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July 13, 2016

Via Certified Mail/Return Receipt

Eric E. Silagy, President
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408

J.E. Leon, Registered Agent
Florida Power & Light Company
4200 West Flagler St., Suite 2113
Miami, FL 33134

Fred Aschauer, Director
Water Resource Management
Florida Department of Environmental
Protection
2600 Blair Stone Road
Tallahassee, Florida 32399

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W
Washington, DC 20460

Heather McTeer Toney, Administrator
U.S. Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303

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

Ladies and Gentlemen:

NOTICE

This Supplemental Notice serves to notify Florida Power & Light Company ("FPL") that the following organizations intend to file an amended citizen suit complaint 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 additional violations of the CWA that have been discovered since the original Notice of Intent to File Citizen Suit ("Original Notice") resulting from the discharge of industrial wastewater from FPL's Turkey Point Power Plant, in violation of the terms of NPDES Permit No. FL0001562 and the CWA. This Supplemental Notice is given on behalf of the following persons who are directly and substantially affected by the violations set out herein, including one additional person, Friends of the Everglades, Inc., not listed in the Original Notice, who adopts the Original Notice in its entirety:

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

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

Friends of the Everglades, Inc.
11767 South Dixie Highway #232
Miami, Florida 33156
(305) 669-0858

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.

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 and continues to violate this limitation, by discharging industrial wastewater containing 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 Environmental Resources Management (“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 continued to violate Condition I.A.1. of the NPDES Permit as shown by monitoring results evidencing discharges of industrial wastewater containing pollutants (ammonia, phosphorus, TKN, total nitrogen, and chlorophyll *a*) from the canal system into the surface waters of Biscayne Bay or surface waters connected to the Bay at Surface Water

Monitoring Stations TPSWC-1B through 3B (L-31E Canal stations), TPSWC-4B (S-20 Discharge Canal), TPSWC-5B (Card Sound Canal), TPSWC-6 (Card Sound Road Canal) and TPSWC-7. The samples were taken on January 25 and 26, 2016, February 1 to 3, 2016, February 8 and 9, 2016, February 15 and 16, 2016, February 22 and 23, 2016, February 29 to March 4, 2016, March 7 and 8, 2016, March 14 and 15, 2016, March 21 and 22, 2016, March 28 and 29, 2016, April 4 and 5, 2016, April 11 and 12, 2016, and April 18 and 19, 2016. In addition, monitoring results from samples taken at Surface Water Monitoring Stations TPBBSW-6 and TPBBSW-7 evidenced discharges of industrial wastewater containing pollutants on January 25 and 26, 2016, February 1 to 3, 2016, February 8 and 9, 2016, February 15 and 16, 2016, February 22 and 23, 2016, February 29 to March 4, 2016, March 7 and 8, 2016, March 14 and 15, 2016, March 21 and 22, 2016, March 28 and 29, 2016, April 4 and 5, 2016, April 11 and 12, 2016, and April 18 and 19, 2016, April 26, 2016, May 2, 2016, May 9, 2016, May 16, 2016, May 23, 2016, May 31, 2016, June 6, 2016, and June 13, 2016. Another station not included in the Original Notice, Station TPBBSW-8B, which is in the Turkey Point Barge Canal, evidenced discharges of industrial wastewater containing pollutants on January 6, 2016, and May 16, 2016 (ammonia, phosphorus, TKN, total nitrogen).

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 continuing to discharge industrial wastewater 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 Supplemental 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 continued to contaminate 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. Recent results obtained since the Original Notice was served show this contamination is continuing.

The intrusion of the hypersaline plume from the cooling canal system 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. Recent results obtained since the Original Notice was served show this contamination is continuing. In addition, the plume of radioactive tritium continues to move west of the cooling canal system into the Biscayne Aquifer, with recent 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.A.C.]

FPL has continued to violate 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 continued to violate 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, and FPL has continued to violate this requirement, as shown by the discharges described in Section I.A. of this Notice.

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 recent monitoring data generated by FPL and DERM.

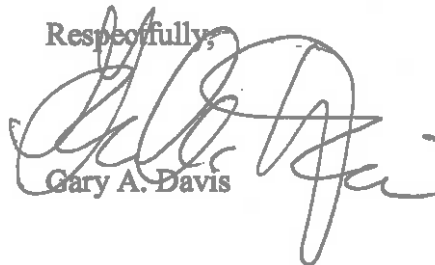
The levels of pollutants (ammonia, phosphorus, TKN, total nitrogen, chlorophyll *a*, and tritium) found in Biscayne Bay and surface waters connected to Biscayne Bay as a result of FPL's discharges from its cooling canal system also represent degradation of the waters of Biscayne Bay, in violation of 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. In sixty (60) days, we intend to amend the Complaint filed against FPL under 33 U.S.C. § 1365(a)(1) to add Friends of the Everglades as a party and to address the additional 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 enforcement order or 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