UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: _____

SOUTHERN ALLIANCE FOR CLEAN ENERGY
and TROPICAL AUDUBON SOCIETY
INCORPORATED,

Plaintiffs,

v.

FLORIDA POWER & LIGHT COMPANY,

Defendant.
_____/

EXHIBIT A
NOTICE OF INTENT TO FILE CITIZEN SUIT PURSUANT TO THE CLEAN WATER ACT

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ATTORNEYS AT LAW

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March 15, 2016

Via Certified Mail/Return Receipt

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Atlanta, GA 30303

Re: Notice of Intent to File Citizen Suit Pursuant to the Federal Clean Water Act

Ladies and Gentlemen:

NOTICE

The purpose of this letter is to notify Florida Power & Light Company ("FPL") that the following organizations intend to file suit in sixty (60) days under the federal Clean Water Act ("CWA"), 33 U.S.C. § 1365(a)(1), in Federal District Court against FPL for violations of the CWA resulting from the discharge of pollutants from FPL's Turkey Point Power Plant near Homestead, Florida, into the protected waters of Biscayne Bay and to ground water, including the Biscayne Aquifer, in violation of the terms of NPDES Permit No. FL0001562 and the CWA:

Southern Alliance for Clean Energy
P.O. Box 1842,
Knoxville, TN 37901
(865) 637-6055

Tropical Audubon Society
5530 Sunset Dr.
Miami, FL 33143
(305) 667-7337

Each of these organizations has an interest in protecting the water quality of Biscayne Bay and has members who use the Bay for business and recreation, including fishing, boating, swimming, snorkeling and scuba diving. Each of these organizations also has an interest in protecting ground water quality and has members who use water from the Biscayne Aquifer for drinking water and other domestic purposes.

BACKGROUND

FPL owns and operates the Turkey Point Power Plant, located on the shores of Biscayne Bay near Homestead, Florida, about 25 miles south of downtown Miami. In the early 1970's, as the result of a federal court order to stop discharging hot cooling water into Biscayne Bay from its two nuclear power generators and other units, FPL constructed a giant, two-miles-wide-by five-miles-long, unlined cooling canal system adjacent to Biscayne Bay with the requirement to recycle the cooling water to prevent all discharges to the Bay. In 2012 and 2013, the two nuclear generators were "uprated" to increase power production, resulting in a much higher than predicted increase in the temperature and salinity of the water in the cooling canal system. The Turkey Point Power Plant and the cooling canal system are underlain by porous limestone geology, including the Biscayne Aquifer, and the contaminated water in the cooling canal system has for many years discharged, and continues to discharge, from the cooling canal system into the ground water and into Biscayne Bay, as described in detail in this Notice.

Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342. Each violation of the permit, and each discharge that is not authorized by the permit, is a violation of the CWA.

Used cooling water and other industrial wastewaters from the Turkey Point power plant are discharged through a point source of discharge – the outfalls designated I-001 and I-002 in the plant's NPDES permit. From there, they enter the FPL cooling canal system, from which they are conveyed through a direct hydrologic connection into the navigable waters of Biscayne Bay. Additionally, the FPL cooling canal system, itself, is a "point source" under the CWA. The CWA defines "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." 33 U.S.C. § 1362(14). The Eleventh Circuit interprets the term "point source" broadly. *Parker v. Scrap Metal Processors, Inc.*, 386 F.3d 993, 1009 (2004), following *Dague v. City of Burlington*, 935 F.2d 1343, 1354–55 (2d Cir.1991), *rev'd in part on other grounds*, 505 U.S. 557 (1992) ("The concept of a point source was designed to further this

scheme by embracing the broadest possible definition of any identifiable conveyance from which pollutants might enter waters of the United States."). The FPL cooling canal system is designed to hold cooling water and other industrial wastewater from the Turkey Point nuclear reactors, and is therefore, confined and discrete. Because the canal system is unlined and leaking pollutants into ground water which is hydrologically connected to Biscayne Bay, it is conveying pollutants to navigable waters. As a confined and discrete conveyance, the cooling canal system, itself, falls within the CWA's definition of "point source."

There is CWA jurisdiction where, as here, pollutants travel from a point source to navigable surface waters through hydrologically connected ground water. *See, e.g., Sierra Club v. Virginia Elec. and Power Co.*, No. 2:15-cv-112, 2015 WL 6830301, at *5-*6 (E.D. Va. Nov. 6, 2015); *Yadkin Riverkeeper, Inc. v. Duke Energy Carolinas, LLC*, No. 1:14–CV–753, 2015 WL 6157706, at *9-*10 (M.D. NC Oct. 20, 2015); *Hawai'i Wildlife Fund v. Cty. of Maui*, 24 F. Supp. 3d 980, 995 (D. Haw.2014); *Ass'n Concerned Over Resources and Nature, Inc. v. Tennessee Aluminum Processors, Inc.*, No. 1:10–00084, 2011 WL 1357690, at *16-*17 (M.D. Tenn, April 11, 2011); *Nw. Envtl. Def. Ctr. v. Grabhorn, Inc.*, No. CV–08–548–ST, 2009 WL 3672895, at *11 (D. Or. Oct. 30, 2009); *Hernandez v. Esso Standard Oil Co.* (P.R.), 599 F. Supp. 2d 175, 181 (D.P.R.2009); *N. Cal. River Watch v. Mercer Fraser Co.*, No. C–04–4620 SC, 2005 WL 2122052, at *2 (N.D. Cal. Sept. 1, 2005). *Idaho Rural Council v. Bosma*, 143 F.Supp.2d 1169, 1180 (D. Idaho 2001); *Mutual Life Ins. Co. v. Mobil Corp.*, No. Civ. A. 96–CV1781, 1998 WL 160820, at *3 (N.D. N.Y. 1998); *Williams Pipe Line Co. v. Bayer Corp.*, 964 F. Supp. 1300, 1319 (S.D. Iowa 1997); *Friends of Santa Fe County v. LAC Minerals, Inc.*, 892 F. Supp. 1333, 1357 (D. N.M.1995); *Wash. Wilderness Coal. v. Hecla Mining Co.*, 870 F. Supp. 983, 990 (E.D. Wash.1994); *Sierra Club v. Colorado Ref. Co.*, 838 F. Supp. 1428, 1434 (D.Colo.1993); *McClellan Ecological Seepage Situation v. Weinberger*, 707 F. Supp. 1182, 1196 (E.D. Cal.1988), *rev'd on other grounds*.

Pursuant to authority delegated by the United States Environmental Protection Agency ("EPA") under section 402(b) of the CWA, 33 U.S.C. § 1342(b), the Florida Department of Environmental Protection ("FLDEP") issued NPDES permit number FL0001562 to FPL. The current version of the permit became effective May 6, 2005. The permit expired on May 5, 2010, but has been administratively extended by FLDEP.

Federal courts have jurisdiction to hear citizen suits brought pursuant to state-issued NPDES permits, including for enforcement of more stringent provisions than would be included in a federal permit. *See, e.g., Parker v. Scrap Metal Processors, Inc.*, 386 F.3d 993, 1004-08 (11th Cir. 2004); *Northwest Envtl. Advocates v. City of Portland*, 56 F.3d 979, 985–90 (9th Cir.1995); *St. Johns Riverkeeper, Inc. v. Jacksonville Elec. Authority*, 3:07-cv-739, 3:07-cv-747, 2010 WL 745494, at *3 (M.D. Fla. March 1, 2010); *Upper Chattahoochee Riverkeeper Fund, Inc. v. City of Atlanta*, 953 F. Supp. 1541, 1552–53 (N.D. Ga.1996); *Culbertson v. Coats Am., Inc.*, 913 F. Supp. 1572, 1581 (N.D. Ga.1995).

NPDES Permit No. FL0001562 authorizes the discharge of non-contact once-through condenser cooling water (OTCW), auxiliary equipment cooling water (AECW), low-volume

waste (LVW), and storm water into an onsite closed loop cooling canal system. The NPDES Permit specifically does not authorize discharge to surface waters. The NPDES Permit also contains limits on ground water discharges.

As set out in more detail below, FPL has violated and is violating its NPDES Permit by unauthorized discharges of pollutants, including, but not limited to, excess salinity, phosphorus, ammonia, TKN, total nitrogen, and radioactive tritium, into waters of the United States in Biscayne Bay. Additionally, FPL has violated its NPDES Permit by discharges of hypersaline water contaminated with radioactive tritium into ground water, threatening the water supply for Miami-Dade County and the Florida Keys. FPL has also violated the Clean Water Act by discharging pollutants without an NPDES permit and by causing violations of water quality standards in Biscayne Bay, which is protected from degradation as Outstanding National Resource and Outstanding Florida Waters.

BISCAYNE BAY

Biscayne Bay is the largest estuary on the coast of southeast Florida and is contiguous with the southern Florida Everglades and Florida Bay. It encompasses a marine ecosystem that totals approximately 428 square miles. Its drainage area is 938 square miles, of which 350 are freshwater and coastal wetlands in Miami-Dade, Broward, and Monroe Counties. It is home to Biscayne National Park, the largest marine park in the national park system. Not only is it a source for food, transportation, and commerce, it also offers boundless opportunities for recreation, such as boating, fishing, swimming, snorkeling and scuba diving. Rimmed by mangrove wetlands, the natural bay is a shallow estuary of clear waters and sandy bay bottoms with seagrasses, corals and sponges. The bay supports rich ecological communities and a diverse variety of fish and wildlife.

Pursuant to the authority delegated to it under the CWA, FLDEP has promulgated water quality standards for waters within the state. The waters of Biscayne Bay into which FPL is discharging are classified by FLDEP in Rule 62-302.400(14) of the Florida Administrative Code ("F.A.C.") as Class III – Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife. In addition, Rule 62-302.700(9), F.A.C., designates the waters of Biscayne Bay within Biscayne National Park into which FPL is discharging as Outstanding National Resource and Outstanding Florida Waters. Pursuant to Rule 62-302.700(1), F.A.C., "[i]t shall be the Department policy to afford the highest protection to Outstanding Florida Waters and Outstanding National Resource Waters. No degradation of water quality . . . is to be permitted in Outstanding Florida Waters and Outstanding National Resource Waters."

The narrative nutrient criterion in Rule 62-302.530(47)(b), F.A.C., has been interpreted by FLDEP as requiring no more than 0.007 milligram per liter ("mg/L") of Total Phosphorus, 0.35 mg/L of Total Nitrogen, and 0.2 µg/L of Chlorophyll *a*, in the waters of Biscayne Bay into which FPL is discharging. Rule 62-302.532(1), F.A.C. In addition, Sec. 24-42(4) of the Miami-Dade County, Florida, Code of Ordinances, requires 0.5 mg/L or less of ammonia in marine waters in the County.

BISCAYNE AQUIFER

The Biscayne Aquifer is the main source of potable water in Miami-Dade County and the Florida Keys and is designated by the federal government as a sole source aquifer under the Safe Drinking Water Act. FLDEP classifies Florida ground water and sets minimum standards for ground water in Rule 62-520.400, FA.C. and 62-520.430, FA.C. Rule 62-520.400, F.A.C., states:

> (1) All ground water shall at all places and at all times be free from domestic, industrial, agricultural, or other man-induced non-thermal components of discharges in concentrations which, alone or in combination with other substances, or components of discharges (whether thermal or non-thermal):
>
> (a) Are harmful to plants, animals, or organisms that are native to the soil and responsible for treatment or stabilization of the discharge relied upon by Department permits; or
>
> (b) Are carcinogenic, mutagenic, teratogenic, or toxic to human beings, unless specific criteria are established for such components in Rule 62-520.420, F.A.C.; or
>
> (c) Are acutely toxic within surface waters affected by the ground water; or
>
> (d) Pose a serious danger to the public health, safety, or welfare; or
>
> (e) Create or constitute a nuisance; or
>
> (f) Impair the reasonable and beneficial use of adjacent waters.

These standards apply to all ground water, including ground water classified as G-III ground water. For specific components, Rules 62-520.420, 62-550.310, and 62-550.828, F.A.C., establish specific ground water standards for G-III ground water and G-II ground water, including standards for sodium (160 mg/L), nitrate (10 mg/L), chlorides (250 mg/L), sulfates (250 mg/L), and tritium (20,000 pCi/L).

Tritium is produced by nuclear reactors and is often found as a ground water contaminant at nuclear power plants. Historical data from 1974 to 1975 showed tritium concentrations in the FPL cooling canal system to be in the range of 1,556 – 4,846 pCi/L, and reports submitted by FPL for the monitoring period from June 2010 through December 2015 showed cooling canal system tritium concentrations as high as 15,487 pCi/L. Tritium is a good tracer to show discharge of contaminated water with other pollutants from the cooling canal system.

Although tritium has a Maximum Contaminant Level ("MCL") for drinking water of 20,000 pCi/L, the public health goal is much lower. An MCL takes into account factors other than public health, including feasibility of treatment and economics. Tritium, like other radionuclides, is considered to be a carcinogen. Tritium, as tritiated water, enters the body and distributes widely through all water containing compartments without concentrating in any one site. Tritium then readily exchanges with hydrogen in many body molecules, including ribonucleotides, proteins and others, thereby being in the position to impart its energy upon

critical molecules. For example, tritium incorporated into DNA may result in beta particle radiation altering chromosomes, allowing for the induction of cancer. EPA has not set a public health goal for tritium in drinking water, but the State of California, based on EPA risk factors, has established the public health goal at 400 pCi/L, which is equivalent to a 1-in-a-million lifetime cancer risk.

CLEAN WATER ACT VIOLATIONS

I. VIOLATIONS OF EFFLUENT LIMITATIONS IN NPDES PERMIT NO. FL0001562

A. Condition I.A.1. of the NPDES Permit

Condition I.A.1. of the NPDES Permit states: "[t]his permit does not authorize discharge to surface waters of the state." FPL has violated this effluent limitation repeatedly since at least June 2015, and continues to violate this limitation, by discharging pollutants (phosphorus, ammonia, TKN, total nitrogen, radioactive tritium) into Biscayne Bay through a direct hydrological connection between the ground water impacted by the cooling canal system and Biscayne Bay. These violations have been documented based on the detection of the pollutants in monitoring by FPL and the Miami-Dade Department of Regulatory and Economic Resources ("DERM") since 2010. Due to the contamination of the water in the cooling canal system and the ground water below and surrounding the canal system, the violations have been continuous for at least the past five (5) years and will likely continue after the date of this notice unless the source of the contamination is removed and the ground water is cleaned up.

FPL has known for more than six (6) years that pollutants from the cooling canal system are being discharged into Biscayne Bay. FPL began monitoring the surface waters of Biscayne Bay and surface waters connected to Biscayne Bay in 2010, pursuant to an agreement with the South Florida Water Management District ("SFWMD"). Monitoring results showing pollutants (ammonia, phosphorus, TKN, total nitrogen, and tritium) from the canal system in the surface waters of Biscayne Bay or surface waters connected to the Bay at Surface Water Monitoring Stations TPBBSW-1 through 5 (Biscayne Bay stations), TPSWC-1 through 3 (L-31E Canal stations), TPSWC-4 (S-20 Discharge Canal), TPSWC-5 (Card Sound Canal), and TPSWC-6 (Card Sound Road Canal) were reported for June-July 2010, September 2010, December 2010, March 2011, June 2011, September 2011, December 2011, March 2012, June 2012, September 2012, December 2012, March 2013, June 2013, September 2013, December 2013, March 2014, September 2014, and March 2015.

DERM and FPL began monitoring near-shore surface waters of Biscayne Bay adjacent to the cooling canal system more intensively in June 2015. Monitoring results showing pollutants (ammonia, phosphorus, TKN, total nitrogen, and chlorophyll *a*) from the canal system in surface waters of the Bay at Surface Water Monitoring Stations TPSWC-4B, TPSWC-5B TPBBSW-6 and TPBBSW-7 were reported for May 31 & Jun 1, 2015, June 15 & 16, 2015, June 29 & 30, 2015, July 13 & 14, 2015, July 20 & 21, 2015, July 27 & 28, 2015, August 3 & 4, 2015, August

10 & 11, August 17 & 18, 2015, August 24 & 25, 2015, August 31 to September 2, 2015, September 8 & 9, 2015, September 14 & 18, 2015, September 21 & 22, 2015, September 28 to October 2, 2015, October 5 to 7, 2015, October 19 & 20, 2015, October 26 & 27, 2015, November 2 & 4, 2015, November 9 to 13, 2015, November 16 to 19, 2015, November 23 & 24, 2015, November 30 to December 3, 2015, December 7 to 9, 2015, December 14 & 15, 2015, December 21 & 22, 2015, December 28 & 29, 2015, January 4 & 5, 2016, January 11 & 12, 2016, and January 18 & 19, 2016.

In addition, DERM and FPL sampled near-shore surface waters of Biscayne Bay adjacent to the cooling canal system at Surface Water Monitoring Stations TPBBSW-7-B, TPBBSW-7M-B, TPBBSWCSC-M-B, TPSWC-7B, TPBBSW-6B, and TPBBSW-7T-B for radioactive tritium in December 2015 and January 2016. The results showed high levels of tritium (245 to 4,317 pCi/L) in deeper near-shore waters. Levels of tritium in Biscayne Bay away from the cooling canal system are typically less than 20 pCi/L. The presence of high levels of tritium in the near-shore surface waters of Biscayne Bay and surface waters connected to Biscayne Bay also confirms the hydrologic connection between the canal system and the surface waters of Biscayne Bay.

The levels of pollutants (ammonia, phosphorus, TKN, total nitrogen, chlorophyll *a*, and tritium) found in Biscayne Bay and surface waters connected to Biscayne Bay as a result of FPL's discharges from its cooling canal system represent degradation of the waters of Biscayne Bay, in violation of the "no degradation" requirement stemming from the designation of these waters as Outstanding National Resource Waters and Outstanding Florida Waters. In addition, the monitoring performed demonstrates that the levels of pollutants violate the Miami-Dade County water quality standard for ammonia and violate Florida water quality standards for total nitrogen, phosphorus, and chlorophyll *a*.

B. Condition I.A.14 of the NPDES Permit

Condition I.A.14 of the NPDES Permit states:

> Notwithstanding any other requirements of this "No Discharge" permit, the permittee shall comply with all applicable provisions of the Final Judgement dated September 10, 1971, in Civil Action Number 70-328-CA issued by the U.S. District Judge C. Clyde Atkins of the Southern District of Florida.

FPL has violated Paragraph V of this Final Judgment by discharging water from the cooling canal system into Biscayne Bay, as set out in Section I.A. of this Notice, *supra*.

C. Condition IV.1. of the NPDES Permit

Condition IV.1. of the NPDES Permit states: "The Permittee's discharge to ground water shall not cause a violation of the minimum criteria for ground water specified in Rule 62-520.400, FA.C. and 62-520.430, FA.C." This condition also serves to protect surface waters

from degradation. FPL has violated this condition by causing continuous violations of the minimum criteria for ground water during each day during the past five (5) years preceding this Notice. Due to the contamination of the water in the cooling canal system and the ground water below and surrounding the canal system, the violations will likely continue after the date of this notice unless the source of the contamination is removed and the ground water is cleaned up.

FPL has contaminated ground water extending from the cooling canal system to over four (4) miles west of the cooling canal system in violation of Condition IV.1. of the NPDES Permit. Monitoring wells west of the FPL cooling canal system have shown violations of the minimum criteria for ground water since at least 2009, including sodium levels in well G-21 and G-28, approximately 4 miles west of the cooling canal system, which exceed sodium criterion by as much as 50 times. Other wells west of the cooling canal system (BBCW- 4, BBCW-5, FKS-4, TPGW-5D) showed sodium levels as high as 100 times the criterion.

Saltwater intrusion into the area west of the cooling canal system is impairing the reasonable and beneficial use of adjacent G-II ground water and, therefore, is a violation of the minimum criteria for ground water in Rule 62-520.400, F.A.C. The continuous seepage and resulting ground water plume of contaminated cooling canal water has and continues to contaminate usable portions of the Biscayne Aquifer - steadily converting Class G-II potable water to Class G-III non-potable water as it moves west through the Biscayne Aquifer. In addition, the plume of radioactive tritium continues to move west of the cooling canal system into the Biscayne Aquifer, with levels exceeding the public health goal of 400 pCi/L as much as three (3) miles west of the cooling canal system. Furthermore, as discussed in Section I.A. of this Notice, *supra*, the contaminated ground water is also moving east into Biscayne Bay.

D. Condition VIII.5. of the NPDES Permit

Condition VIII.5 of the NPDES Permit states:

> The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [62-620.610(5), F.AC.]

FPL has violated this condition by, among other omissions, failing to take all reasonable steps to minimize or prevent the discharges to surface waters and ground water set out in this Section I.A. and I.C. of this Notice, *supra*.

E. Condition VIII.7. of the NPDES Permit

Condition VIII.7. of the NPDES Permit states:

> The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. [62-620.610(7), F.A C.]

FPL has violated this condition by, among other omissions, failing to adequately control the temperature of the cooling water in the cooling canal system, by failing to control the nutrient levels in the system, and by failing to properly operate the so-called "interceptor" ditch to prevent widespread contamination of the ground water by saline water and other pollutants, including radioactive tritium.

II. DISCHARGING POLLUTANTS TO SURFACE WATERS WITHOUT AN NPDES PERMIT

Since at least June 2010, FPL has violated the CWA, 42 U.S.C. § 1311(a) and 40 C.F.R. § 122.21, by discharging pollutants (phosphorus, ammonia, TKN, total nitrogen, radioactive tritium) into Biscayne Bay through a direct hydrological connection between the ground water impacted by the cooling canal system and Biscayne Bay without an NPDES permit authorizing such discharges. The locations of the discharges are set out in Section I.A. of this Notice, *supra*. The requirement for an NPDES permit authorizing these discharges arose at the time that FPL first knew or should have known that pollutants were being discharged into surface waters. Each day since that time is a violation of the CWA.

III. DISCHARGES CAUSING OR CONTRIBUTING TO VIOLATIONS OF WATER QUALITY STANDARDS

Federal and state law prohibit discharges of pollutants from point sources that cause or contribute to violations of surface water quality standards. *See, e.g.*, 33 U.S.C. § 1311(b)(1)(C) and § 403.088(1), Fla. Stat. In addition to prohibiting discharges to surface waters altogether, the NPDES Permit requires compliance with water quality standards in Section VIII., 5 and 12. FPL has violated the CWA, Florida law, and the NPDES Permit by causing or contributing to violations of surface water quality standards in Biscayne Bay due to its discharges from the Turkey Point cooling canal system, as set out in Section I.A. of this Notice, including, but not limited to, the narrative nutrient criterion in Rule 62-302.530(47)(b), F.A.C., and the water quality standard for ammonia in Sec. 24-42(4) of the Miami-Dade County, Florida, Code of Ordinances. These violations began in 2010 and continue as of the date of this Notice, as shown by monitoring data generated by FPL and DERM.

The levels of pollutants (ammonia, phosphorus, TKN, total nitrogen, chlorophyll *a*, and tritium) found in Biscayne Bay and surface waters connected to Biscayne Bay as a result of FPL's discharges from its cooling canal system also represent degradation of the waters of

Biscayne Bay, in violation of the "no degradation" requirement stemming from the designation of these waters as Outstanding National Resource Waters and Outstanding Florida Waters.

CONCLUSION

Thank you for your prompt attention to the ongoing, serious violations of federal law and permitting requirements. Unless the EPA or FDEP commences and diligently prosecutes an action in court to address these violations within sixty (60) days, we intend to file a citizen suit against FPL under 33 U.S.C. § 1365(a)(1) for the violations discussed above. In addition to the violations set forth herein, this Notice covers all violations of the CWA evidenced by information which becomes available after the date of this Notice. Pursuant to the CWA, we will seek civil penalties, attorney's fees and costs, as well as an injunction against continued violations.

Any and all communication related to this matter should be directed to Gary A. Davis and James S. Whitlock, at the address and telephone number listed at the top of this letter, or to James M. Porter, 9350 South Dixie Highway, 10th Floor, Miami, FL 33156, (305) 671-1345.

Respectfully,

Gary A. Davis

cc: Hon. Loretta E. Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001