

BEFORE THE GOVERNOR AND CABINET
OF THE STATE OF FLORIDA

IN RE:)	
)	
FLORIDA POWER & LIGHT)	
COMPANY -- DUVAL-TO-POINSETT)	
TRANSMISSION LINE CORRIDOR,)	
)	
Petitioner,)	
)	
vs.)	CASE NO. 81-1938
)	
STATE OF FLORIDA, DEPARTMENT)	
OF ENVIRONMENTAL REGULATION,)	
et al.,)	
)	
Respondents.)	
)	

The following persons were present and participated in
the disposition of this matter:

Honorable Bob Graham
Governor

Honorable George Firestone
Secretary of State

Honorable Jim Smith
Attorney General

Honorable Gerald A. Lewis
Comptroller

Honorable Doyle Conner
Commissioner of Agriculture

Honorable Ralph D. Turlington
Commissioner of Education

FINAL ORDER ON NOTICE ISSUES

BY THE GOVERNOR AND CABINET:

The Governor and Cabinet, having heard presentation by
the parties and the public, reviewed the Recommended Order
dated August 26, 1982 (attached hereto and incorporated as
Exhibit 1), the Recommended Order dated August 31, 1982
(attached hereto and incorporated as Exhibit 2), and being
otherwise fully advised herein, it is

ORDERED:

1. The Recommended Order dated August 26, 1982, is
approved and adopted.

2. The portions of the Recommended Order dated August 31, 1982, addressing the issue of notice are approved and adopted.

3. All exceptions filed by the parties addressing the issue of notice have been considered by the Board and rejected as either irrelevant, unsupported by competent substantial evidence or the law, or otherwise unnecessary to the determination of this cause.

DONE AND ENTERED the 8th day of October, 1982, in Tallahassee, Florida, subsequent to a vote of the Governor and Cabinet at a duly constituted Cabinet meeting of October 6, 1982.

FILING AND ACKNOWLEDGEMENT
FILED on this date pursuant to §120.52 (9),
Florida Statutes, with the designated Department
Clerk, receipt of which is hereby acknowledged.

[Signature]
Clerk

10/8/82
Date

BY THE GOVERNOR AND CABINET
SITTING AS THE BOARD:

[Signature]
BOB GRAHAM
Governor

Copies furnished to:

See attached list

SERVICE SCHEDULE

Mr. Chris H. Bentley
Hearing Officer
Division of Administrative
Hearings
Oakland Building
2009 Apalachee Parkway
Tallahassee, Florida 32301

Mr. Ronald E. Clark
Attorney for Putnam County
Post Office Drawer V
Palatka, Florida 32077
(904) 328 - 2778 or
328 - 5181

Ms. K. Kaye Collie
Assistant County Attorney
Orange County Legal Department
201 East Pine Street
Orlando, Florida 32801
(305) 420 - 3870

Mr. George Kenneth Gilleland, II
Game and Fresh Water Fish Commission
First Floor - Farris Bryant Building
620 South Meridian
Tallahassee, Florida 32301
(904) 487 - 1764

Mr. John C. Bottcher
Department of Environmental
Regulation
638 Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32301
(904) 488 - 9730

Mr. Dawson Alexander McQuaig, Sr.
General Counsel
City of Jacksonville
13th Floor - City Hall
Jacksonville, Florida 32202
(904) 633 - 2460

Mr. Paul Sexton
Florida Public Service Commission
Legal Department
2nd Floor - Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32301
(904) 487 - 2740

Mr. Warren O. Tiller and
Mr. Daniel R. Vaughen
Attorneys for Volusia County
Post Office Box 429
DeLand, Florida 32720
(904) 736 - 2700 Ext. 2350

Mr. John W. Williams
Department of Natural Resources
3900 Commonwealth Boulevard
Room 1003 C
Tallahassee, Florida 32301
(904) 488 - 6745

Mr. Robert A. Chastain
General Counsel
Department of Agriculture
and Consumer Services
513 Mayo Building
Tallahassee, Florida 32301
(904) 488 - 6853

Ms. Nikki Clayton
Attorney for Seminole County
Seminole County Courthouse
North Park Avenue
Sanford, Florida 32771
(305) 323 - 4330

Mr. Toby P. Brigham
Brigham Reynolds Byrne
Muir & Gaylord
The Reinhold Corporation
203 S.W. 13th Street
Miami, Florida 33130
(305) 858 - 2400

Mr. Frank Bird Gummey, III
and Mr. Reginald E. Moore
City of Daytona Beach
Post Office Box 551
Daytona Beach, Fla. 32015
(904) 258 - 3194

Mr. Charles Laurence Keesey
Department of Veteran and
Community Affairs
2nd Floor - HOWARD BUILDING
2571 Executive Center Circle E.
Tallahassee, Florida 32301
(904) 488 - 2356 or 488 - 7956

Mr. Hubert D. Pellicer
Administrative Assistant to the
Flagler County Commissioners
Post Office Box 936
Bunnell, Florida 32010
(904) 437 - 2321

Mr. Eugene Frazier Shaw
Attorney for Clay County
McAnnally & Shaw
Post Office Box 838
Green Cove Springs, Fla. 32043
(904) 284 - 3048

Mr. Ernest Lee Worsham
St. Johns River Water Manage-
ment District (Putnam)
Post Office Box 1429
Palatka, Florida 32077
(904) 328 - 8321

Mr. Philip S. Bennett
Department of Transportation
562 Haydon Burns Building
Tallahassee, Florida 32301
(904) 488 - 9425

Mr. Noah C. McKinnon, Jr.
Attorney for Flagler County
Post Office Drawer 9670
Daytona Beach, Fla. 32020
(904) 253 - 0661

Mr. William A. Leffler, III
Cypress Isles Homeowners
Post Office Box 2298
Sanford, Florida 32771
(305) 321 - 0522

Mr. Abbott M. Herring and
Mr. Thomas A. Speer
Geneva Citizens Association and
Owners of Seminole County, Inc.
201 West First Street
Sanford, Florida 32771
(305) 323 - 6700

Mr. Roger A. Kelly
Fishback Davis Dominick & Bennett
Attorneys for Hogan and Thompson
170 East Washington Street
Orlando, Florida 32801
(305) 425 - 2786

Mr. Robert M. Rhodes
Mr. Terry E. Lewis and
Mr. James C. Hauser
Messer Rhodes & Vickers, for
Dimension Investment Corporation
701 Lewis State Bank Building
Post Office Box 1876
Tallahassee, Florida 32302
(904) 222 - 0720

Mr. Frederick W. Leonhardt, for
Sun Country/Rima Ridge/Lone Pine/
George Anderson/Miami Corporation
100 Seabreeze Boulevard-Suite 130
Post Office Box 2134
Daytona Beach, FL 32015
(904) 257 - 1100

Mr. Anthony J. O'Donnell, Jr.
Greenberg Traurig Askew Hoffman
Lipoff Quentel & Wolff, P.A.
for Mauricio Gluck, Trustee
Brickell Concourse
1401 Brickell Avenue
Miami, Florida 33131
(305) 579 - 0603

Carlos Alvarez, Esq.
Carolyn S. Raepple, Esq.
Hopping Boyd Green & Sams
for Florida Power & Light Company
Post Office Box 6526
Tallahassee, Florida 32301
(904) 222 - 7500

Mr. John A. Radey
Mr. Robert P. Murray and
Mr. Lawrence N. Curtin
Holland & Knight, for
Consolidated Tomoka Land Co.
6th Floor, Barnett Bank Bldg.
Post Office Drawer 810
Tallahassee, Florida 32302
(904) 224 - 7000

Mr. Clifton Adamson McClelland
and Mr. Morris G. "Skip" Miller
Attorneys for Brevard County
605 South Palm Avenue
Post Office Box 37
Titusville, Florida 32780
(305) 269 - 9700

Mr. David W. Foerster
Foerster & Hodge
Attorneys for Jennings
Family Liquidating Trust
653 Florida National Bank Bldg.
Jacksonville, Florida 32202
(904) 355 - 2543

Mr. Edward McCarthy, Jr.
Container Corporation of America
1238 Frederica Place
Jacksonville, Florida 32205
(904) 384 - 9686

Mr. Frank D. Newman and
Mr. Stephen Alger
Sams Gerstein & Ward, for
Murray Sams, Jr.
700 Concord Building
66 West Flagler Street
Miami, Florida 33130
(305) 374 - 3181

Edward E. Hedstrom, Esq.
Hedstrom and Smith
for the City of Palatka
Post Office Drawer 1354
Palatka, Florida 32077
(904) 328 - 6778

Mr. F. Vernon Bennett
Broad and Cassel
2699 Lee Road - Suite 205
Winter Park, Florida 32789-1785
(904) 645 - 1434

William C. Andrews, Esq.
Scruggs and Carmichael
for Hudson Pulp & Paper Corp.
Post Office Drawer C
Gainesville, Florida 32602
(904) 376 - 5242

Mr. Sidney Kraftsow
Post Office Box 366
Geneva, Florida 32732
(305) 349 - 5545

EXHIBIT 1

EXHIBIT 1

CONDITIONS OF CERTIFICATION

I. Definitions

The meaning of terms used herein shall be governed by the definitions contained in Chapter 403, 373 and 253, Florida Statutes, and any regulation adopted pursuant thereto, and the statutes and regulations of any party. 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 law.

The term "ROW" means the transmission line right-of-way to be selected by the permittee within the corridor in accordance with the conditions of certification.

The term "DER" means the Florida Department of Environmental Regulation.

The term "DVCA" means the Florida Department of Veteran and Community Affairs.

The term "GFWFC" means the Game and Fresh Water Fish Commission.

II. Performance Criteria

Certification, including conditions of certification, is predicated upon design and performance criteria indicated in the application. Thus, conformance to those criteria, unless specifically amended, modified, or as the Department and parties are otherwise notified, is binding upon the applicant in the preparation, construction and maintenance of the certified project. In those instances

where a conflict occurs between the application's design criteria and the conditions of certification, the conditions shall prevail.

III. Property Rights

Except as otherwise provided herein and under the Transmission Line Siting Act and rules thereunder, the issuance of this certification does not convey any property rights in either real or personal property, tangible or intangible, nor any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights nor any infringement of federal, state or local laws or regulations. The permittee must obtain title, lease or right of use from the State of Florida to any sovereign lands, submerged or otherwise, as required by Section 403.531, Florida Statutes.

IV. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact resulting from the construction, operation, and maintenance of the transmission line in complying with any limitation specified in this certification.

V. Right of Entry

The permittee shall allow the Secretary of the Florida Department of Environmental Regulation or authorized representatives, upon the presentation of credentials:

- A. To enter upon the right-of-way or during business hours to enter upon the permittee's premises in which records are required to be kept under the terms and conditions of this

permit; and

- B. To have access to and copy all records required to be kept under the conditions of this certification.

VI. Civil and Criminal Liability

This certification does not relieve the permittee from civil or criminal responsibility or liability for non-compliance with any conditions of this certification, applicable rules or regulations, in accordance with Chapter 403, Florida Statutes.

VII. Severability

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

VIII. Revocation or Suspension

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

IX. Compliance

Except as otherwise provided herein, right-of-way selection and construction and maintenance shall comply with the applicable nonprocedural rules and regulations of any state, regional or local agency.

X. Right-of-Way Delineation and Compliance Verification

A. In that the selection of the ROW within the corridor is critical to the extent of the adverse environmental and socioeconomic impact, it must be selected with the utmost care in accordance with the constraint areas listed in 1 through 5 below unless justification is provided to DER, at the time the aerial photographs required by section X. B. are submitted, in accordance with the following criteria:

- (a) Where more environmental or socioeconomic harm would result from avoiding the constraint areas than traversing them, then the ROW must be located in a constraint area.
 - (b) If it would not be possible to locate a continuous ROW within the certified corridor, a ROW may be located within a constraint area.
-
- 1. The ROW shall not intersect with the preponderant direction of watercourses, as defined in section XIII.H.1., at an angle of less than 45 degrees, thus avoiding contiguous and overlapping routing with long reaches of rivers, creeks, etc.
 - 2. The ROW shall not include the confluence of any watercourses, as defined in section XIII.H.1.
 - 3. All sandhills and flatwoods in the R.O.W. shall be surveyed for the possible occurrence of red-

cockaded woodpeckers and their colony (cavity) trees and the mature timber associated with those colony trees. If colony trees and the mature timber associated with those colony trees are found, the ROW shall be routed around the colony trees and the mature timber associated with those colony trees.

4. The ROW should not be located within existing substantial residential development. The permittee shall consult with the DVCA on the location of the ROW within existing substantial residential development.
 5. If there is a conflict between the criteria for any particular segment of ROW, the permittee shall select the ROW which balances the competing interests and minimizes potential adverse impacts.
- B. Five (5) sets of aerial photographs of at least 1:24,000 scale shall be submitted to DER delineating the ROW route acquired. These photographs shall be submitted prior to commencement of construction on the various segments of the line; it is recommended that this information be submitted in segments rather than waiting until the entire ROW is acquired. DER and any other party which requests to do so shall have 60 days from receipt by DER to review the photographs and to call any apparent conflicts with the requirements of these conditions to the permittee's attention.
- C. If the Department or any party has reason to believe that the construction of the transmission line and access roads within the

permittee's designated right-of-way cannot be accomplished in compliance with applicable statutes and rules of the Department or of the party, or with the conditions of certification, the permittee shall be so notified in writing. Such notification shall state what specific violation of Condition X. will occur and for what specific portion of the ROW. Failure of such a notice to be served on permittee within 60 days from filing the various segments of the aerial photographs with the Department constitutes waiver of any objection to location within the designated ROW. Disputes shall be resolved in accordance with Chapter 120, Florida Statutes. Disputes pursuant to this condition shall neither affect other conditions nor operate as a stay unless a stay is granted by the Board.

- D. The acquisition of a particular ROW or the expenditure of funds toward acquisition of a particular ROW prior to the Department or other party's review pursuant to subsection C. will be at the permittee's risk, and the Department or any other party is not estopped from seeking disapproval for and the Board disapproving the construction of the transmission line or access road within the ROW.

XI. Roads (Access/Maintenance Roads)

- A. Existing suitable roads shall be used for access to the ROW and no new roads shall be constructed unless:

1. The permittee cannot obtain access to the ROW without the new road; or,
2. The cost of using the existing road (including the cost of any necessary modifications) exceeds the cost of the construction and use of new roads; or,
3. The environmental harm in using the existing suitable roads exceeds the environmental harm in construction and using a new road.

B. Road Location and Construction

1. Access/maintenance roads shall not be constructed in waters of the state where DER has dredge and fill jurisdiction pursuant to Chapter 17-4, F.A.C., except in the following circumstances:
 - (a) Where the permittee would not have access to other portions of the ROW adjacent to such waters of the state, except by constructing roads or acquiring easements outside of the ROW; provided that the cost of constructing the access/maintenance roads in the waters of the state does not exceed the cost of obtaining any necessary easements and construction of roads outside of the permittee's ROW. A cost comparison shall be submitted with the dredge/fill informational filing required by Condition XII. in these instances or the ROW delineation required by Condition X; or
 - (b) Where bypassing the waters of the state would require the permittee to travel a distance outside of its ROW in excess of

three miles to return to the next tower structure. A map indicating the route to be traveled and the distance shall be submitted with the dredge/fill informational filing required by Condition XII. in these instances or the ROW delineation required by Condition X.; or

- (c) Where more environmental harm would result from routing the access/maintenance road outside the waters of the state than in the waters of the state. Such information shall be submitted with the dredge/fill informational filing required by Condition XII. in these instances or the ROW delineation required by Condition X.; or
- (d) Where the environmental benefits to be gained by not building the access/maintenance roads in waters of the state are outweighed by other land use factors. Such information shall be submitted with the dredge/fill informational filing required by Condition XII. in these instances or the ROW delineation required by Condition X.

- 2. Placement of fill in dredge/fill jurisdictional areas (DFJA) of the DER shall be limited to the amount necessary to support an access or maintenance road crown width of no greater than 20 feet and the amount necessary for structure pads and fill necessary for the construction phase. Any fill temporarily required in these areas shall be removed and the ground restored

to its original contours. All fill areas and areas denuded of vegetation shall be planted or seeded with endemic or benign non-endemic plant species after transmission line placement. All fill used in these areas shall be hauled in rather than dredged from the DFJA.

XII. Site Specific Dredge/Fill Information and Compliance Verification

- A. For all construction activities in submerged and transition zones of waters of the state as defined in Subsection 17-4.02, Florida Administrative Code, the permittee shall file the Dredge/Fill Joint Application, Department of Army/Florida Department of Environmental Regulation for Activities in Waters of the State, SAJ Form 983 (July 21, 1977) with the DER, Bureau of Permitting, Power Plant Siting Section. The application form shall also be forwarded by DER to the Corps of Engineers, identifying that water quality certification has not been granted by the state until the requirements of this condition are met.
- B. The Department shall promptly review the submittal for completeness. If found to be incomplete the applicant shall be so notified. Failure of such a notice to issue within 30 days shall constitute a finding of completeness.
- C. Within 60 days of filing of complete information, DER shall determine whether there is reasonable assurance that the conditions of certification and DER rules will be complied with if the plans

were executed as filed. If it is determined that reasonable assurance is not provided, the permittee shall be notified with particularity and possible corrective measures suggested. Failure to notify the permittee in writing within the 60 days shall constitute a compliance verification. Since certification is the only form of permit required by the state it is understood the permittee and DER shall strive to resolve such matters by mutual agreement. If mutual agreement cannot be reached, the permittee may request that the matter be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, Florida Statutes. The hearing pursuant to Section 120.57, Florida Statutes, shall be held if practicable within 30 days after its referral to DOAH. The Hearing Officer shall issue the Recommended Order 15 days after termination of such hearing. Referral of an issue to DOAH pursuant to this condition shall neither affect other conditions, nor operate as a stay on any other portion of the transmission line.

- D. Water Quality Certifications. Any necessary water quality certification which must be provided to the Corps of Engineers and the permittee by the DER shall be made at the time of a finding of reasonable assurances of compliance for specific work at specific locations.

XIII. Construction Activities

- A. Except as otherwise provided herein, all construction shall be done in a manner to comply with all nonprocedural rules of any agency.
- B. Any borrow pit which will result in the ponding of water shall not be constructed so as to cause a public nuisance. If the pond is greater than one and one half acre in size and will become waters of the state as defined in Sections 403.031 or 371.021, Florida Statutes, it shall be constructed so as to avoid violations of water quality standards and shall be contoured for at least fifty per cent (50%) of the perimeter to have shallow littoral zones for fish and wildlife prior to abandonment. No borrow pits or ponds shall be constructed in hardwood hammocks.
- C. The outer 20 feet of the ROW shall not be cleared but rather selectively cleared of danger trees. Danger trees are generally described as tall, dead or diseased trees, or trees which would contact the line by falling.
- D. Compliance with the most recent version of the National Electric Safety Code adopted or directed by the Public Service Commission is required.
- E. Open burning in connection with land clearing shall be in accordance with the applicable rules of the Department of Agriculture and Consumer Services, and any county or city ordinance.
- F. Culverting and Ditching.
 - 1. Culverts shall be designed, constructed and maintained to allow the passage of flood waters

at least equal in volume to the 1-in-25-year storm. Post-construction flow patterns shall not vary significantly from pre-construction flow patterns.

2. There shall be no construction of drainage canals.
 3. Swales which would result in the draining of wetland areas or in the lowering of the water table shall not be used. However, swales can be used if swale plugs are provided to prevent drainage.
- G. Turbidity Control. Turbidity control measures, including but not limited to hay bales, sodding, mulching and seeding, or turbidity screens, shall be employed as needed to prevent violation of water quality standards.
- H. Vegetation Removal/Planting.
1. Where the transmission line crosses watercourses (rivers, creeks, sloughs, etc., in which water usually flows in a defined bed or channel) existing vegetation less than 20 feet in height, except for fast growing species shall be left undisturbed within 100 feet of the ordinary high water mark of the bed or channel. If it is necessary to remove trees the root mat shall be left undisturbed except for the maintenance/access roads and pads.
 2. The top and slopes of the new roads shall be seeded or planted immediately after line construction with endemic or benign non-endemic species to prevent potential erosion and sub-

sequent water quality degradation.

XIV. Maintenance

- A. If chemicals or herbicides are to be used for vegetation control, the name, type, proposed use, locations, and manner of application shall be in accordance with state and federal regulations. None shall be applied to waters of the state.
- B. When maintenance trimming is necessary the outer 20 feet shall be selectively cleared of danger trees and fast-growing species and not clear-cut. In those areas where vegetation of up to 20 feet is required by Condition XIII.H.1. or 15 feet by Condition XIX. to be left standing, maintenance trimming shall not lower the vegetation below this level.

XV. Archaeological Sites

Any archaeological sites discovered during construction of the transmission lines shall be disturbed as little as possible and such discovery shall be communicated to the Department of State, Division of Archives, History and Records Management (DAHRM). Potentially affected areas crossed by the ROW deemed likely to contain archaeological or historic sites as identified by DAHRM shall be investigated by pedestrian survey, and if a significant site is located, the site shall be protected and reported to DAHRM.

XVI. Road Crossings

- A. For all locations where the transmission line will cross state highways, the applicant will submit materials pursuant to the Department of Transportation's (DOT) "Utility Accommodation Guide" to DOT's district office within 30 days prior to starting construction for a particular crossing. The permittee shall comply with the criteria in the Utility Accommodation Guide and with all applicable regulations pertaining to roadway crossings by transmission lines, including these conditions of certification, unless the DOT and the permittee agree to change those requirements for good cause shown.
- B. All crossings of state highways shall be as nearly perpendicular to, and all towers as far from state, county and city roads rights-of-way as practicable and still maintain proper road clearance, with standard structures used in the majority of the ROW, in order to allow future widening and expansion of those roads.
- C. The transmission line shall not be constructed across any state, county or city bridge which is supported by pilings.
- D. For all locations where the transmission line will cross county roads and in counties where crossing permits are generally required, the applicant shall submit the applicable road crossing approval information to the county engineer as normally required by the county for such permits. The permittee shall comply with

all applicable county regulations pertaining to roadway crossings by transmission lines.

- E. For any location where a county or city generally requires permits to connect to or obtain access from a county or city roadway, the permittee shall comply with all applicable county or city regulations pertaining to such connections or access.

XVII. Modifications of Conditions

- A. Notwithstanding Section XVII.B. herein, the DER Secretary is delegated the authority pursuant to Section 403.5315(1), Florida Statutes, to modify conditions of certification relating to:
 - 1. A modification of the project that would not cause any significant adverse environmental impact.
 - 2. Modifications necessary to meet licensing conditions or requirements imposed on the applicant by any federal regulatory agency. The applicant shall notify the Department at least thirty (30) days prior to the issuance of the federal license that would require such a modification.
 - 3. A reconstruction of a right-of-way or transmission line necessary to avoid or mitigate an emergency involving the loss of human life or property resulting from any natural or man-made cause, including hurricane, tornado, fire, flood, explosion, windstorm or other calamitous accident when new right-of-way or access facilities are necessary.

B. Unless objected to by a party to these proceedings 20 days after notification by DER or the permittee, the DER Secretary is delegated the authority pursuant to 403.5315(1), Florida Statutes, to modify these Conditions of Certification. The permittee may be required, pursuant to such modification, to use construction or maintenance techniques other than those represented in the application in order to comply with applicable nonprocedural regulations of agencies, or with these conditions.

XVIII. Emergency Reporting

Emergency replacement of previously existing right-of-way or transmission lines shall not be considered a modification pursuant to Section 403.5315, Florida Statutes. A verbal report of the emergency shall be made to the Department as soon as possible. Within fourteen (14) calendar days after correction of the emergency a report to the Department 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.

XIX. Scrub Jay Habitat

All scrubby flatwoods and scrub oaks shall be located on the most recent aerial photographs available with the aid of soils maps which depict soils types which support

scrub jay habitat. These potential scrub jay habitats shall then be surveyed for the occurrence of scrub jays. Where the scrub jays are found, the oak understory shorter than 15 feet in height beneath the transmission line shall be left intact with the exception of structure pads and a 20-foot-wide access road pathway if the road is determined to be needed in accordance with these conditions. The permittee shall compile and file a report with the Florida Game and Fresh Water Fish Commission on its compliance with this section, and the report shall include the results of the analysis to locate scrub jay habitat, the location where scrub jays were found, and a schematic depicting the location of the towers and roads in relation to the scrub where the jays were found. This report shall be filed prior to commencement of clearing and construction.

XX. Bald Eagle Nests

In any areas where the power line right-of-way is within 1,500 feet of a bald eagle's nest, the permittee shall consult the Game and Fresh Water Fish Commission regarding the type and timing of construction activities. This shall be done regardless of whether or not the bald eagle nest is within the certified corridor. If mutual agreement cannot be reached regarding timing of construction activities within certain distances of a bald eagle nest, the matter shall be referred to the Division of Administrative Hearings in accordance with the provisions of Chapter 120, Florida Statutes.

XXI. Special Conditions Regarding Volusia County's
Communications Center

A. Over-All Conditions

1. The permittee shall comply with all requirements of the Federal Communications Commission;

The permittee shall comply with all requirements of the Federal Aviation Administration;

2. Representatives of Volusia County may participate, at the County's option and at the County's expense, in the selection of the measurement sites described in Paragraph XXI. C. 3, provided that no delay in the selection is required by such participation. The permittee shall provide Volusia County with thirty (30) days notice of its intent to select the measurement sites;

3. All measurement data collected in Volusia County shall be made available to representatives of Volusia County upon request;

Representatives of Volusia County must be notified when measurements will be made under this program and may, at their option, participate in or observe any or all of the required measurements;

Representatives of municipalities located in Volusia County may also, at their option, participate in or observe any or all of the required measurements.

- B. An electro-magnetic interference field measurement program shall be implemented by the permittee at its own expense immediately after the ROW has been selected.
- C.
 - 1. Reliable measurement of ambient electro-magnetic interference levels, broadcast station signal strength, and shadowing or shielding due to transmission line construction shall be made in accordance with ANSIC-3/IEEE guidelines;
 - 2. Measurements will be made at sites along the ROW (side closest to the concern) in close proximity to residential development, various communication facilities, or major road crossings. The distances between measurement sites shall not exceed five (5) miles.
 - 3. For a distance of twelve (12) miles along the ROW in Volusia County (six (6) miles on either side of that part of the ROW nearest the Volusia County Communications Center) measurements shall be taken at three- (3) mile intervals on both sides of the ROW;

For distances outside of that twelve- (12) mile section in Volusia County, measurements shall be

made at five- (5) mile intervals;

4. The measurement program will consist of three phases: pre-construction; post-construction (but prior to energizing); and post-energizing. -

(a) Pre-Construction Measurement Program:

The first set of measurements shall be conducted after the ROW has been chosen, but prior to construction of towers and conductors;

- (1) Signal strengths of all significant (as defined by the FCC) radio and television broadcast stations shall be recorded;

- (2) Ambient electro-magnetic interference shall be measured at selected frequencies ranging from 0.5 MHz to 800 MHz. At least one measurement will be in the HF, VHF and UHF bands;

- (3) Signal strengths emanating from the Volusia County Civil Defense Communications Center shall be measured at each measurement site in XXI. C. 3 above along the ROW within Volusia County;

(4) Every attempt will be made to take measurements at different times during the day and under different weather conditions (wet and dry) to establish signal strength profiles. At one location within the twelve-mile section nearest the Volusia County Communications Center separate measurements shall be made before sunrise, during the day, and after sunset.

5. Post-Construction (but prior to energizing)
Measurement Program:

These measurements are to be made after the transmission lines are constructed, but before they are energized.

(a) These tests shall be (to the fullest extent possible) replicas of those conducted in XXI. C. 4. (a) above, except that all measurements will be taken on the side of the ROW farthest from the Volusia County Civil Defense Communications Center;

(b) In addition, at each site (within Volusia County) as noted in XXI. C. 3. above, for signals emanating from the Volusia County Communications Center, a search for the maximum and minimum value (in the general area of the closest tower) will be made.

Two of these measurements will be made during the "wet" weather condition: one measurement in the twelve-mile section and one measurement at one of the Volusia County lines within the ROW.

6. Post-Energizing (after the lines are energized)
Measurement Program:

These measurements shall be made ninety (90) days after the transmission lines are energized at 500 kV;

(a) Measurements of electro-magnetic interference at HF, VHF and UHF frequencies (when possible) shall be made at (or near) the post-construction measurement sites used above;

(b) Measurements shall be made in as many different weather conditions as practicable.

D. The permittee, with the cooperation of Volusia County, will conduct tests to measure the signal-to-noise ratio of mobile units operating within Volusia County.

1. Pre-Construction;

Three sites in Volusia County will be measured:

(a) Under a distribution line;

- (b) Under a combination distribution and 230/240 kV line;
 - (c) Under a 230/240 kV line;
- 2. Three mobile units, operating at different frequencies, will be tested at each site;
 - (a) One vehicle utilizing HF (3 to 30 MHz range);
 - (b) One vehicle utilizing VHF (30 to 300 MHz range);
 - (c) One vehicle utilizing UHF (300 to 3,000 MHz range).
- 3. For at least one of the above locations, every attempt will be made to take the measurements under both "wet" and "dry" weather conditions.
- 4. After the 500 kV lines have been energized, the signal-to-noise ratio will be measured at three locations:
 - (a) One location within the twelve-mile section developed in the Ambient Electro-Magnetic Interference Program;
 - (b) Where the ROW crosses the northern Volusia County line, on the side most

distant from the Volusia County Civil
Defense Communications Center;

(c) Where the ROW crosses the southern
Volusia County line, on the side most
distant from the Volusia County Civil
Defense Communications Center.

5. Pre-construction measurements may be used
for comparison purposes and as a construc-
tion design tool, but are not necessarily
to be taken as the standard which post-
energization interference must meet.

E. Mitigation measures by the permittee, and at the
permittee's expense, shall be required if FAA or
FCC requirements are not met, except that, in
the case of the Volusia County Communications
Center, mitigation measures shall be required
unless voice communications, transmitted or
received from the measurement sites, are completely
understandable, but such voice communications
need not necessarily be free from electro-magnetic
interference. Appropriate post-mitigation measure-
ments shall be made by the permittee at each
site where mitigation measures were found to be
required to determine the result of the miti-
gation measure.

XXII. Activities Within Jurisdiction of St. Johns
River Water Management District

- A. All proposed transmission ROW areas where a roadway is designed to traverse a stream, lake, pond, canal, swamp, marsh or other natural or artificial system which functions to store or convey water in such a manner that would require a permit under Chapters 40 C-4 or 6, Florida Administrative Code, shall comply with the rules of the St. Johns River Water Management District (District).

- B. The following information which, at the permittee's option, may be submitted in the form of a DER/U.S. Army Corps of Engineers Dredge and Fill Permit Application, shall be submitted to the District at least sixty (60) days prior to construction. If the permittee does not submit some of the information provided for below, the District will make any additional request within fifteen (15) days of receipt of the initial submittal. The permittee will provide the additional information requested within ten (10) days of receipt of the request for information.
 - 1. A centerline profile of existing topographic features along proposed access road(s);

 - 2. Preliminary design of proposed access road(s) with elevations marked;

3. Typical cross-section of access road(s);
4. Cross-section of each stream or creek at those points to be crossed by access road(s) or other facilities;
5. Specifications showing size and type of water control structure (pipe, culvert, etc.) to be placed within or on water bodies as described in paragraph A. above, with proposed flowline elevations marked;
6. Specifications showing design capacity of all water control structures to be employed;
7. Specifications showing location of each transmission tower and access road to be constructed within or on the water bodies as described in paragraph A. above;
8. Computed rates of flow for gauged streams or waterways before construction (during a one-hundred-year flood).

The District will make available to the permittee whatever streamflow information it has.

For streams and watercourses for which historical flows or stage records do not exist, estimates of flow (during the one-

hundred-year flood) shall be made using sound and accepted engineering techniques.

9. Any additional information required by the District in order to evaluate compliance by the permittee with Chapters 40 C-4 and 6, Florida Administrative Code.

The District shall evaluate the proposed construction within thirty (30) days of receipt of the initial submittal, or the additional information when requested as provided above, for compliance with District rules and these conditions of certification.

- C. Construction of roadways as described in paragraph A. above, when within the one-hundred-year floodplain of any stream or watercourse, shall not increase the upstream or headwater stage of water by more than one half foot upstream of any structure or road.

XXIII. Records and Reports

The permittee shall maintain records and file any report required by this certification.

XXIV. Variances

All variances are to be determined by the Board.

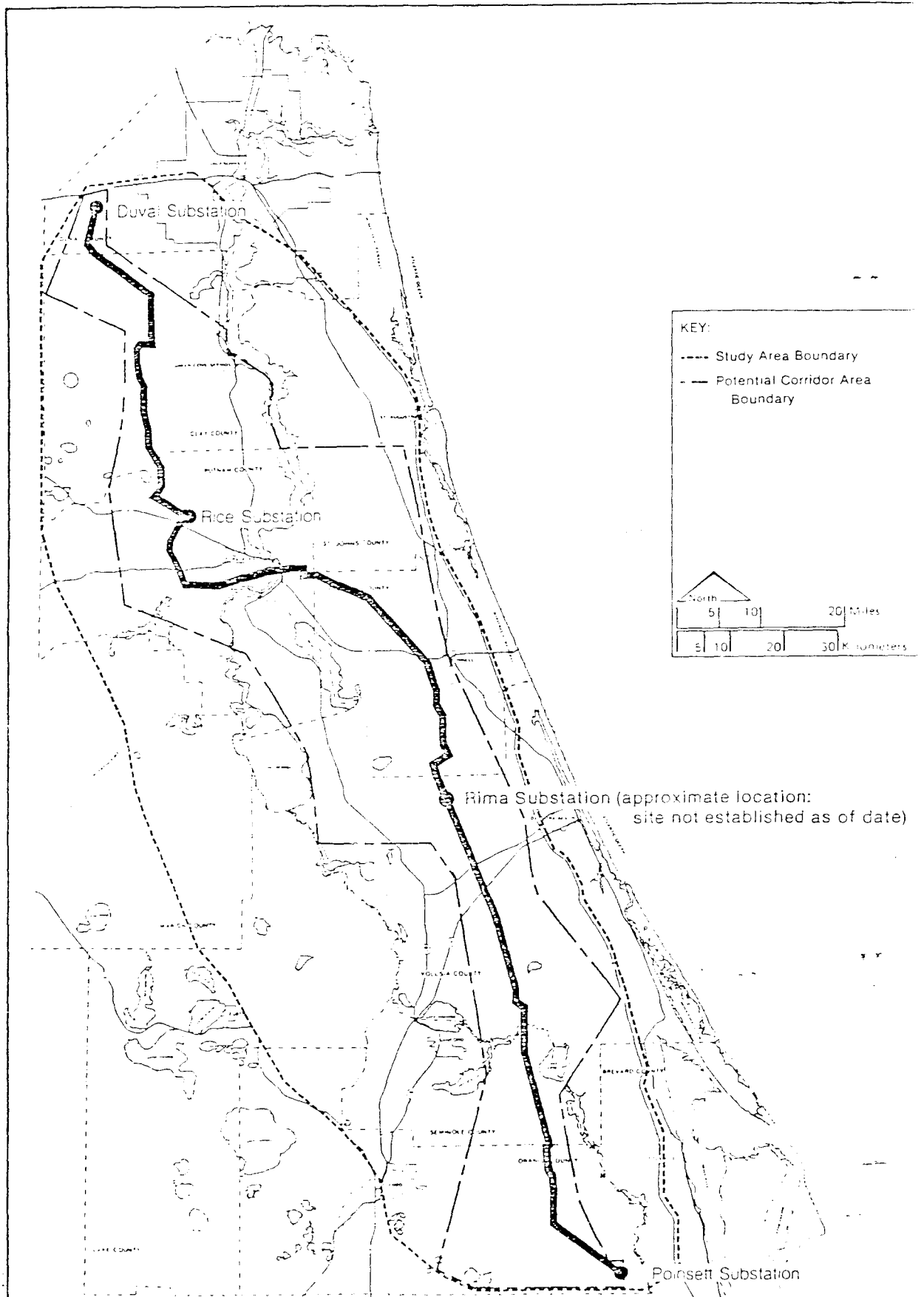


Figure 1 - Recommended
Florida Power & Light Company
Duval-Poinsett 500kV Transmission Corridor

SOURCE: FPL REPORT 375-W-10-110, REVISED 1981

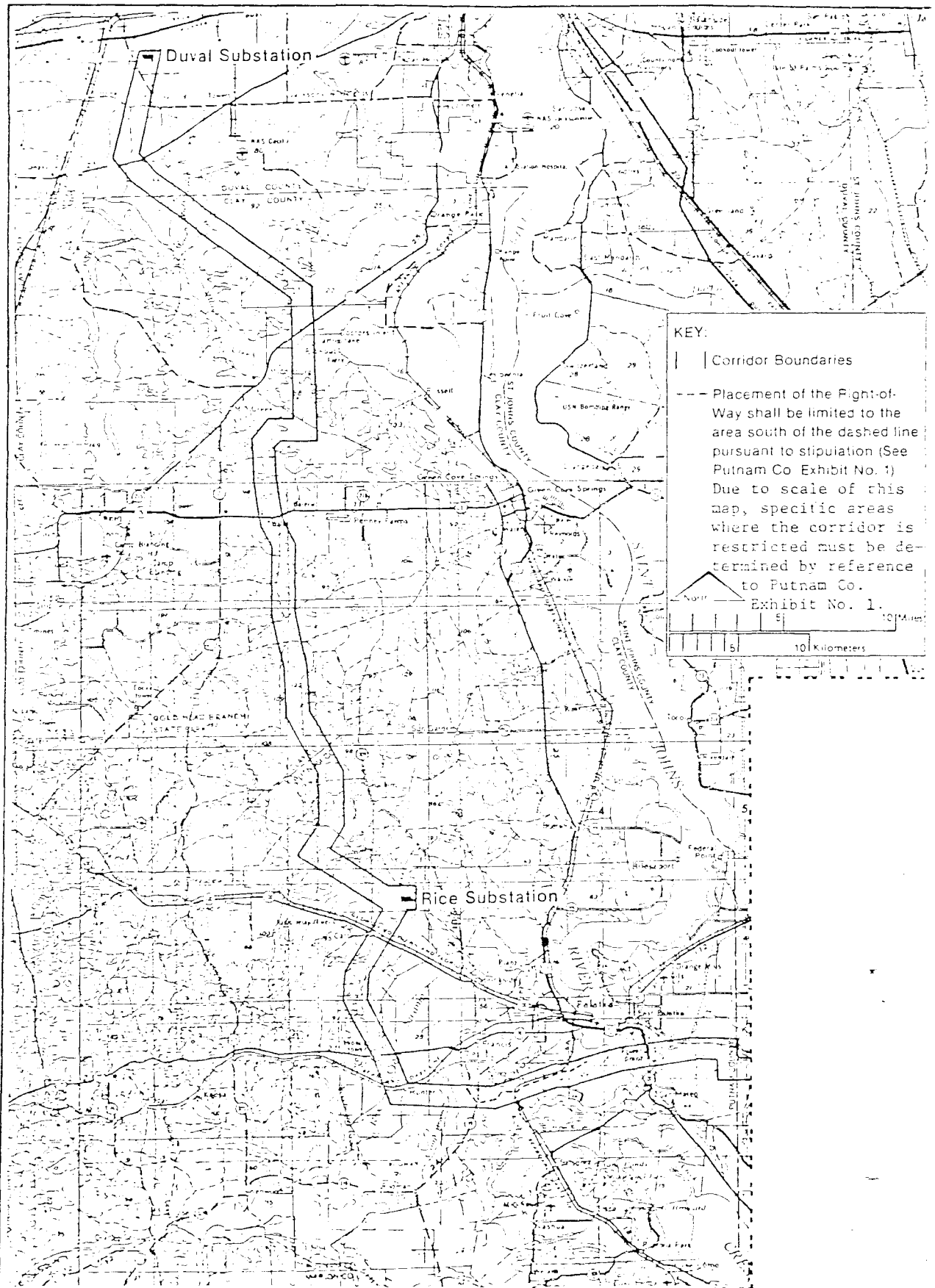


Figure 2a (Map 1 of 3) - Recommended
Florida Power & Light Company
Duval-Poinsett 500kV Transmission Corridor

© FPL 1991. LSCS 1991. LSCS 1991. P. 1/10

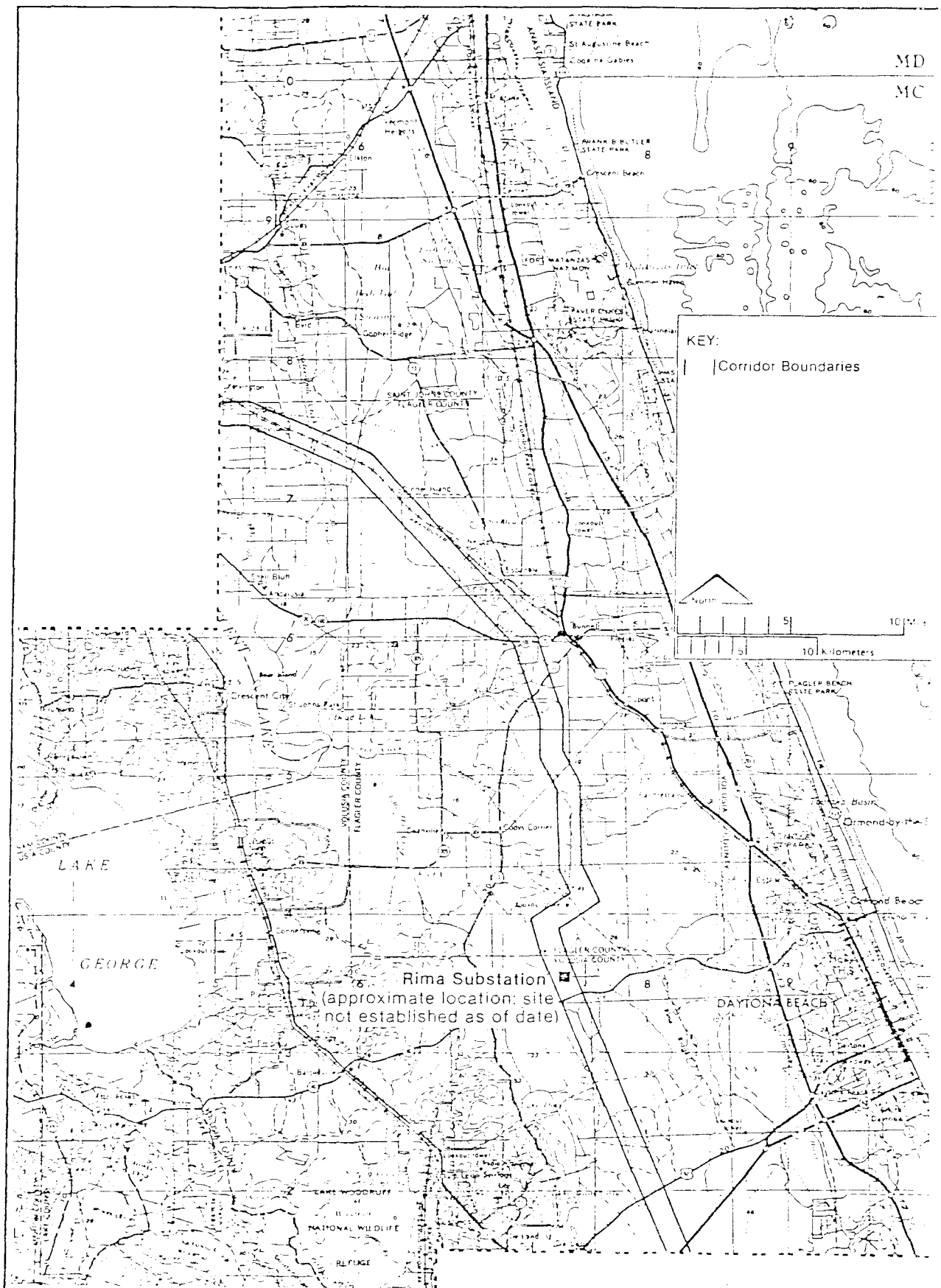


Figure 2b (Map 2 of 3) - Recommended
Florida Power & Light Company
Duval-Poinsett 500kV Transmission Corridor

SOURCES: USOC 1972, ESE 1981, FLA/TEC 1981

ATTACHMENT III

At Paragraph 43 of the Recommended Order adopted by the Board by Final Order dated October 8, 1982, there is a reference to Attachment III being available at the Division of Administrative Hearings. This Attachment is now available for inspection and copying by contacting the Office of Power Plant Siting at the Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida (telephone 904-488-0130).

