-99-4, Petition 1992-014(A))**
- 4. **Areas disturbed as a result of the construction of the cogeneration facility and transmission lines shall be continually maintained to be free of Brazilian Pepper, Australian Pine and Melaleuca. (BUILDING-Zoning) (Previous Condition F.1 of Resolution R-99-4, Petition 1992-014(A))**

D. HEALTH

- 1. Condition B.1 of Resolution R-99-4, Petition 1992-014(A) which currently states:

Petitioner shall:

- a. **Prior to initial start up, install all air pollution control devices and processes required by the Florida Department of Environmental Regulation (DERM), the United States Environmental Protection Agency (EPA), and as described in the environmental report attached hereto and made a part hereof (Exhibit A) to include, but not be limited to:**
 - (1) **an electrostatic precipitator, designed for at least 98% removal of particulate matter or equivalent;**
 - (2) **a thermal D-Nox system designed for at least 40% removal of oxides of nitrogen, or equivalent; and,**
 - (3) **an activated carbon injection system for control of mercury emissions, or equivalent.**
- b. **Continuously monitor and record exhaust gas opacity, oxides of nitrogen, and carbon monoxide.**
- c. **Test stack emissions according to DER and EPA standards at least once every six months for particular matter, oxides of nitrogen, carbon monoxide, sulfur dioxide, lead, mercury and volatile organic compounds for the first two years of operation. If the test results for the first two years of operations indicate the facility is operating in compliance with the terms of approval and of applicable permits and regulations, the test will thereafter occur as required by the respective DER and EPA permits, with the exception that stack emissions will be tested annually for mercury. In the event the results of the first two years of testing show non-compliance, then the frequency of testing shall continue to occur once every six months until the facility achieves a sustained two-year period of compliance.**
- d. **Not exceed the total actual annual emissions from the existing boilers and those currently permitted for construction at this facility. Except for particulate matter and sulfur dioxide, the following figures represent the best available estimates for the actual current emissions. These emissions, in tons per year, by pollutant, are:**

(1)	Particulate Matter:	311.3
(2)	Oxides of Nitrogen	478.9

- (3) Carbon Monoxide: 5,895.4**
- (4) Volatile Organic Compounds: 218.1**
- (5) Mercury: 0.0141**
- (6) With regard to sulfur dioxide emissions, the following conditions shall apply:**

- (a) If used, coal shall be of the low sulfur variety, and shall not exceed 0.7% sulfur by weight..**
- (b) Fuel oil shall be limited to low sulfur No. 2 distillate oil and shall not exceed 1% sulfur by weight.**
- (c) Coal consumption shall not exceed 25% of the total heat input in any calendar quarter.**

(Paragraphs (d) through (h) apply to total sulfur dioxide emissions for the combined facilities of petitions 92-13 and 92-14.)

- (d) Shall not exceed the current emissions of the proposed project (an average of 1000 tons of sulfur dioxide. If the life of the project exceeds thirty years, the total allowable lifetime emissions will be adjusted proportionately.**
- (e) For the case that the Palm Beach County government makes available 200,000 tons of biomass fuel per year to the cogeneration facilities in Petitions 92-13 and 92-14, under the same terms and conditions as those in the existing Okeelanta/Palm Beach Solid Waste Authority Wood-waste Agreement, the petitioner shall:**
 - 1) not exceed 1500 tons of sulfur dioxide for that year.**
 - 2) not exceed an average of 1300 tons of sulfur dioxide for each five year incremental period.**
- (f) For the case that the Palm Beach County government cannot make available the 200,000 tons of biomass fuel per year to the cogeneration facilities in Petitions 92-13 and 92-14, the petitioner shall:**
 - 1) not exceed 1700 tons of sulfur dioxide for that year.**
 - 2) not exceed an average of 1500 tons of sulfur dioxide for each ten year incremental period.**
- (g) The allowable average sulfur dioxide emissions for the five and ten year incremental periods described above shall be calculated on a weighted average for any period in which both cases occur (years in which biomass is made available/years in which biomass is not made available.)**
- (h) Sulfur dioxide emissions shall include all emissions from the proposed projects in Petitions 92-13 and 92-14 and the currently existing boilers at the Okeelanta and Osceola facilities if in operation during initial project operation.**

- e. **Employ all methods to control unconfined dust and particulate emissions, required by local, state and/or federal agencies.**
- f. **Request in all applications to DER and EPA that the above conditions become part of the corresponding permits.**
(ONGOING:HEALTH-Health)

Is hereby deleted RESAON [Replaced by new Health conditions D.2-D.5].

- 2. This facility shall operate and maintain, all air pollution control devices and processes required by the Florida Department of Environmental Protection (FDEP) and the United States Environmental Protection Agency (EPA).
(ONGOING: MONITORING-Health)
- 3. Continuous Emission Monitors shall be operated in accordance with Air Permit No. PSD-FL-196 (O), Project No. 0990332-016-AC issued on October 29, 2003 by FDEP. (ONGOING: MONITORING-Health) (Previous Condition G.1 of Resolution R-99-4, Petition 1992-014(A))
- 4. Stack tests shall be conducted in accordance with Air Permit No. PSD-FL-196 (O), Project No. 0990332-016-AC issued on October 29, 2003 by FDEP.
(ONGOING: MONITORING-Health)
- 5. The total annual emissions for this facility shall be in accordance with Air Permit No. PSD-FL-196 (O), Project No. 0990332-016-AC issued on October 29, 2003 by FDEP. The property owner shall not deviate from the emission limiting requirements specified in permit PSD-FL-196(O) without prior authorization from the Board of County Commissioners. (ONGOING: MONITORING-Health)
- 6. **During land clearing and site preparation, wetting operations or other soil treatment techniques appropriate for controlling unconfined particulates, including grass seeding and mulching of disturbed areas, shall be undertaken and implemented by the Petitioner to comply with state and federal air standards.** (ONGOING: HEALTH-Health) (Previous Condition B.2 of Resolution R-99-4, Petition 1992-014(A))
- 7. **The petitioner shall comply at all times with the requirements of all permits issued by all agencies having jurisdiction over the facility.**
(ONGOING:MONITORING-Health/Erm) (Previous Condition B.4 of Resolution R-99-4, Petition 1992-014(A))
- 8. **Potable water supply for the proposed project is to be provided by a reverse osmosis non-transient non-community water supply system in accordance with Chapter 17-550 & 17-555, F.A.C.** (ONGOING: MONITORING-Health) (Previous Condition G.1 of Resolution R-99-4, Petition 1992-014(A))
- 9. **The industrial waste stream generated by this site shall be disposed of in accordance with all applicable Florida DER regulations.**
(HEALTH) (Previous Condition G.2 of Resolution R-99-4, Petition 1992-014(A))
- 10. **Cogeneration boiler fuels shall be limited to Biomass, as defined in Condition K.9. and fossil fuels. The use of fossil fuels shall be limited in accordance with conditions A.1.d.(6)(a), A.1.d.(6)(b) and A.1.d.(c). The use of Biomass Wastes shall include provisions for the substantial exclusion of painted and chemically treated wood, household garbage, toxic or hazardous materials or wastes and special wastes. This specification must be reviewed and approved by the Palm Beach**

County Public Health Unit prior to site plan approval. (ONGOING: MONITORING-Health) (Previous Condition G.3 of Resolution R-99-4, Petition 1992-014(A))

Is hereby amended to read:

Cogeneration boiler fuels shall be limited to Biomass Waste as defined in condition D23, and approved fossil fuels.

- a. The use of Biomass Wastes shall include provisions for the substantial exclusion of painted and chemically treated wood, household garbage, toxic or hazardous materials or wastes and special wastes. (ONGOING: MONITORING- Health)
- b. The use of fossil fuels shall be limited to pipeline natural gas or new low sulfur distillate with sulfur content not more than 0.05% sulfur by weight. The facility will consider replacing this fuel with ultra low sulfur fuel of sulfur content not greater than 0.0015 % by weight as secondary fuel when it becomes available. The burning of coal as an alternate fuel shall be prohibited. [Note: It is expected that ultra low sulfur distillate fuel will be widely available by 2006 due to federal regulations for highway fuel as outlined in Federal Register / Vol. 66, No. 12 / Thursday, January 18, 2001 / Rules and Regulations, on the Fuel Quality Standards.1]. (ONGOING: MONITORING-Health)

11. **All fly ash and bottom ash from the facility which is produced during any period in which fossil fuels are used, and thereafter for a reasonable time shall be segregated and managed as set forth in the ash management plan. (ONGOING:MONITORING-Health) (Previous Condition G.4 of Resolution R-99-4, Petition 1992-014(A))**
12. **Prior to site plan approval, a detailed ash management plan shall be submitted by the petitioner and approved by the Palm Beach County Public Health Unit. This plan must detail contingencies plans, testing and monitoring of the ash, ash handling and disposal methods, planned spreading locations and identification of environmental impacts and proposed measures for mitigating these impacts. (HEALTH) (Previous Condition G.5 of Resolution R-99-4, Petition 1992-014(A))**

Is hereby amended to read:

The facility shall revise the current ash management plan to incorporate the revised testing procedures for the ash as submitted to the Palm Beach County Health Department. The facility shall request that the revised ash management plan be included in the Title V operating permit. (DRO: HEALTH-Health)

13. **Prior to site plan approval of the operation of the facility, a detailed fuel management plan shall be submitted and approved by the Palm Beach County Public Health Unit. This plan shall detail location, size, handling procedures, transportation, dust control and fire protection. (ONGOING:HEALTH-Health) (Previous Condition G.6 of Resolution R-99-4, Petition 1992-014(A))**

Is hereby amended to read:

The facility shall revise the current fuel management plan to incorporate "The Inclement Weather Operating Procedures" and "Wood, Bagasse and Ash, Inspection and Testing Plan" as submitted to the Palm Beach County Health Department on March 30, 2004. The facility shall request that the revised fuel management plan be included in the Title V operating permit. Revisions to this plan shall be made in concurrence with Palm Beach County Health Department. (DRO: HEALTH-Health)

14. Condition G.7 of Resolution R-99-4, Petition 92-14(A) which currently states:

Prior to site plan approval, the petitioner shall identify all liquid waste streams and provide a complete physical and chemical characterization of the waste streams which shall include, at a minimum, the following information:

- a. **A description of the source or process associated with the waste stream.**
- b. **Volume and flow rates.**
- c. **Physical parameters including temperature, pH, and total dissolved solids.**
- d. **Expected concentrations of pollutants or contaminants, including but not limited to, Nitrogen, Phosphorous and other nutrients, mercury, lead and other trace metals, volatile or semi-volatile organic compounds, etc.**
- e. **A description and detail of any treatment system utilized.**
- f. **A description of the disposal or reuse method and identification of all points of discharge. (DRO:HEALTH- Health)**

Is hereby deleted. REASON: [Regulated by FDEP].

15. Condition G.8 of Resolution R-99-4, Petition 92-14(A) which currently states:

Prior to site plan approval, a detailed domestic wastewater management plan shall be submitted and approved by the Palm Beach County Public Health Unit. (DRO:HEALTH- Health)

Is hereby deleted. REASON: [Regulated by FDEP].

16. Condition G.9 of Resolution R-99-4, Petition 92-14(A) which currently states:

Prior to site plan approval, a detailed storm water management plan shall be submitted by the petitioner to the South Florida Water Management District (SFWMD) and Palm Beach County Public Health Unit for review and approval. Staff shall coordinate its review with the SFWMD. (DRO:HEALTH- Health)

Is hereby deleted. REASON:[Regulated by SFWMD].

17. **Prior to site plan approval, a detailed industrial wastewater management plan must be submitted to the Department of Environmental Regulation (DER) and the Palm Beach County Public Health Unit for review and approval. Staff shall coordinate its review with the DER. (DRO:HEALTH- Health) (Previous Condition G.10 of Resolution R-99-4, Petition 92-14(A))**

Is hereby deleted. REASON: Regulated by FDEP].

18. Condition G.11 of Resolution R-99-4, Petition 92-14(A) which currently states:

Prior to site plan approval, all applicable environmental permits or applications for permits must be obtained or submitted. (DRO:HEALTH-Health)

Is hereby deleted. REASON:[The facility has in compliance with the requirements].

19. **Onsite storage shall be contained within the area designated on Exhibit 48 and shall be processed and stored in a manner which controls fugitive and dust particulate emissions. (Previous Condition L.6 of Resolution R-99-4, Petition 1992-014(A)) (ONGOING:CODE ENF-Health)**
20. **The storage of fuel on site shall be limited to the areas designated on the certified site plan and shall be limited to the storage of bagasse and biomass waste only. (Previous Condition L.8 of Resolution R-99-4, Petition 1992-014(A)) (ONGOING:CODE ENF-Health)**
21. **"Biomass Waste", as referred to herein, shall mean bagasse, vegetative and woody matter, including material resulting from landscaping, maintenance, land clearing operations, clean wood, cellulose material, tree and shrub trimmings, grass clippings, palm fronds, trees, tree stumps, wood from land development operations, clean wood debris from demolition operations; it shall not include trash, garbage or sludge (FAC 17-701), biohazardous waste (17-712 FAC), or biological waste (17-712 FAC). (Previous Condition L.9 of Resolution R-99-4, Petition 1992-014(A)) (ONGOING:CODE ENF-Health)**
22. **The existing boilers at the adjacent sugar mill facility shall be subject to the conditions contained within the permits issued by the State of Florida Department of Environmental Protection (DERM). (ONGOING:DERM/HEALTH - Zoning) (Previous Condition L.10 of Resolution R-99-4, Petition 1992-14(A)).**

E. ENGINEERING

1. **The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board. (ONGOING:CODE-Eng) (Previous Condition E.1 of Resolution R-99-4, Petition 1992-014(A))**
2. **If required by the County Engineer or the South Florida Water Management District the Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site (ONGOING:MONITORING- Eng) (Previous Condition E.2 of Resolution R-99-4, Petition 1992-014(A))**

F. LANDSCAPING

1. Condition H.1 of Resolution R-99-4, Petition 92-14(A) which currently states:

Prior to site plan certification, the petitioner shall submit a Landscape Betterment Plan for review and approval by the Zoning Division. The Landscape Betterment Plan shall demonstrate conformance to all Landscape Code requirements and conditions of approval.
(DRO:LANDSCAPE-Zoning)

Is hereby deleted. [REASON: Completed].

2. **As an alternative, the petitioner may landscape the site and provide off-site improvements in accordance with the ULDC, upon adoption.**
(DRO:LANDSCAPE-Zoning) (Previous Condition H.2 of Resolution R-99-4, Petition 92-14(A))

Is hereby deleted. [REASON: Completed].

3. **The petitioner shall utilize all drought-tolerant plants in landscaping on the subject property.** (BLDG.PERMIT:LANDSCAPE-Zoning) (Previous Condition M.2 of Resolution R-99-4, Petition 1992-014(A))

Is hereby deleted. [REASON: Completed].

G. LIGHTING

1. Condition I.1 of Resolution R-99-4, Petition 92-14(A) which currently states:

All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed downward.

Is hereby deleted. REASON:[building code].

H. PARKING

1. Condition J.1 of Resolution R-99-4, Petition 92-14(A) which currently states:

Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives.

Is hereby deleted. REASON: [superceded by Condition A.2, and on-site parking is a code-requirement].

I. TRANSMISSION LINES

1. **All transmission lines required by this facility are to be constructed in accordance with the National Electric Safety Code.** (Previous Condition J.1 of Resolution R-99-4, Petition 92-14(A))

2. **All transmission lines leaving the site and required by this facility shall not exceed 138 KV.** (Previous Condition J.1 of Resolution R-99-4, Petition 92-14(A))

J. USE LIMITATIONS

1. Condition J.1 of Resolution R-99-4, Petition 92-14(A) which currently states:

Use of the site shall be limited as follows:

Land Area 50.00 acres
Total Floor Area 217,800 square feet
Maximum Floor Area 10%
Electrical Production 65 mega watt maximum
Fuel Yard 35 acre max. net land area

Is hereby amended to read:

a. Use of the site shall be limited as follows:

Land Area 81.28 acres
Total Floor Area 354,055 square feet
Maximum Floor Area 10%
Electrical Production 140 net mega watt maximum
Fuel Yard 45 acre max. net land area
(DRO/BLDG.PERMIT:DRO/BLDG-Zoning)

b. Prior to site plan approval by the Development Review Officer (DRO), the site plan shall be revised to reflect the most updated condition consistent with the use limitation condition as identified on J.1.a. (DRO:DRO-Zoning)

2. Condition K.2 of Resolution R-93-340, Petition 92-14 which currently states:

Prior to site plan certification, the site plan shall be amended to indicate the location of a truck/vehicle wash facility. This wash facility shall utilize a 100% water recycling system. (ZONING-Building)

Is hereby deleted. REASON: [no vehicle wash facility will be constructed].

3. **There shall be no repair or maintenance of vehicles on site.** (Previous Condition K.3 of Resolution R-99-4, Petition 1992-014(A)) (ONGOING:CODE ENF-Zoning)

4. **No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.** (Previous Condition K.4 of Resolution R-99-4, Petition 1992-014(A))

5. **All vehicles utilizing public rights-of-way to carry biomass waste (i.e. vegetative matter) to the site shall be equipped, at a minimum, with covering or screens over top of the open bed of the vehicle to prevent the loss of material during transportation to the facility.** (Previous Condition K.6 of Resolution R-99-4, Petition 1992-014(A)) (ONGOING:CODE ENF-Zoning)

K. WATER SUPPLY

1. Condition M.1 of Resolution R-99-4, Petition 1992-014(A) which currently states:

Construction shall not commence on the project site until it has been demonstrated to the satisfaction of the South Florida Water Management District that an acceptable and sustainable supply of water during drought periods is available to serve the project over and above that necessary to serve already approved development. (BLDG.PERMIT: MONITORING-SFWMD)

Is hereby amended to read:

Prior to the issuance of a building permit for Petition 1992-014(B), the property owner shall obtain approval from the South Florida Water Management District (SFWMD) that an acceptable and sustainable supply of water during drought periods is available to serve the project exceeding the requirement necessary to serve the approved development. (BLDG.PERMIT: MONITORING-SFWMD)

2. Condition M.3 of Resolution R-99-4, Petition 1992-014(A) which currently states:

The petitioner shall use water-saving plumbing fixtures and other water conserving devices in restrooms and employee locker rooms, as specified in the Water Conservation Act, Section 553.14, F.S. (BUILDING)

Is hereby amended to read:

The property owner shall use water-saving plumbing fixtures and other water conserving devices in restrooms and employee locker rooms, as specified in the Water Conservation Act, Section 553.14, F.S. (BLDG. PERMIT: BLDG-Zoning)

L. COMPLIANCE

1. **In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning) (Previous Condition N.1 of Resolution R-99-4, Petition 1992-014(A)).**

2. Conditions N.2 of Resolution R-99-4, Petition 1992-014(A) which currently states:

Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. **The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or**
- b. **The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or**
- c. **A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or**
- d. **Referral to code enforcement; and/or**
- e. **Imposition of entitlement density or intensity.**

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Is hereby amended to read:

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOIGN: MONITORING - Zoning)