

**STATE OF FLORIDA  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**



**BOBWHITE-MANATEE 230-kV TRANSMISSION LINE  
FLORIDA POWER & LIGHT**

**CONDITIONS OF CERTIFICATION**

**Certified 11/6/2008**

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## **I. CERTIFICATION CONTROL**

A. Under the control of these Conditions of Certification, Florida Power & Light Company (FPL) will construct and operate a 230-kilovolt (kV) transmission line consisting of an approximately 25-30 mile transmission line connecting the Manatee Energy Center near Parrish in Manatee County to a proposed new substation east of I-75 in Sarasota County.

B. These Conditions of Certification, unless specifically amended or modified, are binding upon FPL and shall apply to the construction, operation and maintenance 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.

I. Citation: Section 403.531, F.S. (2006).

## **II. APPLICABLE RULES**

The construction and operation of the certified transmission line shall be in accordance with all applicable non-procedural provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification: Chapter 403 (Environmental Control), Florida Statutes (F.S.), and Chapters 40D-4 (Individual Environmental Resource Permits), 40D-9 (District Land Use Rules), 62-4 (Permits), 62-17 Part II (Transmission Line Siting Act), 62-301 (Surface Waters of the State), 62-302 (Surface Water Quality Standards), 62-330 (Environmental Resource Permitting), 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters), 62-343 (Environmental Resource Permit Procedures), 62-345 (Uniform Mitigation Assessment Method) and 62-814 (Electric and Magnetic Fields), Florida Administrative Code (F.A.C.).

II. Citation: Section 403.531, F.S. (2006).

## **III. DEFINITIONS**

Unless otherwise indicated herein, 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. In addition, the following shall apply:

A. "Application" shall mean the Application for Corridor Certification for the Florida Power & Light Company Bobwhite-Manatee transmission line.

B. "Complete" shall mean the post-certification filing provides the data required by the relevant Condition of Certification.

C. "DCA" shall mean the Florida Department of Community Affairs.

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

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

F. "DOT" shall mean the Florida Department of Transportation.

G. "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 transmission line components or access facilities.

H. "Facility" or "Project" shall mean the Bobwhite-Manatee 230-kV electrical "transmission line" as defined in Section 403.522(21), F.S.

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

J. "FWC" shall mean the Florida Fish and Wildlife Conservation Commission.

K. "FPL" shall mean Florida Power & Light Company, the Applicant/Licensee.

L. "Licensee" shall mean FPL, which has obtained a certification order for the subject electrical transmission line.

M. "Listed species" shall mean the species listed in Table 2.3-3 or Table 2.3-2 of the Application as endangered, threatened or species of special concern by FWC, the Florida Department of Agriculture and Consumer Services, or the U.S. Fish and Wildlife Service.

N. "Post-certification submittal" shall mean a submittal made by FPL pursuant to a Condition of Certification.

O. "ROW" shall mean the transmission line right-of-way to be selected by FPL within the certified corridor in accordance with the Conditions of Certification.

P. "SWFWMD" shall mean the Southwest Florida Water Management District.

Q. "State water quality standards" shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapter 62-302, F.A.C., as revised through December 7, 2006.

R. "Transmission line" shall mean the Florida Power & Light Company Bobwhite-Manatee 230-kV transmission line.

S. "Wetlands" shall mean those areas meeting the definition set forth in Section 373.019(25), F.S., as delineated pursuant to Chapter 62-340, F.A.C., and ratified by Section 373.4211, F.S.

III. Citation: Section 403.531, F.S. (2006).

#### **IV. DESIGN AND PERFORMANCE CRITERIA**

Certification, including these Conditions of Certification, is predicated upon preliminary design ranges and performance criteria. Final engineering design will be within the range described in the Application and explained at the certification hearing. Conformance to those criteria, unless specifically modified in accordance with Section 403.5315, Florida Statutes, and Rule 62-17.680, F.A.C., is binding upon FPL in the design, construction, operation and maintenance of the certified transmission line. In any instance where a conflict occurs between the Application's design criteria and the Conditions of Certification, the Conditions shall prevail.

IV. Citation: Section 403.531, F.S. (2006).

#### **V. RIGHT OF ENTRY/MONITORING**

A. Upon presentation of credentials or other documents as may be required by law, FPL shall allow authorized representatives of DEP or other agencies with jurisdiction over a portion of the ROW:

1. At reasonable times, to enter upon the ROW in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this certification; or
2. During business hours, to enter FPL's premises in which records are required to be kept under this certification; and to have access to and copy any records required to be kept under this certification.

B. When requested by DEP, on its own behalf or on behalf of another agency with regulatory jurisdiction, FPL shall within 10 working days or such longer period as may be mutually agreed upon by DEP and the Licensee furnish any information required by law, which is needed to determine compliance with the certification. If FPL becomes aware that relevant facts were not submitted or were incorrect in the Application or in any report to DEP or other agencies, such facts or information shall be corrected promptly.

V. Citation: Section 403.531, F.S. (2006).

## **VI. EMERGENCY REPORTING**

Replacement of ROW access roads or transmission lines constructed under this certification necessitated by emergency conditions shall not be considered a modification pursuant to Section 403.5315, F.S. (2006). An oral report of the emergency shall be made to DEP as soon as possible. Within 14 calendar days after correction of an emergency, which would require FPL to perform an activity not in accordance with the Conditions of Certification, a report to DEP shall be made outlining the details of the emergency and the steps taken for its temporary relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas, or alteration of archaeological or historical resources.

VI. Citation: Section 403.531, F.S. (2006).

## **VII. CERTIFIED CORRIDOR**

The certified corridor is attached hereto in Attachment 1.

VII. Citation: Section 403.531, F.S. (2006).

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

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

Conditions of Certification which provide for the post-certification submittal of information to DEP or other agencies by FPL are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the ROW and the construction and maintenance of the transmission line. 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.

## B. Filings

1. All post-certification submittals of information by FPL are to be filed with the DEP Siting Coordination Office, the DEP Southwest District Office, and any other agency that is required to receive a submittal by any Condition of Certification. As required by Section 403.5317, F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.

2. 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 DEP 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.

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

## C. Completeness

DEP shall promptly review each post-certification submittal for completeness. This review may include consultation with the other agency(ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the submittal. DEP's finding of completeness shall specify the area of the right-of-way affected, and shall not delay further processing of the post-certification submittal for non-affected areas. FPL may request that DEP Siting Coordination Office hold a meeting within 15 days after submittal to discuss any completeness issues. FPL may continue to supplement the submittal with additional information through the 25<sup>th</sup> day.

If any portion of a post-certification submittal is found to be incomplete, FPL shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

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

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

#### **E. Reasonable Assurances of Compliance**

DEP shall give written notification on an expedited and priority basis, but in any event within no more than 90 days, to FPL and the other agency(ies) 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, FPL shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify FPL in writing within 90 days of receipt of a complete post-certification submittal shall constitute a compliance determination.

#### **F. Commencement of Construction**

If DEP does not object within the time period specified in paragraph E. above, FPL may begin construction pursuant to the terms of the Conditions of Certification and the subsequently submitted construction details.

#### **G. Water Quality Certification**

For each post-certification submittal which addresses matters within DEP's environmental resource permitting jurisdiction, DEP shall provide to the U.S. Army Corps of Engineers (USCOE) a letter in accordance with DEP Rule 62-17.665(7)(f), F.A.C. This letter shall be sent concurrently with a determination of compliance pursuant to paragraph E. above, or immediately upon request by FPL more than 90 days after the filing of a complete post-certification submittal addressing matters within DEP's environmental resource permitting jurisdiction.

## **H. Coastal Zone Consistency**

Pursuant to Section 380.23, F.S., DEP's letter to the USCOE under paragraph G above constitutes the state's concurrence that the licensed activity or use is consistent with the federally approved program under the Florida Coastal Management Act.

## **I. Revisions to Design Previously Reviewed for Compliance**

The Licensee shall submit to DEP, for its review, any proposed revisions to the project's site specific design that were previously reviewed for compliance with these Conditions during the post-certification review process. Such submittals shall include the same type of information required for the original submittal and shall be submitted prior to construction/implementation.

## **J. Variation to Submittal Requirements**

DEP, in consultation with the appropriate agencies that have regulatory authority over a matter to be addressed in a post-certification submittal, and FPL may jointly agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

## **K. Disputes**

Any agency which received a post-certification submittal pursuant to these Conditions may dispute a determination that a submittal provides reasonable assurances of compliance with the Conditions of Certification made by DEP on matters within that agency's jurisdiction by following the procedures set forth in Chapter 120, F.S. The agency's statement disputing DEP's determination shall state with particularity the location to which the agency's dispute relates. Work in areas other than the location to which the agency's dispute relates will not be affected by the agency's dispute.

VIII. Citations: Sections 403.531, 403.5317, 373.413, 373.416, 120.569, and 380.23, F.S. (2006); Rules 62-17.600, 62-17.665, and 40D-4.101, F.A.C, 62-17.191, F.A.C.

## **IX. DISPUTE RESOLUTION**

If a situation arises in which mutual agreement cannot be reached between DEP and another agency receiving a post-certification submittal or between DEP and FPL regarding compliance with the Conditions of Certification, 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. FPL or DEP may request DOAH to establish an expedited schedule for the processing of such a dispute.

IX. Citations: Sections 403.5317, 403.531, and 120.57, F.S. (2006).

## **X. 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 circumstance is held invalid, the remainder of the certification or the application or such provision to other circumstances shall not be affected thereby.

X. Citation: Section 403.531, F.S. (2006).

## **XI. ENFORCEMENT**

A. 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, and 403.533, F.S. Any noncompliance by FPL with a Condition of Certification 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.

B. All records, notes, monitoring data and other information relating to the construction or operation of this certified transmission line 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.

XI. Citations: Section 403.141, 403.161 and 403.533, F.S. (2006).

## **XII. REVOCATION OR SUSPENSION**

This certification may be suspended or revoked pursuant to Section 403.532, Florida Statutes.

XII. Citation: Section 403.532, F.S. (2006).

## **XIII. PROPERTY RIGHTS**

Except as provided in Section 403.531(3)(b), F.S., the issuance of this certification does not convey any property rights in either real or personal property, or any exclusive privileges thereto. The Licensee shall obtain title, lease, easement, or right of use from the State of Florida to any sovereignty submerged or other state-owned lands occupied by the right-of-way for the transmission line. Section 403.531(3)(b), F.S., provides that, on certification, any

license, easement, or other interest in state lands, except those the title of which is vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act.

XIII. Citation: Section 403.531, F.S. (2006).

#### **XIV. 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.

XIV. Citation: Chapter 120, F.S. (2006).

#### **XV. MODIFICATION OF CERTIFICATION**

A. Pursuant to Section 403.5315(1), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.680, F.A.C., the Siting Board hereby delegates the authority to the Secretary of the Department of Environmental Protection to modify these Conditions of Certification, after notice and receipt of no objection by a party or other substantially affected person. In addition, the Secretary of the Department is delegated the authority to modify conditions as follows:

1. The Secretary of the Department may modify any condition of this certification after notice and opportunity for hearing.
2. The Secretary of the Department may grant modifications necessary to meet licensing conditions or requirements imposed on FPL by any federal regulatory agency. FPL shall notify DEP at least 30 days prior to the issuance of the federal license that would require such a modification, if known, or in any event, as soon as the federal agency notifies FPL.
3. The Secretary of the Department may authorize the reconstruction of the ROW or transmission line necessary to avoid or mitigate an emergency condition. Such a modification shall be obtained only when an emergency replacement of a transmission line pursuant to Rule 62-17.695, F.A.C., is not required or when an emergency replacement must be further modified after the emergency conditions requiring the original reconstruction are no longer present.

B. DEP shall give written notice to the parties to the original certification, at their last address of record, of any requests for modification filed by FPL.

XV. Citations: Sections 120.569(2)(n) and 403.5315, F.S. (2006); Rules 62-17.680 and 62-17.695, F.A.C.

## **XVI. SUBMITTALS AND NOTICES REQUIRED BY CONDITIONS**

Post-certification submittals and notices shall be sent, as specified in these Conditions, to the agencies specified in these conditions at the following addresses, unless FPL and DEP are notified in writing of an agency's change in address for such submittals and notices:

Florida Department of Environmental Protection  
Siting Coordination Office, MS 48  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

Florida Department of Environmental Protection  
Southwest District Office  
13051 N Telecom Parkway  
Temple Terrace, FL 33637-0926

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

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

Southwest Florida Regional Planning Council  
Office of the Executive Director  
1926 Victoria Avenue  
Fort Myers, FL 33901-3414

Southwest Florida Water Management District  
Office of General Counsel  
2379 Broad Street  
Brooksville, FL 34604-6899

Florida Department of Transportation  
Director of Planning and Production, District 1  
P. O. Box 1249  
Bartow, FL 33831-1249

Sarasota County Resource Protection  
1660 Ringling Blvd.  
Sarasota, FL 34236

Plan Implementation Administrator  
Manatee County Planning Department  
1112 Manatee Avenue West  
Fourth Floor, Suite 401  
Bradenton, FL 34206

Copy: Office of the County Attorney  
Manatee County  
1112 Manatee Avenue West  
Ste. 969  
Bradenton, FL 34206

Tampa Bay Regional Planning Council  
4000 Gateway Centre Blvd.  
Ste. 100  
Pinellas Park, FL 33782

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

U.S. Fish and Wildlife Services  
1339 20<sup>th</sup> Street  
Vero Beach, FL 32960

XVI. Citation: Section 403.531, F.S. (2006).

## **XVII. TRANSFER OF CERTIFICATION**

This certification is transferable, upon Department approval, to an entity determined to be competent to construct, operate and maintain the transmission line in accordance with these Conditions of Certification. A transfer of certification of all or part of a certified facility shall be initiated by the Licensee's filing with the Department and the parties a notice of intent to transfer certification to a new licensee. The notice of intent shall identify the intended new certification holder or licensee and the identity of the entity responsible for compliance with the certification. The provisions of Chapter 120, F.S., will apply to the Department's approval or denial of the transfer.

XVII. Citations: Section 403.531, F.S. (2006); Chapter 120, F.S.; Rules 62-17.211 and 40D-4.351, F.A.C.

## **XVIII. ROW LOCATION**

A. FPL shall co-locate the transmission line ROW to the extent feasible within or adjacent to existing public rights-of-way for those portions of the corridor which include such existing public rights-of-way. To the extent a widened road right-of-way has been acquired by the appropriate

governmental agency at the time of final transmission line design, FPL's design shall reflect that new widened right-of-way.

B. FPL will consult with State Park officials prior to placement of the transmission line within park boundaries should placement of the transmission line involve park property. In the event an easement over park property becomes necessary, FPL will provide, as a post-certification submittal to the Florida Department of Environmental Protection, Division of State Lands, the applicable information required by the Board of Trustees of the Internal Improvement Trust Fund for an upland easement.

C. To the extent feasible FPL shall locate the transmission line right-of-way so as to avoid the taking of homes.

D. In the area of the planned Dam Road/Bourneside Boulevard extension ("Extension"), south of SR 64 and north of University Parkway and connecting with SR70, FPL shall coordinate to the extent practicable with Manatee county Transportation Department and the underlying property owners regarding the location of the ROW for the Extension and the ROW for the BWM Line. If either Manatee County or the property owner(s) decline to participate in the coordination effort, FPL shall coordinate with the cooperating entity.

E. During design of the BWM Line, FPL shall locate poles, to the extent practicable and in compliance with the requirements of the National Electrical Safety Code and good engineering practices, to maximize the space between a pole and the primary entrance of a major residential subdivision, using typical structures, and within the ROW alignment.

F. To the extent feasible, and upon request by the Bridle Creek Homeowners Association (BCHOA), FPL shall consult with Taylor & Fulton, Inc. and BCHOA in the design of the transmission line to: 1) keep the pole heights along the northern BCHOA property boundary to the minimum height that is practicable, consistent with the desires of Taylor & Fulton, and in compliance with the requirements of the National Electrical Safety Code and good engineering practices; and 2) work collaboratively to locate the poles in such a way as to accommodate the BCHOA to the extent practicable, consistent with the wishes of Taylor & Fulton, and in compliance with the requirements of the National Electrical Safety Code and good engineering practices.

G. When establishing the ROW location and constructing the transmission line, the Licensee shall minimize impacts to preexisting natural features and minimize tree removal and trimming of vegetation, to the extent feasible and in compliance with Section 163.3209, Fla. Stat. (2007), which incorporates by reference National Electrical Reliability Corporation (NERC) standard FAC-003-1, American National Standards Institute (ANSI) standards

A300 (Part I)-2001 and 2133.1-2000, and NESC standards adopted by the Florida Public Service Commission.

XVIII. Citations: Sections 403.526(2)(b)3, 403.522(18), 403.526(2)(a)5, and 258.007(4), F.S. (2006).

## **XIX. PROCESS FOR REVIEW OF ROW LOCATION**

A. Prior to the finalization of the ROW location, three copies of the most recent available aerial photographs at a scale of 1" = 400' with wetland locations generally identified shall be submitted to DEP Siting Coordination Office, and one copy each to DEP Southwest District Office, SWFWMD, TBRPC, DOT, DCA, Manatee County and Sarasota County, delineating the certified corridor, and the selected transmission line ROW. In addition, FPL shall note on the aerial photographs new construction within the corridor that has occurred since the photograph was taken. FPL shall notify all parties of such filing and, if needed, shall meet with DEP to discuss the ROW location. This information may be submitted in segments. The agencies receiving the aerial photographs from FPL shall have an opportunity to review the photographs and to notify DEP, within 12 days of FPL's submittal of the aerial photographs to the agencies, of any apparent conflicts with the requirements of the Conditions of Certification. However, this paragraph shall not operate to avoid the need for post-certification submittals and compliance reviews otherwise required by the Conditions of Certification.

B. After review of the aerial photographs and comments from the other reviewing agencies, if DEP Siting Coordination Office has reason to believe that the construction of the transmission line, access roads or pads within FPL's designated ROW cannot be accomplished in compliance with the Conditions of Certification, FPL shall be so notified in writing, with copies to other parties to the certification proceeding of the particular basis for DEP's conclusion, and possible corrective measures which would bring the Project into compliance. If such notice is not received within 15 days of FPL's submittal of the aerial photographs to the agencies, FPL may proceed with design of the transmission line on the noticed ROW.

C. The acquisition of a particular ROW or the expenditure of funds toward acquisition of a particular ROW prior to the agencies' review pursuant to this condition will be at FPL's risk, and no party will be stopped by such acquisition to seek disapproval of the construction of the transmission line or access road within the ROW in accordance with these Conditions of Certification.

D. After FPL has acquired interest in the entire length of the transmission line ROW, FPL shall:

1. File a statement with the clerk of the circuit court for each county through which the corridor passes certifying that all lands required for the transmission line ROW within the corridor have been acquired. FPL shall also

file with the county Planning Department a map at the scale of 1" = 400' showing the boundaries of the acquired ROW.

2. File with DEP Siting Coordination Office a map at a scale of 1" = 400' showing the boundaries of the acquired ROW, if such boundaries are different from those shown in the filing required by paragraph A above. Such maps shall comply with the requirements of paragraph A. If the boundaries have not changed, FPL shall file a statement with DEP Siting Coordination Office accordingly.

E. Once the ROW has been determined FPL will submit information that is consistent with information typically submitted for County ROW permits.

XIX. Citations: Sections 403.531 and 403.5312, F.S. (2006); Rule 62-17.600(4), F.A.C.

## **XX. ROW SURVEYS**

### **A. Listed Species**

#### *1. Listed Species Occurring or Potentially Occurring in the Corridor:*

State-listed species occurring or potentially occurring within the preferred corridor footprint include but are not limited to the wood stork (*Mycteria americana*), which is listed as endangered; the eastern indigo snake (*Drymarchon corais couperi*), the bald eagle (*Haliaeetus leucocephalus*), Florida sandhill crane (*Grus canadensis pratensis*), the gopher tortoise (*Gopherus polyphemus*), and southeastern American kestrel (*Falco sparverius paulus*), all listed as threatened; gopher frog (*Rana capito*), Florida burrowing owl (*Athene cunicularia floridana*), limpkin (*Aramus guarauna*), little blue heron (*Egretta caerulea*), roseate spoonbill (*Platalea ajaja*), snowy egret (*Egretta thula*), tricolored heron (*Egretta tricolor*), white ibis (*Eudocimus albus*), and Sherman's fox squirrel (*Sciurus niger shermani*), all listed as species of special concern.

#### *2. Listed Species Survey.*

Before land clearing and construction activities within the ROW, where access is available, FPL shall conduct an assessment for listed species in the final right-of-way which will note all habitat, occurrence or evidence of listed species in the right-of-way. Listed species to be included in this survey shall include those listed as endangered, threatened or of special concern by Florida Fish and Wildlife Conservation Commission or those listed as endangered or threatened by U.S. Fish and Wildlife Service.

a. This survey shall be conducted in accordance with USFWS/FFWCC guidelines and methodologies by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for listed species.

b. This survey shall identify any wading bird colonies within one-half mile of the project ROW that may be affected.

c. This survey shall identify locations of breeding locations, nests, and burrows for listed wildlife species. Nests and burrows may be recorded with GPS coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, the FWC prefers that a protection radius surrounding nest sites and burrows be included, rather than individual nests and burrows, and be physically marked so that clearing and construction will avoid impacting them.

d. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community (Florida Land Use, Cover and Forms Classification System, or FLUCFCS, at the third degree of detail) including a wildlife-based habitat classification scheme such as the Comprehensive Wildlife Conservation Strategy (FWC 2005), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (FNAI 1990) of each community that is contained within the final ROW prior to land clearing and construction activities using GIS.

### 3. *Listed Species Locations*

Where any suitable habitat and evidence is found of the presence of listed species along the ROW, FPL will report those locations to, and confer with, the appropriate regulatory agencies for possible additional pre-clearing surveys and to identify potential mitigation, or avoidance recommendations. If pre-clearing surveys are required, they shall be timed to be reasonably compatible with the construction schedule, considering the in-service date specified in the Public Service Commission's need determination. FPL will not construct in areas where evidence of listed species was identified during the initial survey until the particular listed species issues have been resolved.

a. *Listed Wildlife Species*: If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the DEP Southwest District Office, the FFWCC's Office of Policy and Stakeholder Coordination, the SWFWMD, Manatee County, Sarasota County and U.S. Fish and Wildlife Service.

b. *Listed Vegetation Species*: If listed vegetation species are found on public land or water, their presence shall be reported to the DEP Siting Coordination Office and the Florida Department of Agriculture and Consumer Services. Listed wildlife species and listed vegetation species on public land or water shall not be disturbed, if practicable. If avoidance is not practicable, FPL shall consult with DEP, FFWCC, and, if necessary, the U. S. Fish and Wildlife Service for listed wildlife species, and with the Florida Department of Agriculture and Consumer Services for listed vegetation species

on public land or water, to determine the steps appropriate for the species involved which are to be taken to avoid, minimize, mitigate, or otherwise appropriately address impacts within each agency's respective jurisdiction. For wildlife species, these steps shall be memorialized in a Wildlife Management Plan and submitted to DEP, FFWCC and Manatee and Sarasota Counties.

4. *Low water crossings*

Where applicable, FPL will place low-water crossings to provide larger surface areas for wetland-dependent wildlife species.

**B. Cultural Resources**

After the ROW has been selected, FPL shall conduct a survey of sensitive cultural resource areas, as determined in consultation with the Department of State, Division of Historical Resources (DHR) and Sarasota County, where they are crossed by the ROW. A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the certified corridor. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR and the County, upon the County's request for such consultation. Upon completion of the survey, the results will be compiled into a report which shall be submitted to DHR and Sarasota County. If practicable, sites considered to be eligible for the National Register shall be avoided during construction of the transmission line and access roads, and subsequently during maintenance of the ROWs. If avoidance by the proposed ROW of any discovered sites is not practicable, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR and/or Sarasota County, as appropriate.

If historical or archaeological artifacts are discovered at any time within the project site, FPL shall stop work immediately and shall notify the DEP Southwest 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, and FPL shall consult with DHR and Sarasota County (as appropriate) to determine appropriate action.

XX. Citations: Sections 267.061 and 403.531, and Chapter 372, F.S. (2006); Sarasota County Code, Article III, Chapter 66.

**XXI. ACTIVITIES IN WETLANDS**

**A. Informational Submittals for Activities Within Wetlands or Other Surface Waters**

1. Prior to the projected commencement of construction of any portion of the transmission line in wetlands or other surface waters, FPL shall provide to DEP's Southwest District Environmental Resource Permitting Section and the U.S. Army Corps of Engineers all information necessary for a complete

*Joint Environmental Resource Permit application*, DEP Form No. 62-343.900(1), with copies to the Tampa Bay Regional Planning Council and SWFWMD for informational purposes and Manatee and Sarasota Counties. Information may be submitted by discrete sections of the ROW; FPL shall consult with the DEP to identify mutually agreeable sections for purposes of wetlands submittals. The completed form for each section shall be reviewed pursuant to Condition VIII. "Construction" in this context shall include land clearing, excavation, the placement of structure pads, access roads, culverts, fill materials, and related activities. Construction activities shall not include the stringing of conductors.

2. FPL shall provide reasonable assurance that the construction, operation and maintenance of the proposed facilities, including any access roads and structures constructed within wetlands and other surface waters, satisfy the criteria set forth in Rules 40D-4.301 and 40D-4.302, F.A.C., and the applicable portions of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual. Pursuant to Rule 62-17.665(7)(d), F.A.C., the Licensee shall provide sufficient information on a post-certification basis to demonstrate that there is reasonable assurance of compliance with SWFWMD substantive requirements.

3. The post-certification submittal shall include a signed and sealed Professional Land Surveyors' survey of wetland and surface water areas as defined pursuant to Chapter 62-340, F.A.C., and verified by appropriate agency staff. Available SWFWMD-approved wetland and surface water verifications within the boundaries of the FPL ROW may be used and reproduced for this delineation consideration.

XXI.A. Citations: Sections 373.414, 373.416, 403.526(2)(b)3., 403.522(18), 403.526(2)(a)5., F.S. (2006); Rules 40D-4.091, 40D-4.101, 40D-4.301, 40D-4.302, and 62-17.665(7)(d), F.A.C.; and Chapter 62-340, F.A.C.; Sarasota County Code, Chapter 54, Article VII.

## **B. Consultation with Wetland Agencies**

At the request of FPL, DEP Siting Coordination Office may conduct an interagency meeting for FPL to consult with the wetlands resource permitting staffs of DEP and SWFWMD, and the FWC's staff, prior to the finalization of possible access road locations, transmission line structure locations, and the establishment of water control structure types and general locations in wetlands which are to be reflected in any post-certification submittals. At DEP's request, FPL shall conduct a field inspection with the agencies' staff representatives in conjunction with the interagency meeting.

XXI.B. Citation: Section 403.523, F.S. (2006).

## **C. Reduction and Elimination of Impacts**

### *1. Access Roads, Culverts, and Structures*

a. Where the ROW crosses wetlands or other surface waters, FPL shall utilize adjacent existing FPL access roads and public roads for access to the transmission line ROW for construction, operation and maintenance purposes to the extent practicable.

b. All access roads and structure pads which must be constructed in areas where an existing FPL access road or public road is not available shall be constructed in a manner which reduces or eliminates adverse impacts to on-site and adjacent wetlands to the extent practicable. FPL shall be deemed to have satisfied this condition if the access and finger roads satisfy the criteria of Rules 40D-4.301 and 40D-4.302, F.A.C.

c. Where practicable, FPL shall make an effort to reduce or eliminate impacts to wetlands and other surface waters within the certified corridor except as otherwise provided in section 3.2.1.2 of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual. The length of the span between transmission line structures shall be varied as appropriate and other design changes, which shall include but not be limited to a reduction in pad size, elimination of access roads, use of finger fill from existing ROWs and/or modification of construction techniques shall be considered to eliminate or reduce wetland impacts, except where otherwise provided by section 3.2.1.2.

d. To the extent practicable and utilizing the typical structures shown in the Application, access roads, culverts and structures shall be located to avoid conflict with existing underground water and sewer facilities properly documented in county records.

e. In the event temporary fill is used to facilitate construction of the transmission line, the temporary fill shall be removed where necessary to minimize impacts to wetlands or habitats of listed species.

## 2. *Wetland Clearing*

a. FPL shall use only restrictive clearing practices during construction and maintenance of the transmission line where it crosses forested wetlands. Restrictive clearing, as used in this condition, is the removal of vegetation by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. These methods may be used alone or in combination, as may be appropriate for specific sites. All cut vegetation must be removed from wetlands unless other techniques, such as mulching or burning in place, are agreed to by DEP Siting Coordination Office and Sarasota County (for portions of the line located in Sarasota County) in the post-certification review process. Restrictive clearing includes the removal of vegetation from areas extending from the transmission

line centerline to 31 feet on each side of the outer conductors, along new access roads, and in the structure pad areas (approximately 60 feet by 50 feet). Removable construction matting in conjunction with best management practices may be used in wetlands to support equipment. The remainder of the ROW in wetland areas, beyond 31 feet on either side of the outer conductors and the structure pads, shall not be cleared; however, vegetation that has an expected mature height greater than 14 feet may be removed. In addition, danger timber (trees or limbs likely to contact a conductor if felled) within or outside the right-of-way may be removed.

b. Tree stumps under the conductors, within access roads and in the structure pads may be removed, sheared, or ground to 6 inches below the ground line to allow for travel and construction activities. Tree stumps in the area beyond 20 feet on either side of the outer conductors shall be left in place to preserve the root mat.

XXI.C. Citations: Sections 373.414 and 373.416, F.S. (2006); Rules 40D-4.091, 40D-4.101, 40D-4.301, 40D-4.302, and 40D-4.381, F.A.C.

## **XXII. MITIGATION**

A. Mitigation may not be required by DEP if the project is not located within wetlands, is not expected to adversely impact wetlands or complies with the following conditions:

1. All permanent fill shall be at grade. Fill shall be limited to that necessary for the electrical support structures, towers, poles, guy wires, stabilizing backfill, and at-grade access roads limited to 20-foot widths; and

2. The Licensee may utilize access and work areas limited to the following: a linear access area of up to 25 feet wide between electrical support structures, an access area of up to 25 feet wide to electrical support structures from the edge of the right-of-way, and a work area around the electrical support structures, towers, poles, and guy wires. These areas may be cleared to ground, including removal of stumps as necessary; and

3. Vegetation within wetlands may be cut or removed no lower than the soil surface under the conductor, and 20 feet to either side of the outermost conductor, while maintaining the remainder of the project right-of-way within the wetland by selectively clearing vegetation which has an expected mature height above 14 feet. Brazilian pepper, Australian pine, and melaleuca shall be eradicated throughout the wetland portions of the right-of-way; and

4. Erosion control methods shall be implemented as necessary to ensure that state water quality standards for turbidity are met. Diversion and impoundment of surface waters shall be minimized; and

5. The proposed construction and clearing shall not adversely affect threatened and endangered species; and

6. The proposed construction and clearing shall not result in a permanent change in existing ground surface elevation.

7. Where fill is placed in wetlands, the clearing to ground of forested wetlands is restricted to 4.0 acres per 10-mile section of the project, with no more than one impact site exceeding 0.5 acres. The impact site which exceeds 0.5 acres shall not exceed 2.0 acres. The total forested wetland clearing to the ground per 10-mile section shall not exceed 15 acres. The 10-mile sections shall be measured from the beginning to the terminus, or vice versa, and the section shall not end in a wetland.

8. Clearing or fill must not occur within 550 feet from the shoreline of a named waterbody designated as an Outstanding Florida Waterbody (OFW).

B. If the project does not comply with the requirements of paragraph A above, mitigation can be required. For construction in wetlands that does not comply with those requirements, FPL shall propose a mitigation plan as a post-certification submittal under Condition VIII. The following information shall be provided to the DEP Southwest District Environmental Resource Permitting Section for review and to Manatee County, for portions of the line located in Manatee County, for informational purposes:

1. detailed description, location map, and recent aerial photograph of each wetland impact area in which the Rule 62-341.620(2)(b)-(i), F.A.C., limitations were not met;

2. acreage of the type and quality of wetland being impacted at each such site;

3. narrative, drawings, location map, and aerial photographs showing and explaining the proposed mitigation, or in the case of a mitigation bank, the name and location of the bank;

4. detailed description of the existing conditions at the impact site and, unless a mitigation bank is proposed, at the mitigation area;

5. acreage and wetland type of the proposed mitigation, or for a mitigation bank, the type and number of credits;

6. if not a mitigation bank, documentation providing reasonable assurance that the proposed mitigation will be successful; and

7. an analysis pursuant to Chapter 62-345, F.A.C., to the extent applicable.

8. To the extent mitigation will be provided from a mitigation bank, a credit reservation letter will be provided from the selected bank demonstrating the necessary credits are being set aside to offset project impacts.

C. Mitigation plans must be found to fully offset the functions and values provided by wetlands that will be degraded or eliminated to the abundance and diversity of fish, wildlife and listed species, and the habitat of fish, wildlife and listed species. DEP will work with FPL in the development of acceptable mitigation plans. The mitigation plans proposed by FPL shall be submitted for review and compliance monitoring to DEP under Condition VIII.

D. If DEP, upon review of the proposed mitigation plan, determines that the proposed mitigation is inadequate to offset the loss of wetland values described above from this project, FPL may propose additional or alternative mitigation or dispute the determination pursuant to Condition IX.

E. If the proposed mitigation plan is deemed acceptable by DEP and does not involve the use of a mitigation bank, the construction conditions, success criteria and a monitoring plan will be incorporated into the construction conditions as an Attachment.

F. No construction within wetlands subject to the regulatory jurisdiction of DEP that does not comply with the non-procedural limitations of Rule 62-341.620(2)(b)-(i), F.A.C., or paragraph A above, shall commence until DEP approves a mitigation plan, and, if a bank is not used, mitigation construction conditions, success criteria and a monitoring plan are incorporated into the certification conditions.

G. FPL shall be deemed to have met the requirements of this condition if FPL satisfies the criteria of either Section 3.3 or Appendix 4(3) of the Basis of Review for Environmental Resource Permit Applications (February 2007), and Chapter 62-345, F.A.C., if applicable.

XXII. Citations: Sections 373.414, 403.531, and 403.814(6), F.S. (2006); Rules 40D-4.091, 40D-4.301, 40D-4.302, 62-341.620, F.A.C., and Chapter 62-345, F.A.C.

## **XXIII. DRAINAGE AND EROSION CONTROL**

### **A. Maintenance of Drainage/Hydroperiod**

1. FPL shall employ best management practices, construction techniques, and adequate culverting in order to maintain existing drainage

patterns along the transmission line ROW. Within all wetland areas affected, wetland control elevations shall be established and maintained. This condition shall not preclude FPL from improving preconstruction hydroperiods provided such improvement can be achieved in compliance with the other Conditions of Certification. FPL shall be deemed to have satisfied this condition if the access and finger roads satisfy the criteria of Rules 40D-4.301 and 40D-4.302, F.A.C.

2. Access roads and other nonexempt surface water management system facilities constructed in upland areas shall meet the conditions set forth in Rules 40D-4.301 and 40D-4.302, F.A.C., and applicable provisions of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual, including but not limited to Section 4.4.

XXIII.A. Citations: Sections 373.416 and 403.531, F.S. (2006); Rules 40D-4.091, 40D-4.301, and 40D-4.302, F.A.C.

## **B. Erosion/Runoff Control**

1. FPL shall compact or otherwise stabilize any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.

2. Grass seed and mulch or sod must be installed and maintained on exposed slopes prior to finalization of construction, and at all times measures must be taken to prevent erosion, sedimentation or turbid discharges into wetlands and or waters of the state, where the soils have been disturbed during construction.

3. 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. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings, and must be maintained in effective condition at all locations where sediment has the potential to reach nearby wetlands until construction in the area is completed and disturbed soil areas are stabilized. 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. FPL shall comply with the applicable nonprocedural requirements in Rule 40D-4, F.A.C.

4. FPL shall ensure that adjacent properties are not impacted by wind erosion, or emissions of unconfined particulate matter in accordance with Rule 62-296.320(4)(c)1., F.A.C., by taking appropriate measures to stabilize affected areas.

XXIII.B. Citations: Section 403.531, F.S. (2006); Rules 40D-4.381, and 62-296.320, F.A.C.; Sarasota County, Chapter 54, Article VII.

## **XXIV. CONSTRUCTION PRACTICES**

### **A. Open Burning**

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum. Prior to 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., FPL shall seek approval from the DEP Southwest District Office whose approval may be granted in conjunction with the Division of Forestry. 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. A copy of any submittal by FPL relating to open burning in Manatee County shall be sent to Manatee County for informational purposes.

XXIV.A. Citations: Section 403.531, F. S. (2006); Chapters 5I-2 and 62-256, F.A.C.

### **B. Solid Wastes**

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

XXIV.B. Citations: Section 403.531, F.S. (2006); Chapter 62-701, F.A.C.

### **C. Hazardous Substances and Spills**

1. If hazardous substances are used in the construction or maintenance of the transmission line, FPL shall provide the DEP with reasonable assurances that such hazardous substances will not enter stormwater drains or waterbodies.

2. Fuel and other petroleum product spills that enter stormwater drains or waterbodies, or fuel and other petroleum product spills that are in excess of 25 gallons shall be contained, cleaned up, and immediately reported to Water Resources (ph: 941.861.5000; fax: 941.861.0986). Smaller ground surface spills shall be cleaned up as soon as practical.

XXIV.C. Citations: Sections 403.531 and 403.414, F.S. (2006); Chapter 40D-4, F.A.C.; Sarasota County Code, Chapter 54, Article VII.

## **XXV. ELECTRIC AND MAGNETIC FIELD EFFECTS**

### **A. Bee Hives**

FPL shall advise beekeepers, known at the time the ROW is established or acquired, having bee hives within or near the ROW of the potential effect of the transmission line on bee hives.

XXV.A. Citation: Section 403.531, F.S. (2006).

### **B. Radio and Television Interference**

FPL shall investigate all complaints and take appropriate corrective action for impacts to radio or television reception caused by the proposed transmission line.

XXV.B. Citation: Section 403.531, F.S. (2006).

### **C. Electric and Magnetic Fields**

The Bobwhite-Manatee 230-kV transmission line shall comply with the applicable electric and magnetic field standards set forth in Chapter 62-814, F.A.C. The electric and magnetic fields associated with any configuration developed during the final design of this project that is not shown in the Application shall be provided to DEP on DEP Form 62-814.900 at least 90 days prior to the start of construction, or such shorter time period to which the DEP Siting Coordination Office agrees, as required by Rule 62-814.520(3), F.A.C.

XXV.C. Citations: Section 403.523(10), F.S. (2006); Chapter 62-814, F.A.C.

## **XXVI. HERBICIDES**

Herbicides applied in the ROW shall only be those registered by the U.S. Environmental Protection Agency and which have state approval. Herbicide application rates and concentrations will be in accordance with label directions and will be carried out by a licensed applicator, meeting all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used in the ROW unless effects on non-targeted vegetation are minimized.

XXVI. Citations: Sections 403.061, 403.088, 487.031 and 487.041, F.S. (2006).

## **XXVII. OPERATION AND MAINTENANCE OF FACILITIES**

A. FPL shall properly operate and maintain the transmission line to achieve compliance with the Conditions of Certification.

B. To the extent practicable and consistent with safe operation and ongoing maintenance practices for the BWM Line, and in compliance with the requirements of Section 163.3209, F.S. (2007) and FPL's Transmission Vegetation Management Procedures [which have been filed with NERC and are mandatory], after construction of the BWM Line is complete, FPL shall allow underlying property owners along the BWM Line ROW to plant vegetation within the ROW. Vegetation planted within the ROW shall not have a mature height of more than 14 ft from natural ground grade and must maintain at least 75 ft of clear space around the base of the structure and must not be located so as to impede access to the BWM Line for routine and emergency maintenance. Plans for vegetation planting along the BWM Line ROW shall be reviewed and approved by FPL to ensure compatibility with the access, operation and maintenance of the facility; if compatible, the planting must be permitted.

XXVII. Citation: Section 403.531, F.S. (2006).

## **XXVIII.SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT (SWFWMD)**

A. To the extent practicable and utilizing the typical structures shown in the Application, access roads, culverts and structures shall be located to avoid conflict with existing surface water management systems as documented in SWFWMD records. On lands owned or controlled by SWFWMD, access roads, culverts and structures shall be located to avoid conflict with SWFWMD land use and management plans.

B. In the event that any portion of the right-of-way is located on lands owned or controlled by SWFWMD as authorized by this Certification, the width of the right-of-way shall be the minimum necessary for construction, operation and maintenance of the transmission line on SWFWMD lands. Any access road constructed by the Licensee on SWFWMD lands within the right-of-way shall be maintained by the Licensee and available for use by SWFWMD.

C. Prior to the commencement of any activities associated with any portion of the transmission line that will cross over, on, under, or otherwise use SWFWMD lands, the Licensee shall provide a survey of the transmission line right-of-way ("Right-of-Way Survey") to be located on SWFWMD lands. The survey shall be prepared using procedures acceptable to the District and signed and sealed by a registered surveyor pursuant to Chapter 472, F.S.

D. For any transmission line easement that will cross over, on, under, or otherwise use SWFWMD lands, Licensee shall submit for review and written approval an independent appraisal of the land described by the Right-of-way Survey. Licensee shall submit to SWFWMD funds in an amount agreed upon by SWFWMD and Licensee sufficient to compensate SWFWMD for the loss of

intended use of the land within the transmission line's right-of-way that is located on SWFWMD lands. Any property rights obtained to secure the right-of-way will be issued by the SWFWMD as a ministerial act, and the terms and conditions will be negotiated between the Licensee and the SWFWMD.

E. In the event Licensee seeks to use SWFWMD lands outside of the transmission line right-of-way for access during construction of the transmission line or for inspection and maintenance after construction, Licensee shall submit to SWFWMD a detailed plan identifying the proposed route, type and number of vehicles to be used and the frequency of such use. All use of lands prior to conveyance of a right-of-way easement by SWFWMD including, but not limited to survey or engineering work, or use of SWFWMD lands outside of the transmission line right-of-way, once conveyed, shall be in accordance with SWFWMD land management requirements as set forth in Section 373.1391, F.S., and SWFWMD Land Use Rules, Chapter 40D-9, F.A.C.

F. Prior to commencement of construction on any SWFWMD lands, Licensee shall contact the SWFWMD to arrange a pre-construction meeting on-site.

XXVIII. Citations: Sections 403.526(2)(a)2., 373.085, 373.089, 373.093, 373.099, 373.414 and 373.416, F.S. (2006); Chapter 40D-4, Rules 40D-4 .301 and 40D-4.302, and Chapter 40D-9, F.A.C.

## **XXIX. FLORIDA DEPARTMENT OF TRANSPORTATION**

### **A. Post-Certification Reviews of FDOT Matters**

1. *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, F.A.C.

2. *Overweight or Overdimensional Loads:*  
Operation of overweight or overdimensional loads by FPL on State transportation facilities during construction and operation of the transmission line will be subject to safety and permitting requirements of Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

3. *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, F.A.C.; 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. Although there is no major widening of the facilities in the area of the project planned in the foreseeable future, State Road 70 has been identified as a Florida Intrastate Highway System (FIHS) and an emerging Strategic Intermodal System's (SIS) facility. The placement of the transmission line should take into consideration the possible widening of this facility to the extent practicable. If future widening should be required, the cost of relocating or reconstructing the transmission line will be borne by FPL to the extent required by Section 337.403, F.S., and Rule Chapter 14-46, F.A.C.

4. *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.

5. *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, F.A.C., including the attainment of any permit required thereby.

6. *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 geographic 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 of Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

## **B. Best Management Practices**

1. 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, F.A.C.; 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; and Florida Department of Transportation's Utility Accommodation Manual, whichever is more stringent.

2. It is recommended that FPL encourage transportation demand management techniques by doing the following:

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

3. If FPL uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, FPL should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

XXIX. Citations: Chapters 14-26, 14-46, 14-86, 14-94, 14-96, and 14-97, F.A.C.; Chapter 316, F.S. (2006); Sections 337.401-404, F.S. (2006); 14 C.F.R. Part 77.

## **XXX. SARASOTA COUNTY**

### **A. Crossing of Sarasota County ROW or Other County Property**

All lines crossing Sarasota County right-of-way and/or other county property will be designed for compliance with applicable county standards, as found in the Sarasota County ROW Use Permit Application Form.

### **B. Traffic Operations**

1. FPL shall minimize the impacts of the transmission lines on intersection improvement projects to the extent practicable. All transmission line poles should be located outside of the ultimate configuration for all currently

designed and acquired future signalized intersections. Potentially impacted intersections in the corridor are listed below:

- University Blvd at Lorraine Road
- Fruitville Rd at Dog Kennel Rd.

2. To the extent practicable FPL shall minimize impact to Sarasota County lighting improvement project for the future thoroughfare "Bee Ridge/Iona Extension" (currently Lorraine Rd) and, upon request of the County, confer with Sarasota County.

3. If any construction is within two feet of the edge of travel way, a signed, sealed, site specific Maintenance of Traffic (MOT) plan shall be developed in consultation with the Sarasota County Traffic Engineering and Operations office. The MOT plan shall include construction entrances and exits.

### **C. Construction**

1. A post-certification submittal of FPL's final design plan including pole locations throughout the entire right-of-way within Sarasota County shall be provided to the Sarasota County Permitting and Inspection Services.

2. Sarasota County Resource Protection shall, for informational purposes, receive copies of the Post Certification Submittals identified in Conditions XX(A) and XXI(A)(1) for the portions of the transmission line within Sarasota County.

### **D. Heritage Ranch Conservation Easement**

For the portion of the line located within the Heritage Ranch Conservation Easement, FPL shall be bound by the Utility Easement granted to FPL by Sarasota County.

XXX. Citations: Sarasota County Code, Ordinance No. 2007-028, Chapters 74, 94, 122 and Appendix A.

## **XXXI. MANATEE COUNTY**

### **A. Final Design Submittal**

1. A post-certification submittal of FPL's final design plan including pole locations throughout the entire right-of-way within Manatee County shall be provided to Manatee County showing:

a. All protected trees over 4" dbh to be removed outside the FPL ROW for the transmission line, access road and drainage installation. Protection measure for trees proposed for preservation shall be detailed.

b. Contractor information, including a twenty-four hour, seven-day contact and phone numbers.

c. Show the location of any proposed school or park sites within one-quarter mile of the transmission line location on the final design plan.

d. Proposed locations and dimensions of all access roads.

2. Show as existing site conditions within the FPL ROW on the final design plan the following:

a. The name, location and width of existing or platted street public right-of-way within or contiguous to the right-of-way.

b. Approximate location, size and depth of sewers, water mains and storm drains, and approximate location of power and phone lines; within the right-of-way.

c. Location and size of easements for all the above ground utilities, such as electric power lines, within the right-of-way.

d. Topographic contours on one-foot intervals based on mean sea-level datum.

#### **B. Crossing of Manatee County ROW or Other County Property**

All lines crossing Manatee County ROW or other county property will be designed for compliance with applicable county standards, as found in the Manatee County ROW Use Permit Application Form.

#### **C. Collocation within Regional Water Supply System.**

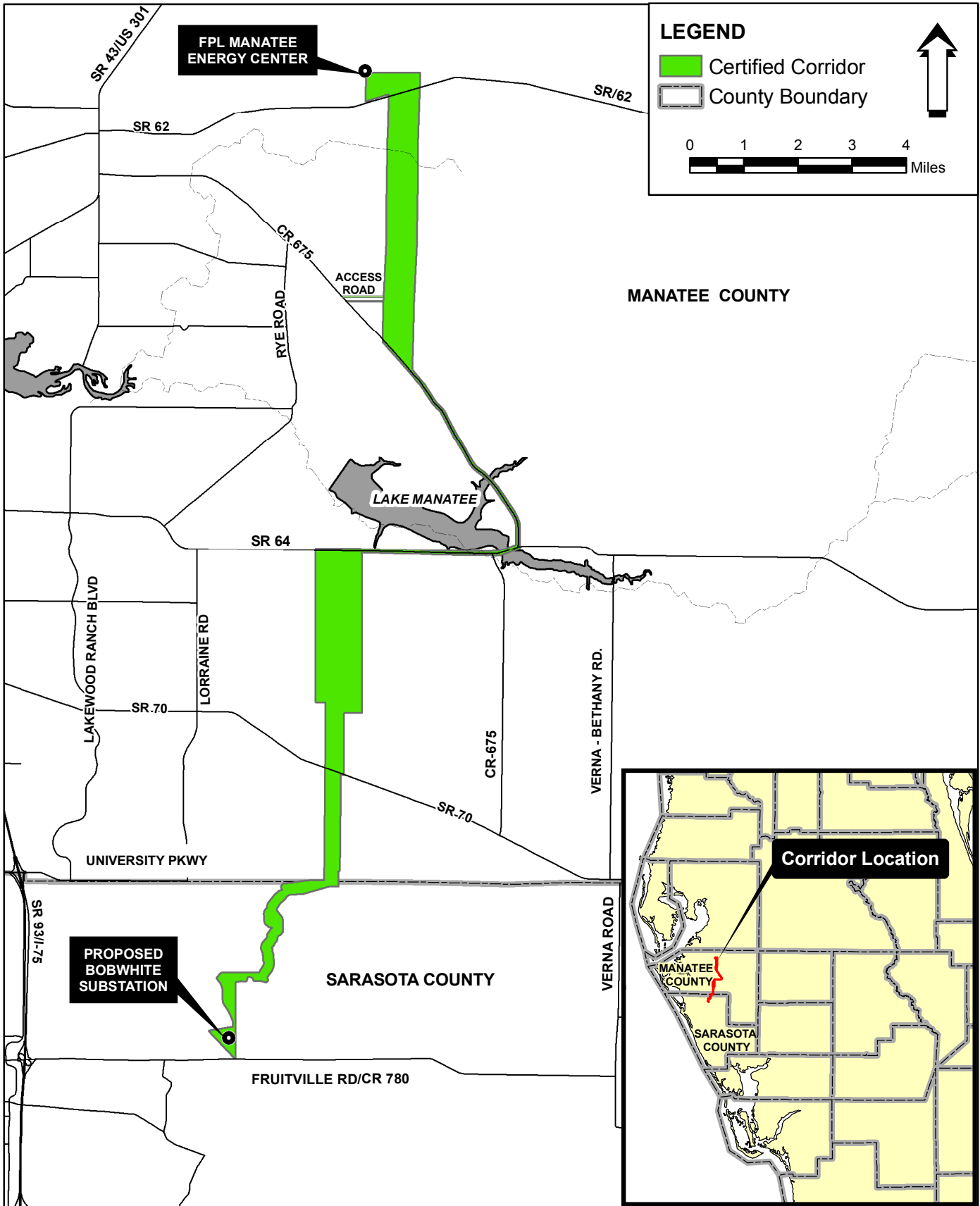
FPL shall confer with Manatee County, upon the County's request, to discuss the ability to co-locate the proposed Peace River/Manasota Regional Water Supply Authority Regional Integrated Loop System within the proposed transmission line right-of-way. (Ref. proposed Integrated Regional Water Supply Master Plan, December 2006, Appendix 0).

#### **D. Public Recreational Trails.**

FPL shall confer with Manatee County, upon the County's request, to discuss the ability to co-locate public recreational trails within the proposed transmission line right-of-way.

XXXI. Citations: Manatee County Code §2-28-21 and Appendix A thereto; Manatee County, ordinance No. 06-13 amending the Manatee County Comprehensive Plan initially adopted by Ordinance No. 89-01 as amended.

## Attachment 1: Certified Corridor Location Map



FPL BOBWHITE-MANATEE TRANSMISSION LINE PROJECT--  
CERTIFIED CORRIDOR

Source: FLDOT; FPL, 2008; ECT, 2008.

