

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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| <b>IN RE: ORLANDO UTILITIES COMMISSION; )</b> |                                |
| <b>ST. CLOUD EAST-MAGNOLIA RANCH NORTH )</b>  | <b>DOAH CASE No. 21-1939TL</b> |
| <b>230 kV TRANSMISSION LINE; )</b>            | <b>OGC CASE No. 21-0578</b>    |
| <b>SITING APPLICATION NO. TA21-18 )</b>       |                                |
| <b>_____ /</b>                                |                                |

**FINAL ORDER APPROVING CERTIFICATION**

This matter is before me as Secretary (Secretary) of the Department of Environmental Protection (DEP or Department), for the purpose of entering a Final Order under the Florida Electric Transmission Line Siting Act (TLSA), sections 403.52-403.5365, Florida Statutes, regarding the site certification application (SCA or Application) filed by the Orlando Utilities Commission (OUC) to certify a new 230 kilovolt (kV) electric transmission line, associated facilities, and transmission line corridor connecting the existing St. Cloud East Substation in Osceola County and the existing Magnolia Ranch North Substation in Orange County (the Project).

**BACKGROUND**

On November 9, 2021, the Administrative Law Judge (ALJ) assigned by the Division of Administrative Hearings (DOAH) issued an order canceling hearing, closing file, and relinquishing jurisdiction to the Secretary for entry of a final certification order. The order granted the parties' request to cancel the certification hearing and relinquish jurisdiction in accordance with section 403.527(6), Florida Statutes. The order was issued pursuant to a Joint Stipulation and Unopposed Motion to Cancel Certification Hearing and Relinquish Jurisdiction to the Department of Environmental Protection for Entry of Final Certification Order filed on November 8, 2021. (Joint Stipulation or JS). The parties stipulated that no disputed issues of fact

or law remain to be raised at a site certification hearing. The parties requested cancellation of the site certification hearing originally scheduled to begin on December 7, 2021, and do not object to entry of a Final Order by the Secretary. (JS, p. 1).

As required, a notice of cancelation of the certification hearing was timely published by OUC and the Department. On November 10 and 19, 2021, OUC and the Department, respectively, submitted Proposed Final Orders with recommended Conditions of Certification. In light of the above, under section 403.529(1)(a), Florida Statutes, the Secretary of the Department is required to prepare and enter a Final Order.

### **PARTIES**

OUC and DEP are statutory parties to this proceeding. § 403.527(2)(a) and (b), Fla. Stat. (2021). Under section 403.527(2)(a), Florida Statutes, the following entities shall be included in a TLSA certification proceeding: OUC (the applicant), the Department, the Florida Public Service Commission (PSC), the Florida Department of Economic Opportunity (DEO), the Florida Fish and Wildlife Conservation Commission (FWC), the Florida Department of Transportation (DOT), the St. Johns River Water Management District (SJRWMD), the South Florida Water Management District (SFWMD), Orange County, and Osceola County. (JS, pp. 2-3). No agency identified in section 403.527(2)(a), Florida Statutes, filed a timely notice of intent to be a party to the certification hearing. (JS, pp. 2-3). Consequently, the above entities, except for OUC and the Department, waived their right to participate in the certification hearing. § 403.527(2)(b), Fla. Stat. (2021). In addition, the Florida Department of State, Division of Historical Resources (DHR) submitted comments concerning the Project pursuant to section 403.526(a)(8), Florida Statutes. (JS, p. 3). Lastly, no person, corporation or other entity filed a

timely petition to intervene in this proceeding under section 403.527(2)(c), Florida Statutes. (JS, pp. 2-3). Therefore, OUC and the Department are the only parties to this proceeding. Id. at 3.

### **STATEMENT OF THE ISSUE**

The issue to be decided in this proceeding is whether the Secretary, acting in lieu of the Power Plant Siting Board (Siting Board), should issue a certification authorizing OUC to construct, operate and maintain a new 230 kilovolt (kV) electric transmission line and associated facilities that connect the existing St. Cloud East Substation in unincorporated Osceola County to the existing Magnolia Ranch North Substation in unincorporated Orange County, subject to the Conditions of Certification attached hereto as Exhibit A. (JS, p. 2). Specifically, the Secretary shall determine “whether, and the extent to which, the location of the transmission line corridor and the construction, operation, and maintenance of the transmission line will” meet the criteria set forth in sections 403.529(4) and (5), Florida Statutes. § 403.529(4)-(5), Fla. Stat. (2021).

### **PRELIMINARY STATEMENT**

On June 30, 2020, the PSC made an affirmative determination of need for OUC’s transmission line Project pursuant to section 403.537, Florida Statutes. (JS, p. 10).

On June 11, 2021, OUC filed a transmission line application with the Department for the proposed Project. (Application, p. 1; JS, p. 2). The Application includes a request for certification to construct, operate, and maintain a new 230 kV transmission line approximately 21 miles long in Orange and Osceola Counties. (Application, pp. 1-3; JS, pp. 4-5). The Project includes (a) the establishment of a transmission line corridor that connects the St. Cloud East Substation to the Magnolia Ranch North Substation, and (b) the construction, operation, and maintenance of an electric transmission line and associated facilities within the corridor. (Application, pp. 1-3; JS, p. 2). OUC did not request a variance from any local, regional, or state

standards that apply to the Project, nor did any reviewing agency or local government identify the need for a variance or any other relief mechanism. (JS, p. 19). *See also* 403.526(2)(b)1., Fla. Stat. (2021).

## **FINDINGS OF FACT**<sup>1</sup>

### **Procedural History**

1. On June 11, 2021, OUC filed a transmission line application with the Department for the proposed Project. (Application, p. 1; JS, p. 2).

2. In June and July of 2021, OUC published notices to announce the filing of its Application in: (a) the *Orlando Sentinel*, (b) the *Osceola News-Gazette*, and (c) the *Orlando Weekly*. (PAR, p. 19; JS, p. 18). On July 1, 2021, the Department published notice of receipt of OUC's Application in the *Florida Administrative Register*. (PAR, p. 19; JS, p. 19).

3. In July 2021, OUC provided direct notice of the filing of the Application to all landowners whose property and residences were located within one-quarter mile of the proposed corridor pursuant to section 403.5363(5)(a), Florida Statutes. (PAR, p. 20; JS, p. 18). OUC and the Department timely complied with the informational and procedural requirements of the TLSA and chapter 62-17, Florida Administrative Code, that require publication of a notice for the Application and certification hearing. (PAR, p. 19; JS, p. 19).

4. No statutory agency nor third party filed a notice to become a party to the certification hearing or a motion to intervene in the proceeding. (JS, pp. 2-3). On November 8, 2021, OUC and the Department filed a Joint Stipulation and Unopposed Motion to Cancel Certification Hearing and Relinquish Jurisdiction to the Department of Environmental Protection

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<sup>1</sup> The parties stipulated to the factual findings. These factual findings are supported by the Site Certification Application, the Department's Project Analysis Report (PAR) with its attachments, and the joint stipulation between the parties.

for entry of a Final Certification Order. *Id.* at 1. On November 9, 2021, the ALJ granted the motion to cancel the certification hearing. (Order Relinquishing Jurisdiction and Closing File, November 9, 2021, pp. 1-2). No party to this proceeding objected to, or recommended denial of, the final certification for the Project subject to the proposed Conditions of Certification. A final and complete set of Conditions of Certification is attached hereto as Exhibit A.

*The Applicant and the Proposed Project*

5. OUC is the second largest municipal utility in Florida and the 14th largest municipal utility in the United States. (Application, p. 2; JS, p. 4). OUC serves approximately 246,000 customers in the City of Orlando, the City of St. Cloud, and parts of unincorporated Orange and Osceola counties. OUC's existing electric transmission system in Orlando consists of 31 substations interconnected through approximately 335 miles of 230 kV, 115 kV, and 69 kV transmission lines. OUC also operates and maintains the City of St. Cloud's four electric substations, 55 miles of electric transmission lines, and three interconnections. (Application, p. 2; JS, p. 4).

*OUC's Corridor Selection Process*

6. Before OUC filed its Application, OUC conducted a corridor selection study to identify a suitable corridor for the proposed 230 kV transmission line. The corridor selection study evaluated potential corridors in an area approximately 168 square miles in size. (Application, p. 7; JS, p. 5). OUC's study included the following:

- Establishment of evaluation criteria, a geographic information systems (GIS) database, and study areas;
- Identification and evaluation of route segments and multi-segment alignments;
- Public involvement; and
- Corridor development.

(Application, p. 7; JS, pp. 5-6). OUC's objective was to evaluate potential routes and "develop a certifiable corridor that would balance land use, socioeconomic, environmental, engineering, and cost considerations." (Application, p. 7; JS, p. 6).

7. OUC considered the following factors with varying weight when identifying and evaluating potential routes for the transmission line corridor:

- Maximum co-location with other linear features, including arterial and collector roads, major canals, and railroads;
- Maximum co-location with existing transmission and distribution lines;
- Maximum use of previously disturbed alignments (roads, trails, canals, ditches, etc.) through wetlands and upland forested areas;
- Minimum proximity to residences;
- Minimum proximity to schools and other community facilities;
- Minimum proximity to known eagle nests;
- Minimum proximity to sites listed on the National Register of Historic Places;
- Minimum locations in state lands or other conservation areas and parks;
- Minimum potential to create traffic congestion and impacts on business access during construction and maintenance of the new transmission line;
- Maintaining distance from registered public and private airports, consistent with Federal Aviation Administration and other applicable federal, state, and county airspace regulations; and
- Minimum severance of land under common ownership.

(JS, p. 6). Based on its evaluation of these factors, OUC assigned scores to each of the potential routes and route segments located within the study area. The route with the best overall score was selected for the Project. (Application, pp. 11-12; JS, p. 7).

#### *Description of OUC's Proposed Corridor*

8. OUC's proposed transmission line corridor is co-located with existing and proposed linear facilities for approximately 98% of its length. (Application, p. 3; JS, p. 7). The remainder is co-located with existing and proposed public and private roadways and canals. Approximately 38% of the proposed corridor's length is located within existing OUC-owned rights-of-way (ROWs). (Application, p. 1; JS, p. 7)

9. OUC's corridor is co-located with the following existing and proposed linear facilities:

- The existing OUC 69 kV line that extends between the existing St. Cloud East and St. Cloud North Substations;
- The C-32C Canal/Sungrove Lane;
- The proposed Northeast Connector Expressway;
- The proposed Cyrils Bypass Road;
- The proposed Sunbridge Parkway;
- Wewahootee Road;
- An existing Duke Energy Florida, LLC distribution line ROW;
- OUC's Magnolia Ranch-Stanton transmission line ROW; and
- The Stanton-Taft transmission line ROW.

(JS, pp. 7-8; PAR, pp. 3-4; Application, pp. 14-16).

10. The general location of OUC's proposed transmission line corridor is shown in Figure 1 of the Department's PAR. (PAR, p. 4; JS, p. 8). A more detailed depiction of the proposed corridor is shown in a series of aerial photographs that comprise Figure 2-3 of the Application. (Application, Figure 2-3). As shown in Figure 2-3, OUC's proposed corridor begins at the existing St. Cloud East Substation, which is located near the Old Melbourne Highway in north-central Osceola County; and, terminates at the existing Magnolia Ranch North Substation, which is located approximately one mile southeast of the City of Orlando. (PAR, p. 4; JS, p. 8). The proposed corridor traverses unincorporated areas in Osceola County and Orange County, but the corridor does not traverse any municipality. (JS, p. 8).

11. Following certification of the Project, but before commencement of construction, OUC must obtain the easements and property rights needed for the specific ROW that will be used for the Project. The ROW must be located within the boundaries of the approved transmission line corridor. (PAR, p. 4; JS, p. 8).

12. OUC's proposed corridor will cross one conservation area and park – the Lake Lizzie Conservation Area (Application, p. 17; JS, p. 8), which is managed by Osceola County's

Parks Division. OUC already owns an existing 69 kV line located within the Lake Lizzie Conservation Area. OUC will co-locate the proposed 230 kV transmission line within the ROW for OUC's existing 69 kV line; and thus, minimize potential impacts in the Lake Lizzie Conservation Area. (Application, pp. 15, 17; JS, p. 8).

13. OUC's proposed corridor does not cross any named streams. (Application, p. 29; JS, p. 9). However, the proposed corridor will cross Class III waters, including (a) the C-32C Canal, which connects Trout Lake and Lake Joel; (b) the eastern edge of Bullock Lake; (c) the C-30 Canal, which connects Lake Myrtle and Lake Mary Jane; and (d) the Disston Canal at TM Ranch Road. (Application, pp. 29-30; PAR, p. 10; JS, p. 9).

14. The Project's potential impacts on vegetation, wildlife, and aquatic life have been minimized, because the proposed corridor is co-located with existing ROWs and other existing and proposed linear facilities. (Application, p. 40; PAR, p. 10; JS, p. 9). Nonetheless, some wetland filling and canopy clearing will be necessary to construct the Project. (Application, p. 30; PAR, p. 10; JS, p. 9). OUC's Application contains a preliminary assessment of the amount and types of wetland impacts proposed by the Project. OUC's post-certification submittals required to be submitted to the Department before commencement of construction pursuant to the Conditions of Certification will describe detailed design information, the specific location and extent of wetland impacts, and the appropriate mitigation. (Application, pp. 39-40; PAR, p. 10; JS, p. 9).

15. OUC conducted initial field surveys to determine whether threatened, endangered, or other listed plant and animal species exist within or near the proposed transmission line corridor. The initial field surveys also included evaluations of habitat conditions suitable for listed species. (Application, p. 30; JS, p. 9). OUC will conduct additional surveys of listed



species before the commencement of construction pursuant to the Conditions of Certification. (Application, p. 39; PAR, p. 10; JS, p. 9).

16. Two areas of the proposed transmission line corridor are adjacent to residential neighborhoods. (PAR, p. 10; JS, p. 9). The Bay Lake Ranch neighborhood is located east of the St. Cloud East Substation; and, the Moss Park Landings neighborhood is located southeast of the Magnolia Ranch North Substation. (PAR, p. 10; JS, p. 9). The proposed transmission line will be constructed within OUC's existing ROW in those areas. (Application, pp. ES-2; PAR, p. 10; JS, pp. 9-10).

#### **Overview of the Agency Reviews and Reports**

17. DEP, DOT, SJRWMD, SFWMD, DEO, FWC, PSC, Orange County, and Osceola County each reviewed the Application and prepared a report concerning matters within their jurisdiction, pursuant to section 403.526(2), Florida Statutes. The DHR also prepared a letter of recommendation. (PAR, pp. 11-12, 18; JS, p. 10). The agencies and local governments either recommended approval of the Project, subject to various conditions of certification, or did not oppose the Project. (PAR, Appendix II; JS, p. 10). The agency reports, and recommendation are included in the Department's PAR. Each of the agency reports and recommendations are summarized in the following paragraphs.

#### **PSC's Determination of Need for OUC's Project**

18. In its Application, OUC states that the proposed Project is needed to serve customers in OUC's St. Cloud regional area and the Orlando metropolitan area. Given this service area, OUC sometimes refers to the Project as the Orlando/St. Cloud Regional Resiliency Connection.

19. On May 1, 2020, OUC filed a petition for a need determination concerning the Orlando/St. Cloud Regional Resiliency Connection. On June 30, 2020, the PSC issued a Final Order Approving Determination of Need for An Electric Transmission Line (Order No. PSC-2020-0223-FOF-EM), which granted OUC's petition. (PAR, Appendix II-A, pp. 4-5; JS, pp. 10-11). The PSC also concluded that the Magnolia Ranch Substation and the St. Cloud East Substation are appropriate starting and ending points for OUC's proposed transmission line. (PAR, Appendix II-A, p. 5; JS, pp. 10-11).

### **The Department**

#### *Review of Environmental Resource Permit Issues*

20. The Department evaluated OUC's Project to determine whether it complies with the requirements in the Department's environmental resource permit (ERP) program. (PAR, pp. 12-13; JS, p. 11). Pursuant to chapters 62-330, 62-340, 62-345, and 62-814, Florida Administrative Code, the Department considered the following issues in relation to the impacts of the proposed corridor:

- Transmission line and ROW access road construction impacts;
- ROW and access road maintenance impacts;
- Mitigation measures;
- Potential impacts of transmission line crossings on navigable waters, submerged lands, or wetlands;
- Potential impacts on water quality and quantity, including hydrology and surface drainage resulting from construction, clearing, and maintenance;
- Final or preliminary identification of those areas where the Department has jurisdiction under the ERP program; and
- Electric and magnetic field effects.

(PAR, pp. 12-13; JS, pp. 11-13).

21. Many site-specific details and site-specific construction and maintenance impacts will not be known until the final ROW is selected by OUC. (PAR, p. 12; JS, p. 11). Based on the information available at this time, OUC conducted a preliminary analysis that identified the

potential wetland impacts from the Project, including approximately 13.12 acres of fill and 24.90 acres of conversion, which will potentially result in 17.18 credits of functional loss of wetlands. (Application, pp. 39-40; PAR, p. 13; JS, pp. 11-12). OUC anticipates that all unavoidable wetland impacts will be addressed by purchasing credits from an approved wetlands mitigation bank. (Application, p. 39; JS, p. 12).

22. After the ROW is identified, OUC will prepare a wetland impact evaluation and mitigation assessment, which OUC will provide to the Department as a post-certification submittal according to the Conditions of Certification. The Conditions of Certification require OUC to avoid, minimize, or mitigate impacts to wetlands. The Conditions of Certification also require OUC to submit refined surveys of wetland and surface water areas, as necessary, in accordance with chapter 62-340, Florida Administrative Code. OUC's post-certification submittals will be subject to the Department's review and approval before the commencement of construction. Any approved mitigation plans will be incorporated into the Conditions of Certification. (Application, pp. 39-40; PAR, p. 13; JS, p. 12).

23. OUC has provided reasonable assurance that the Project will comply with the applicable requirements of the ERP program, subject to the Conditions of Certification. (Application, pp. 39-40; PAR, p. 13; JS, p. 12). The scope of a certification under the TLSA includes only state, regional, and local requirements. All federal permits must be processed separately from OUC's Application. Accordingly, OUC may need to obtain a separate permit pursuant to Section 404 of the Clean Water Act before construction. (PAR, p. 2; Conditions of Certification, p. 4)

### *Electric and Magnetic Field Issues*

24. On August 12, 2021, OUC submitted an Electric and Magnetic Field (EMF) report to the Department in response to the Department's first determination of completeness. The EMF report included the calculated EMF values for each segment of OUC's proposed transmission line. The EMF values were calculated at the edge of the ROW, at the height of one meter above the ground, using the maximum current rating, in accordance with the Department's EMF rules in chapter 62-814, Florida Administrative Code. (PAR, p. 13; JS, pp. 12-13). The information in OUC's EMF report reflects that the EMF associated with the proposed transmission line will comply with the Department's standards in rule 62-814.450(2), Florida Administrative Code, for electric and magnetic fields from new transmission lines. (PAR, p. 13; JS, p. 13). OUC has provided reasonable assurance that the proposed Project will comply with the applicable requirements of DEP's electric and magnetic field standards in chapter 62-814, Florida Administrative Code, subject to the Conditions of Certification.

### **Department of Transportation**

25. DOT submitted an agency report concerning the Project and matters within DOT's jurisdiction. DOT recommended approval of the Project, contingent upon OUC complying with the Conditions of Certification recommended by DOT. (PAR, p. 17 and Appendix II-B, p. 1; JS, p. 13). DOT's proposed conditions address the following issues: access management to the state highway system; overweight or over dimensional loads; use of Florida right-of-way or transportation facilities; drainage; DOT standards; use of air space; and best management practices. (PAR, Appendix II-B, pp. 1-3; JS, p. 13).

### **Department of Economic Opportunity**

26. DEO reviewed OUC's Application for consistency with the goals in the State Comprehensive Plan (SCP), section 187.201, Florida Statutes. (PAR, Appendix II-C, p. 2; JS, p. 13). DEO found that OUC's Project is consistent with the following goals in the SCP:

- SCP Goal 15, Land Use: "In recognition of the importance of preserving the natural resources and enhancing the quality of life of the state, development shall be directed to those areas which have in place, or have agreements to provide, the land and water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner."
- SCP Goal 17, Public Facilities: "Florida shall protect the substantial investments in public facilities that already exist and shall plan for and finance new facilities to serve residents in a timely, orderly, and efficient manner."
- SCP Goal 21, The Economy: "Florida shall promote an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income for its residents."

(PAR, Appendix II-C, p. 2; JS, pp. 13-14). More specifically, DEO found that "the transmission line will enhance the service capacity of the electric power system to accommodate growth in an environmentally acceptable manner[;]" and thus the Project furthers Goal 15. Similarly, DEO found that "[t]he transmission line enhances the existing and future electric power system and will serve residents in a timely, orderly, and efficient manner," thus furthering Goal 17. Finally, DEO determined that "[t]he transmission line will help provide Florida with a stable source of electric power and thus enhance the economic stability of the state," which furthers Goal 21. (PAR, Appendix II-C, p. 2; JS, p. 14).

27. Pursuant to section 403.526(2)(a)3, Florida Statutes, DEO reviewed the Application for consistency with local government comprehensive plans and land development regulations. (PAR, pp. 2-3). DEO concluded that:

[T]he St. Cloud East-Magnolia North Ranch 230kV Transmission Line is expressly exempt from constituting “development” for the purpose of local comprehensive plans and land development regulations adopted pursuant to the Community Planning Act; and therefore, approval of the OUC St. Cloud East-Magnolia Ranch North 230kV Transmission Line would not have to be consistent with the comprehensive plans and land development regulations.

(PAR, Appendix II-C, p. 3; JS, p. 14).

28. Based on these findings and determinations, DEO “concludes that the proposed St. Cloud East-Magnolia Ranch North 230 kV Transmission Line furthers goals of the State Comprehensive Plan and is an efficient use of an existing electric power transmission line right-of-way.” (PAR, Appendix II-C, p. 4; JS, p. 14). DEO recommended approval of the Project but did not propose any conditions of certification. (PAR, Appendix II-C, p. 4; JS, p. 15).

#### **Florida Fish and Wildlife Conservation Commission**

29. In its agency report, FWC recommended approval of the Project, subject to certain conditions. FWC’s conditions require OUC to coordinate with FWC to conduct additional wildlife surveys consistent with FWC’s protocols, and to report the survey results to FWC. (PAR, Appendix II-D, p. 3; JS, p. 15). OUC also must coordinate with FWC concerning appropriate avoidance, minimization, and mitigation methods. (PAR, Appendix II-D, p. 3; JS, p. 15). FWC’s conditions require OUC to conduct surveys for gopher tortoises, wading birds, Florida Sandhill Cranes, and the Southeastern Kestrel. (PAR, Appendix II-D, pp. 5-7; JS, p. 15).

#### **St. Johns River Water Management District**

30. SJRWMD reviewed OUC’s Application and noted that OUC “did not identify any specific water use activities” as part of the Project. (PAR, Appendix II-E, pp. 2-3; JS, p. 15). Nevertheless, SJRWMD recognized the Project may include dewatering activities, stating:

Based on our experience with similar projects, any dewatering to facilitate placement of utility poles will be transient in nature and of limited magnitude. The applicant has not proposed any specific water use; however[,] our experience with similar

projects indicates that if [dewatering is] required, the proposed use will not exceed thresholds for an individual consumptive use permit.

(PAR, Appendix II-E, p. 3; JS, p. 15). SJRWMD recommended certification of the Project, subject to conditions governing dewatering activities. (PAR, Appendix II-E, pp. 2, 6-9; JS, p. 15).

### **South Florida Water Management District**

31. SFWMD recommended certification of the Project, subject to certain conditions required by chapter 373, Florida Statutes, and chapters 40E-2 and 40E-6, Florida Administrative Code. (PAR, Appendix II-F, pp 2-3; JS, pp. 15-16). SFWMD's conditions address the Project's potential impacts on water use and water resources. SFWMD's conditions also address SFWMD's proprietary interests in certain lands located within OUC's proposed transmission line corridor. (PAR, Appendix II-F, pp. 4-10; JS, pp. 15-16).

### **Department of State, Division of Historical Resources**

32. In April 2019, OUC contacted the DHR to identify historical resources located within the study area. (Application, p. 26; JS, p. 16). On April 29, 2019, OUC received a letter from DHR indicating that historic properties were unlikely to be affected by the Project. (Application, Appendix D; JS, p. 16).

33. In 2020, OUC conducted a desktop cultural resource study of the proposed corridor, which identified four archaeological sites, two historical structures, and one resource group within or near the proposed corridor. DHR's records show that four of these cultural/historic sites are ineligible for National Historical Resource Preservation, one is eligible, two have not been evaluated yet by DHR, and one does not have enough information to

determine the eligibility status. (Application, p. 26; JS, p. 16).<sup>2</sup>

34. DHR reviewed OUC's Application but did not file an agency report. However, on July 12, 2021, DHR submitted its recommendation concerning OUC's Application. DHR's recommendation included the following statement:

Our office reviewed the [OUC] application listed above and considers it to be complete with respect to the matters within the Division of Historical Resources' jurisdiction. We note that the application includes a provision to complete historic property survey and potential adverse effect assessment in consultation with our office prior to construction. Provided this provision is included in the license for the project, the undertaking will include adequate effort to identify historic properties, assess potential adverse effects, and ensure appropriate treatment or mitigation for any significant historic properties identified during the survey.

(PAR, Appendix II-G, p. 1; JS, p. 16). DHR's recommendation included conditions that require OUC to conduct additional surveys of sensitive cultural resource areas, in consultation with DHR, before commencing construction in areas that have not been surveyed previously. (PAR, Appendix II-G, p. 1; JS, pp. 16-17).

#### **Orange County**

35. Orange County filed an agency report that included proposed conditions dealing with noise pollution control, tree protection and removal, ROW use, and flood plain management. Orange County recommended approval of the Project subject to the County's proposed conditions. (PAR, Appendix II-H, pp. 1-3; JS, p. 17).

#### **Osceola County**

36. Osceola County filed an agency report that included conditions addressing the following topics: access management to Osceola County's road system; overweight or over dimensional loads; and the use of Osceola County's ROW. (PAR, Appendix II-I, p. 2;

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<sup>2</sup> The Joint Stipulation misstated that four resources were ineligible for a National Historical Resource Preservation listing when the Application identified three such resources. The Joint Stipulation also did not discuss a resource that was eligible for a National Historical Resource Preservation listing when the Application identified one.



JS, p. 17). The County recommended certification of the Project, contingent upon OUC's compliance with the County's proposed conditions. (PAR, Appendix II-H, p. 1; JS, p. 17).

### **The Department's Conclusions and Recommendations**

37. Regarding impacts from the Project construction, the Department concluded that:

- The majority of construction will occur within existing or proposed linear ROWs.
- Construction and any associated noise activities will be temporary and comply with applicable state and local regulations.
- The Project will avoid, where possible, impacts to wetlands and wildlife. Where avoidance is not possible, impacts will be mitigated through applicable regulations.
- In conjunction with construction of new access roads, culverts will be added to maintain flow, in accordance with applicable regulations.
- Once the transmission line construction is completed, the ROW will be restored to natural conditions, where feasible.

(PAR, p. 20; JS, pp. 19-20).

38. Regarding impacts from the Project operation, the Department concluded that:

- The Project increases transmission capability by 50% for the area served.
- The Project increases reliability by providing a second line to the area served.
- The design of the transmission line will comply with the American National Standards Institute's National Electric Safety Code, which covers electrical clearances as well as loading and strength requirements, including during extreme wind.
- The Project is consistent with specific goals of the SCP regarding Land Use, Public Facilities, and the Economy.

(PAR, pp. 20-21; JS, p. 20).

39. The Department has reviewed the Application and determined that the proposed corridor will comply with the Department's applicable rules. The Department has considered the affected agency recommendations and determined that the Project will comply with their nonprocedural requirements. The Department has proposed conditions compliant with the TLSA to monitor impacts and compliance with applicable nonprocedural requirements of the reviewing

agencies. Upon considering and weighing the factors specified in section 403.529(4), Florida Statutes, the Department recommends that the Project be certified subject to the proposed Conditions of Certification. (PAR, pp. 21-22; JS, pp. 20-21).

### **CONCLUSIONS OF LAW**

1. OUC and the Department have standing to participate in this proceeding.
2. DOAH had jurisdiction over the parties and subject matter of this proceeding.

This proceeding was conducted in accordance with the Florida Electric Transmission Line Siting Act, Part II of Chapter 403, Florida Statutes.

3. The PSC is the sole forum to determine the need for OUC's electric transmission line. § 403.537, Fla. Stat. (2021).

4. In accordance with section 403.5363, Florida Statutes, and chapter 62-17, Florida Administrative Code, proper notice was provided to all persons, entities, and parties entitled to such notice, including the general public.

5. All necessary and required state, regional and local governmental agencies participated in the certification process.

6. The ALJ had the authority to cancel the scheduled certification hearing upon stipulation by all parties to the proceeding that "there are no disputed issues of material fact or law" to be resolved at the certification hearing. § 403.527(6), Fla. Stat. (2021).

7. The ALJ granted the parties' request to cancel the certification hearing and relinquish jurisdiction to the Secretary of DEP. § 403.527(6)(a) and (d), Fla. Stat. (2021). Thus, the Secretary has jurisdiction to enter this Final Order. § 403.529(1)(a), Fla. Stat. (2021).

8. The OUC is eligible for issuance of a final certification order (subject to the attached Conditions of Certification), upon consideration and balancing of the criteria in section

403.529(4) Florida Statutes. This conclusion is based upon the information provided by OUC in its Application, completeness responses, and the information included in the Department's PAR.

9. In reliance upon the PSC's determination that OUC's Project is needed to ensure "electric power system reliability and integrity," and DEO's determination that the "transmission line will help provide Florida with a stable source of electric power[;] and thus enhance the economic stability of the state," the Secretary has concluded that OUC's Project will comply with section 403.529(4)(a), Florida Statutes. § 403.529(4)(a), Fla. Stat. (2021). *See also* § 403.537(1)(c), Fla. Stat. (2021).

10. The Secretary has concluded that OUC's Project will "meet the electrical energy needs of the state in an orderly, economical, and timely fashion." § 403.529(4)(b), Fla. Stat. (2021).

11. The Secretary has concluded that OUC's Project complies with applicable nonprocedural requirements of the agencies, as required by section 403.529(4)(c), Florida Statutes, provided OUC implements and complies with the attached Conditions of Certification.

12. In reliance upon Orlando County's determination that OUC's Project will be consistent with its local government comprehensive plans, the Secretary has concluded that the Project will comply with section 403.529(4)(d), Florida Statutes.

13. In reliance upon Osceola County's determination that OUC's Project will be consistent with its local government comprehensive plans, the Secretary has concluded that the Project will comply with section 403.529(4)(d), Florida Statutes.

14. Certification of the OUC electric transmission line in accordance with the attached Conditions of Certification effects a "reasonable balance between the need for the transmission line as a means of providing reliable, economically efficient electric energy," as

determined by the PSC, and “the impact upon the public and the environment resulting from the location of the transmission line corridor and the construction, operation, and maintenance of the transmission lines.” § 403.529(4)(e), Fla. Stat. (2021).

15. Based upon the foregoing considerations, the Secretary concludes that OUC has provided reasonable assurances that the Project meets all the criteria for certification under the TLSA. Specifically, the Secretary concludes that the Project will serve and protect the broad interests of the public, provided OUC implements and complies with the attached Conditions of Certification.

### **CONCLUSION**

Having reviewed the matters of record and being otherwise duly advised, the Secretary concludes that, if constructed and operated in accordance with the evidence presented in the record and the attached Conditions of Certification,<sup>3</sup> the Project will serve and protect the broad interest of the public and should be approved.

It is therefore ORDERED that:

- A. Certification of Orlando Utilities Commission’s transmission line, associated facilities, and transmission line corridor connecting the existing St. Cloud East Substation in Osceola County and the existing Magnolia Ranch North Substation in Orange County, as described in the Site Certification Application and the record as a whole, is hereby APPROVED.
- B. The Project is subject to and the Orlando Utilities Commission shall comply with the Conditions of Certification attached as Exhibit A and incorporated by reference herein.

---

<sup>3</sup> In accordance with the parties’ joint stipulation, DEP revised the proposed Conditions of Certification. The final Conditions of Certification are attached to this Final Order as Exhibit A.

## JUDICIAL REVIEW

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the clerk of the Department.

DONE AND ORDERED this 13<sup>th</sup> day of December, 2021, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



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SHAWN HAMILTON  
Secretary

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

FILED ON THIS DATE PURSUANT TO § 120.52,  
FLORIDA STATUTES, WITH THE DESIGNATED  
DEPARTMENT CLERK, RECEIPT OF WHICH IS  
HEREBY ACKNOWLEDGED.

**Syndie  
Kinsey**

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CLERK

Digitally signed by Syndie  
Kinsey  
Date: 2021.12.13 12:58:28  
-05'00'

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DATE

## **CERTIFICATE OF SERVICE**

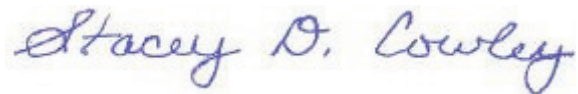
I HEREBY CERTIFY that a copy of the foregoing Final Order has been sent by electronic mail to the following persons:

|                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Orlando Utilities Commission</b><br>David S. Dee, Esquire<br>John T. LaVia, III, Esquire<br>Gardner, Bist, Bowden, Dee, LaVia,<br>Wright, Perry & Harper, P.A.<br>1300 Thomaswood Drive<br>Tallahassee, FL 32308<br><a href="mailto:DDee@gbwlegal.com">DDee@gbwlegal.com</a><br><a href="mailto:JLavia@gbwlegal.com">JLavia@gbwlegal.com</a><br><a href="mailto:faith@gbwlegal.com">faith@gbwlegal.com</a> | <b>Florida Department of Environmental Protection</b><br>Kelley F. Corbari, Esquire<br>Kathryn Lewis, Esquire<br>Michael Weiss, Esquire<br>Department of Environmental Protection<br>3900 Commonwealth Blvd., MS-35<br>Tallahassee, FL 32399-3000<br><a href="mailto:Kelley.Corbari@FloridaDEP.gov">Kelley.Corbari@FloridaDEP.gov</a><br><a href="mailto:Kathryn.Lewis@FloridaDEP.gov">Kathryn.Lewis@FloridaDEP.gov</a><br><a href="mailto:Michael.Weiss@FloridaDEP.gov">Michael.Weiss@FloridaDEP.gov</a><br><a href="mailto:Michelle.M.Knight@FloridaDEP.gov">Michelle.M.Knight@FloridaDEP.gov</a><br><a href="mailto:Taylor.Coram@FloridaDEP.gov">Taylor.Coram@FloridaDEP.gov</a> |
| <b>Florida Public Service Commission</b><br>Lee Eng Tan, Esquire<br>Florida Public Service Commission<br>2450 Shumard Oak Boulevard<br>Tallahassee, FL 32399-0850<br><a href="mailto:LTan@psc.state.fl.us">LTan@psc.state.fl.us</a>                                                                                                                                                                           | <b>South Florida Water Management District</b><br>Emily Johnson, Esquire<br>South Florida Water Management District<br>3301 Gun Club Road<br>West Palm Beach, FL 33406<br><a href="mailto:EJohnson@sfwmd.gov">EJohnson@sfwmd.gov</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Florida Department of Economic Opportunity</b><br>Valerie Wright, Esquire<br>Florida Department of Economic Opportunity<br>107 East Madison Street, MSC 110<br>Tallahassee, FL 32399<br><a href="mailto:Valerie.Wright@deo.myflorida.com">Valerie.Wright@deo.myflorida.com</a><br><a href="mailto:Deoservice@deo.myflorida.com">Deoservice@deo.myflorida.com</a>                                           | <b>St. Johns River Water Management District</b><br>Mary Ellen Winkler, Esquire<br>Joel T. Benn, Esquire<br>St. Johns River Water Management District<br>4049 Reid Street<br>Palatka, FL 32177<br><a href="mailto:MWinkler@sjrwmd.com">MWinkler@sjrwmd.com</a><br><a href="mailto:JBenn@sjrwmd.com">JBenn@sjrwmd.com</a><br><a href="mailto:KBreed@sjrwmd.com">KBreed@sjrwmd.com</a>                                                                                                                                                                                                                                                                                                |
| <b>Orange County, County Attorney's Office</b><br>Georgiana Holmes, Esquire<br>Orange County, County Attorney's Office<br>201 S. Rosalind Avenue #3, 5th Floor<br>Orlando, FL 32801<br><a href="mailto:Georgiana.Holmes@ocfl.net">Georgiana.Holmes@ocfl.net</a>                                                                                                                                               | <b>Osceola County, County Attorney's Office</b><br>Frank Townsend, Esquire<br>Osceola County, County Attorney's Office<br>1 Courthouse Square, Suite 4200<br>Kissimmee, FL 34741<br><a href="mailto:Frank.Townsend@osceola.org">Frank.Townsend@osceola.org</a>                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Florida Fish &amp; Wildlife Conservation Commission</b><br>Emily Norton, Esquire<br>Florida Fish and Wildlife Conservation Commission<br>620 South Meridian Street<br>Tallahassee, FL 32399-1600<br><a href="mailto:Emily.Norton@myfwc.com">Emily.Norton@myfwc.com</a> ;                                                                                                                             | <b>Florida Department of Transportation</b><br>Richard Shine, Esquire<br>Florida Department of Transportation<br>605 Suwannee Street, MS-58<br>Tallahassee, FL 32399<br><a href="mailto:Richard.Shine2@dot.state.fl.us">Richard.Shine2@dot.state.fl.us</a> |
| <b>Florida Department of State, Bureau of Historical Resources</b><br>Jason.Aldridge<br>Jon Morris, Esquire<br>Florida Department of State<br>R.A. Gray Building<br>500 South Bronough Street<br>Tallahassee, FL 32399-0250<br><a href="mailto:Jon.Morris@dos.myflorida.com">Jon.Morris@dos.myflorida.com</a><br><a href="mailto:Jason.Aldridge@dos.myflorida.com">Jason.Aldridge@dos.myflorida.com</a> | <b>Florida Department of Environmental Protection</b><br>Cynthia Mulkey<br>Office of Siting Coordination<br>2600 Blairstone Rd., M.S. 48<br>Tallahassee, FL 32399-2600<br><a href="mailto:Cindy.Mulkey@FloridaDEP.gov">Cindy.Mulkey@FloridaDEP.gov</a>     |

this 13<sup>th</sup> day of December, 2021.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION




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STACEY D. COWLEY  
Administrative Law Counsel

3900 Commonwealth Blvd., M.S. 35  
Tallahassee, FL 32399-3000

email [Stacey.Cowley@FloridaDEP.gov](mailto:Stacey.Cowley@FloridaDEP.gov)

**STATE OF FLORIDA  
DEPARTMENT  
OF  
ENVIRONMENTAL PROTECTION**



**Conditions of Certification**

**Orlando Utilities Commission  
St. Cloud East-Magnolia Ranch North 230 kV Transmission Line**

**TA 21-18**

**12/13/2021**

**Exhibit A**



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## ATTACHMENTS

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| Attachment B ..... | Final ROW Map(s)                        |
| Attachment C ..... | Surface Water Management System Plan(s) |
| Attachment D ..... | Mitigation Plan(s)                      |
| Attachment E ..... | Species Management Plan(s)              |

## SECTION A: GENERAL CONDITIONS

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### SECTION A: GENERAL CONDITIONS

#### I. SCOPE

A. Pursuant to the Transmission Line Siting Act (TLSA), Sections 403.52-.5365, Florida Statutes (F.S.), and Chapter 62-17, Florida Administrative Code (F.A.C.), this certification is issued to Orlando Utilities Commission (OUC) as owner/operator and Licensee of the St. Cloud East-Magnolia Ranch North 230 kilovolt (kV) Transmission Line. Subject to the requirements contained in these Conditions of Certification (Conditions), OUC will construct, operate, and maintain a 230 kV transmission line consisting of approximately 21 linear miles of transmission line, associated structures, and access roads as described in OUC's Site Certification Application (SCA or Application). The electric transmission line will traverse portions of Orange and Osceola counties, Florida.

B. The certified facility includes the St. Cloud East-Magnolia Ranch North 230 kV transmission line corridor located in Orange and Osceola counties and associated structures and access roads, as shown in Attachment A – Certified Corridor Map.

C. These Conditions, unless specifically amended or modified, are binding upon the Licensee and shall apply to the construction, operation and maintenance of the certified facility. If a conflict should occur between the design criteria of this certified facility and the Conditions, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions, the more specific condition governs.

D. Within 180 days following the corridor narrowing as defined by Section 403.522(10), F.S., the Licensee shall provide an aerial photograph(s)/map(s) of the specific Right-of-Way (ROW) at a scale of at least 1:400, or acceptable equivalent documentation such as an official legal description or survey map(s) signed by a professional land surveyor, delineating the boundaries of the certified transmission line right-of-way, which shall be known as the Delineation of the Certified Transmission Line ROW and attached as Attachment B – Final ROW Maps.

E. The certification is valid for the life of the transmission line, if construction on, or condemnation or acquisition of, the right-of-way is commenced within 5 years after the date of certification, or such later date as may be authorized by the Siting Board.

*[Section 403.531, F.S.]*

#### II. APPLICABLE DEPARTMENT RULES

The construction, operation and maintenance of the certified facility shall be in accordance with all applicable non-procedural provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the applicable non-procedural portions of the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification or in a subsequent modification to the Conditions, under any federal permit or as otherwise provided under Chapter 403:

**Florida Administrative Code:**

- 18-2 (Management of Uplands Vested in the Board of Trustees)
- 18-14 (Administrative Fines for Damaging State Lands)
- 18-21 (Sovereignty Submerged Lands Management)
- 62-4 (Permits)

## SECTION A: GENERAL CONDITIONS

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62-40 (Water Resource Implementation Rule)  
62-150 (Hazardous Substance Release Notification)  
62-160 (Quality Assurance)  
62-256 (Open Burning)  
62-302 (Surface Water Quality Standards)  
62-303 (Identification of Impaired Surface Waters)  
62-304 (Total Maximum Daily Loads)  
62-330 (Environmental Resource Permitting)  
62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)  
62-342 (Mitigation Banks)  
62-345 (Uniform Mitigation Assessment Method)  
62-520 (Ground Water Classes, Standards, and Exemptions)  
62-604 (Collection Systems and Transmission Facilities)  
62-610 (Reuse of Reclaimed Water and Land Application)  
62-621 (Generic Permits)  
62-650 (Water Quality Based Effluent Limitations)  
62-710 (Used Oil Management)  
62-730 (Hazardous Waste)  
62-737 (The Management of Spent Mercury-Containing Lamps and Devices Destined for Recycling)  
62-740 (Petroleum Contact Water)  
62-769 (Florida Petroleum Liability and Restoration Insurance Program)  
62-777 (Contaminant Cleanup Target Levels)  
62-780 (Contaminated Site Cleanup Criteria)  
62-814 (Electric and Magnetic Fields)

*[Section 403.523, F.S.]*

### III. REVISIONS TO DEPARTMENT STATUTES AND RULES

The Licensee shall comply with rules adopted by the Department subsequent to the issuance of the Certification under the TLSA which prescribe new or stricter criteria, to the extent that the rules are applicable to electrical transmission lines. Except when a variance, exception, exemption, or other relief has been granted, subsequently adopted Department rules which prescribe new or stricter criteria shall operate as automatic modifications to this Certification.

*[Rule 62-4.160(10), F.A.C.]*

### IV. DEFINITIONS

Unless otherwise indicated herein, the meaning of terms used herein shall be governed by the applicable definitions contained in Chapters 253, 373, 379 and 403, F.S., 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 used herein, the following shall apply:

## SECTION A: GENERAL CONDITIONS

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A. “Application” or “SCA” as defined in Section 403.522(5), F.S. For purposes of this license, “Application” shall also include materials submitted for post-certification amendments and petitions for modification to the Conditions of Certification, as well as supplemental applications.

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

C. “DEO” means the Florida Department of Economic Opportunity.

D. “DEM” shall mean the Florida Division of Emergency Management.

E. “DEP” or “Department” means the Florida Department of Environmental Protection.

F. “DHR” means the Florida Department of State, Division of Historical Resources.

G. “DOT” means the Florida Department of Transportation.

H. “Emergency conditions” or “Emergency reporting” means urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity.

I. “Facility” or “Project” shall mean the St. Cloud East-Magnolia Ranch North 230-kV electrical “transmission line” as defined in Section 403.522(22), F.S.

J. “Feasible” or “practicable” means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.

K. “FWC” means the Florida Fish and Wildlife Conservation Commission.

L. “Licensee” means an applicant that has obtained a certification order for the subject project.

M. “Listed species” shall mean the species listed in Table 2.5 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. “OUC” means Orlando Utilities Commission

O. “Post-certification submittal” shall mean a submittal made by the Licensee pursuant to a Condition of Certification.

P. “ROW” means the right-of-way to be selected by the Licensee within the certified corridor in accordance with the Conditions of Certification and as defined in Section 403.503(27), F.S.

Q. “SFWMD” and “SJRWMD” mean the South Florida Water Management District and the St. Johns River Water Management District, respectively.

R. “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.

S. “Surface Water Management System” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any

## SECTION A: GENERAL CONDITIONS

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combination thereof. The terms “surface water management system” or “system” include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.

T. “Transmission line or electrical transmission line” means structures, maintenance and access roads, and all other facilities that need to be constructed, operated, or maintained for the purpose of conveying electric power extending from, but not including, an existing or proposed substation or power plant to, but not including, an existing or proposed transmission network or rights-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 230 kilovolts or more. The transmission line may include, at the applicant’s option, any proposed terminal or intermediate substations or substation expansions necessary to serve the transmission line.

U. “Wetlands” shall mean those areas meeting the definition set forth in Section 373.019(27), F.S., as delineated pursuant to Chapter 62-340, F.A.C.

*[Section 403.531, F.S.]*

### **V. FEDERALLY DELEGATED OR APPROVED PERMIT PROGRAMS**

Subject to the Conditions set forth herein, this certification shall constitute the sole license of the state and any agency as to the approval of the location of transmission line corridors and the construction, operation, and maintenance of transmission lines, except for the issuance of Department Licenses required under any federally delegated or approved permit program. This certification is not a waiver of any other Department approval that may be required under federally delegated or approved programs. In the event of a conflict between the certification process and federally required procedures, the applicable federal requirements shall control.

*[Section 403.531, F.S.]*

### **VI. DESIGN AND PERFORMANCE CRITERIA**

Certification, including these conditions, is predicated upon preliminary designs, concepts, and performance criteria described in the SCA or in testimony and exhibits in support of certification. Final engineering design of the transmission line will be consistent and in substantial compliance with the preliminary information described in the SCA or as explained at the certification hearing (if any). Conformance to those criteria, unless specifically modified in accordance with Section 403.5315, F.S., and Rule 62-17.680, F.A.C., is binding upon the Licensee in the design, construction, operation and maintenance of the certified facility.

*[Section 403.5315, F.S.; Rules 62-4.160(2) and 62-17.680, F.A.C.]*

### **VII. NOTIFICATION**

A. If, for any reason, the Licensee does not comply with or will be unable to comply with any condition or limitation specified in this license, the Licensee shall immediately provide the DEP Central District office with the following information:

1. A description of and cause of noncompliance; and
2. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The Licensee shall be



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responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this certification.

3. All notifications which are made in writing shall additionally be immediately provided to the Siting Coordination Office (SCO) via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us).

*[Rule 62-4.160(8), F.A.C.]*

B. The Licensee shall promptly notify the SCO in writing (email acceptable) of any previously submitted information concerning the certified Facility that is later discovered to be inaccurate.

*[Rule 62-4.160(15), F.A.C.]*

C. Any owner or operator of a facility who has knowledge of any incident reportable to the State Watch Office regarding a certified facility shall notify the State Watch Office at (800) 320-0519 as soon as possible, but not later than 24 hours after discovery of the incident.

D. Any owner or operator of a facility who has knowledge of any reportable pollution release shall submit a Public Notice of Pollution by following the instructions at <https://prodenv.dep.state.fl.us/DepPNP/user/pnpRequest>, as soon as possible, but not later than 24 hours after discovery of the release.

*[Section 403.077, F.S.]*

E. Within 60 days after certification of the Project, the Licensee shall file a notice of the certified route with the Department and the clerk of the circuit court for each county through which the corridor will pass.

The notice shall consist of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified route and shall state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor. The Licensee shall certify to the Department and clerk that all lands required for the transmission line rights-of-way within the corridor have been acquired within such county.

*[Section 403.5312, F.S.]*

### **VIII. EMERGENCY CONDITION NOTIFICATION AND RESTORATION**

If the Licensee is temporarily unable to comply with any of the conditions of the License due to breakdown of equipment or destruction by hazard of fire, wind, or other cause, such as an emergency as defined by Sections 252.34(4), (7), (8), or (11), F.S., the Licensee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the Licensee from any liability for failure to comply with Department rules. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

*[Rule 62-4.130, F.A.C.]*

**IX. CONSTRUCTION PRACTICES**

**A. Local Building Codes**

This certification does not in any way affect the right of any local government to charge appropriate fees or require that construction be in compliance with the National Electrical Safety Code, as prescribed by the Florida Public Service Commission.

*[Section 403.531(4), F.S.]*

**B. Open Burning**

Prior to open burning in connection with land clearing, the Licensee shall seek authorization from the Florida Forest Service in accordance with the requirements of Chapters 62-256 and 51-2, F.A.C.

*[Chapters 51-2 and 62-256, F.A.C.]*

**C. Vegetation**

For areas located in any Florida Department of Transportation (DOT) ROW, Chapter 3.18 of the Florida DOT *Utility Accommodation Manual* available on the DOT website at <https://www.fdot.gov/programmanagement/utilities/default.shtm> shall serve as guidelines for best management practices.

*[Sections 403.531 and 373.414, F.S.; Chapters 40D-4 and 40E-4, F.A.C.]*

**D. Existing Underground Utilities**

The Licensee must follow all applicable portions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, F.S. The Licensee shall provide the affected local government and the SCO with copies of valid tickets obtained from Sunshine State One Call of Florida upon request. Tickets shall be available for request until the underground work is completed for the affected area.

*[Chapter 556, F.S.]*

**E. Electric and Magnetic Fields (EMF)**

Any transmission lines and electrical substations shall comply with the applicable requirements of Chapter 62-814, F.A.C.

*[Chapter 62-814, F.A.C.]*

**F. Radio and Television Interference**

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

*[Section 403.531, F.S.]*

**F. Existing Wells**

If any existing wells will be impacted by the construction of certified facilities and will no longer be used, such wells shall be abandoned by a licensed well contractor. All abandoned wells shall be filled and sealed in accordance with subsection 62-532.500(5), F.A.C., or with the rules of the authorizing agency, or consistent with these Conditions.

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*[Rule 62-532.400 and 62-532.500(5), F.A.C.]*

### **G. Abandonment of Existing Septic Tanks**

If any existing septic tanks will be impacted by construction and will no longer be used, such tanks shall be abandoned in accordance with Rule 64E-6.011, F.A.C., unless these Conditions provide otherwise.

*[Chapter 64E-6, F.A.C.]*

## **X. RIGHT OF ENTRY**

A. Upon presentation of credentials or other documents as may be required by law, the Licensee shall allow authorized representatives of the Department or other agencies with jurisdiction over a portion of the certified facility, any authorized off-site mitigation/compensation or associated areas:

1. At reasonable times, to enter upon the certified facility in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this certification; or
2. During business hours, to enter the Licensee'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 the Department, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within 10 working days, or such longer period as may be mutually agreed upon by the Department and the Licensee, furnish any information required by law, which is needed to determine compliance with the certification.

*[Rules 62-4.160(7)(a) and 62-4.160(15), F.A.C.]*

## **XI. DISPUTE RESOLUTION**

### **A. General**

If a situation arises in which mutual agreement cannot be reached between the Department and the Licensee, and/or, an agency with substantive regulatory jurisdiction over a matter, the Department may act as a facilitator in an attempt to resolve the issue. If the dispute is not resolved informally in this manner, Licensee may request one or more meetings in which both Licensee and the agency with substantive regulatory jurisdiction over the matter can participate and attempt to resolve the issue informally. If, after such meetings, a mutual agreement cannot be reached between the parties, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The Licensee or the Department may request DOAH to establish an expedited schedule for processing the dispute. Any filing with DOAH shall state with particularity the specific project and geographic location to which the dispute relates. Work unrelated to the specific project and in areas other than the location to which the dispute relates will not be affected by the dispute.

### **B. Modifications**

If written objections are filed regarding a requested modification, and the objections address only a portion of a requested modification, the Department shall issue a final

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## SECTION A: GENERAL CONDITIONS

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order approving the portion of the modification to which no objections were filed, unless that portion of the requested modification is substantially related to or necessary to implement the portion to which written objections are filed.

### **C. Post-certification Submittals**

If it is determined, after assessment of a post-certification submittal, that compliance with the Conditions will not be achieved for a particular portion of a submittal, the Department may make a separate assessment of other portions of the submittal, unless those portions of the submittal are substantially related to or necessary to implement that portion for which it has been determined that compliance with the Conditions will not be achieved.

*[Sections 120.57, F.S. and Rule 62-17.680, F.A.C.]*

## **XII. 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 of such provision to other circumstances shall not be affected thereby.

## **XIII. ENFORCEMENT**

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions are binding and enforceable pursuant to Sections 403.141, 403.161, 403.533, 403.727, and 403.859 through 403.861, F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, which may result in license termination, license revocation, or license revision. The Licensee is placed on notice that the Department may 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 the certified facility which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the certified facility and arising under the Florida Statutes or Department rules, subject to the restrictions in Sections 403.111 and 403.73, F.S. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

*[Sections 403.121, 403.131, 403.141, 403.151, 403.161, and 403.533, F.S.; subsections 62-4.160(1) and 62-4.160(9), F.A.C.]*

## **XIV. REVOCATION OR SUSPENSION**

This certification shall be final unless revised, revoked or suspended pursuant to law. This certification may be suspended or revoked pursuant to Section 403.532, F.S. This certification is valid only for the specific processes and operations identified in the SCA and approved in the final order of certification and indicated in the testimony and exhibits in support of certification or approved in a subsequent amendment or modification of the certification. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the

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certified facility that are the cause of such action, and other portions of the certified facility shall remain unaffected by such action.

*[Section 403.532, F.S.; Rule 62-4.160(2), F.A.C.]*

### **XV. REGULATORY COMPLIANCE**

As provided in Sections 403.087(8) and 403.722(5), F.S., except as specifically provided in the final order of certification, a subsequent modification or amendment, or these conditions, the issuance of this license does not convey any vested rights or any exclusive privileges. Neither 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. This license is not a waiver of or approval of any other Department license/permit that may be required for other aspects of the certified facility that are not addressed in this license. This license does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of the certified facility, or from penalties, therefore.

*[Rules 62-4.160(3) and 62-4.160(5), F.A.C; Section 403.531, F.S.]*

### **XVI. CIVIL AND CRIMINAL LIABILITY**

Except to the extent a variance, exception, exemption or other relief is granted in the final order of certification, in a subsequent modification to these Conditions, or as otherwise provided under Chapter 403, F.S, this certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any condition of certification, applicable rules or regulations of the Department, or any other state statutes or regulations which may apply.

*[Sections 403.141, 403.161, and 403.531 F.S.]*

### **XVII. USE OF STATE LANDS**

A. Except as specifically provided in the final order of certification or these conditions, the issuance of this license conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

B. If any portion of the certified facility is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the Licensee must comply with the applicable portions of Chapters 18-2, 18-20, and 18-21, F.A.C., and Chapters 253 and 258, F.S., except as specifically provided in the final order of certification or these conditions. If any portion of the certified facility is located on sovereign submerged lands, the Licensee must submit section F of Form 62-330.060(1), *Application for Individual and Conceptual Approval Environmental Resource Permit* (State 404 Program Permit) and *Authorization to Use State-Owned Submerged Lands* to the Department prior to construction. If any portion of the certified facility is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

C. If a portion of the certified facility is located on sovereign submerged lands or state-owned uplands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, then the proposed activity on such

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lands requires a proprietary authorization. Under such circumstances, the proposed activity is not exempt from the need to obtain a proprietary authorization. Unless otherwise provided in the final order of certification or these conditions, the Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Rules 18-2.018 or 18-21.0051, F.A.C.

D. The Licensee is hereby advised that Florida law states: “A person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the board of trustees of the Internal Improvement Trust Fund under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

E. The terms, conditions, and provisions of any required lease or easement issued by the State shall be met. Any construction activity associated with the certified facility shall not commence on sovereign submerged lands or state-owned uplands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease or easement documents have been executed.

*[Chapters 253 and 258, 403.531, F.S.; Chapters 18-2, 18-14, 18-21, 62-340, and Rules 62-330.060(1) and 62-4.160(4), F.A.C.]*

### **XVIII. PROCEDURAL RIGHTS**

Except as specified in Chapter 403, F.S., or Chapter 62-17, F.A.C., no term or condition of certification shall be interpreted to preclude the post-certification exercise by any party of whatever procedural rights it may have under Chapter 120, F.S., including those related to rule-making proceedings.

*[Sections 403.531(5), F.S.]*

### **XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES**

Where a condition requires post-certification submittals and/or notices to be sent to a specific agency, the following agency addresses shall be used unless the Conditions specify otherwise or unless the Licensee and the Department 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 5500  
2600 Blair Stone Rd.  
Tallahassee, Florida 32399-3000  
[SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us)

Florida Department of Environmental Protection  
Central District Office  
3319 Maguire Boulevard,  
Orlando, Florida 32803



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Florida Department of Economic Opportunity  
Office of the Secretary  
107 East Madison St.  
Tallahassee, Florida 32399-2100

Florida Fish & Wildlife Conservation Commission  
Office of Policy and Stakeholder Coordination  
620 South Meridian Street  
Tallahassee, Florida 32399-1600  
[ConservationPlanningServices@myfwc.com](mailto:ConservationPlanningServices@myfwc.com)

Florida Department of Transportation  
District Administration  
605 Suwannee Street  
Tallahassee, Florida 32399-0450

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

St. Johns River Water Management District  
Office of General Counsel  
P.O. Box 1429  
Palatka, Florida 32178-1429  
[ApplicationSupport@sjrwmd.com](mailto:ApplicationSupport@sjrwmd.com)

South Florida Water Management District  
3301 Gun Club Road,  
West Palm Beach, FL 33406  
[www.sfwmd.gov/ePermitting](http://www.sfwmd.gov/ePermitting)  
[rowpermits@sfwmd.gov](mailto:rowpermits@sfwmd.gov)

Florida Department of State  
Division of Historical Resources  
500 S. Bronough Street  
Tallahassee, Florida 32399-0250

Orange County  
County Attorney's Office  
201 S. Rosalind Avenue #3, 5<sup>th</sup> Floor  
Orlando, Florida 32801

Osceola County  
County Attorney's Office  
1 Courthouse Square, Suite 4200  
Kissimmee, Florida 34741

*[Section 403.531, F.S.]*

**XX. PROFESSIONAL CERTIFICATION**

To ensure protection of public health, safety, and welfare, any construction, modification, or operation of an installation which may be a source of pollution, or of a public drinking water supply, shall be in accordance with sound professional engineering practices pursuant to Chapter 471, F.S.; and all final geological papers or documents involving the practice of the profession of geology shall be in accordance with sound professional geological practices pursuant to Chapter 492, F.S. Where required by Chapter 471 or 492, F.S., applicable portions of amendment requests, petitions for modifications, post certification submittals, and supporting documents which are submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared or approved them.

*[Rule 62-4.050, F.A.C.]*

**XXI. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS**

**A. Purpose of Submittals**

Conditions which provide for the post-certification submittal of information to DEP or other agencies by the Licensee are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the certified facility and the construction and maintenance of the certified facility. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with these Conditions, without further agency action. A submittal of information or determination of compliance pursuant to a post-certification submittal under this Condition does not provide a point of entry for a third party.

**B. Filings**

All post-certification submittals of information by Licensee are to be filed with the Central DEP District Office and any other agency that is entitled to receive a submittal pursuant to these Conditions. The SCO shall be copied on all post-certification submittals in electronic .pdf format only, unless otherwise requested, via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us). Each submittal shall clearly identify the certified facility name, PA#, and the condition number/s (i.e. Section X, Condition XX.y.(z)) requiring the submittal. As required by Section 403.5317(2), 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.

**C. Completeness**

DEP shall 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 certified facility affected and shall not delay further processing of the post-certification submittal for non-affected areas.

If any portion of a post-certification submittal is found to be incomplete, the Licensee 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.



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

DEP may conduct an interagency meeting with other agencies that 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 compliance with these Conditions has been provided. Failure of DEP to conduct an interagency meeting or failure of 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, a field inspection shall be conducted with the Licensee and the agency representative in conjunction with the interagency meeting.

### ***E. Determination of Compliance***

DEP shall determine within 90 days of filing of complete information whether there is demonstration of compliance with these Conditions. If it is determined that compliance with the Conditions has not been provided, the Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall constitute a determination of compliance. A post-certification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

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

If Licensee has not been notified as specified in paragraph E. above, Licensee may begin construction pursuant to the terms of these Conditions and the subsequently submitted construction details.

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

If revisions to site-specific designs occur after submittal, the Licensee shall submit revised plans prior to construction for review in accordance with the post-certification process specified in this Condition.

*[Sections 403.531 and 403.5317, F.S.; and Rules 62-17.600, 62-17.665, F.A.C.]*

## **XXII. POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY**

Within 90 days after certification, and within 90 days after any subsequent modification or certification, the Licensee shall provide the SCO a complete summary of those post-certification submittals that are identified in these Conditions when due-dates for the information required of the Licensee have been identified. A summary shall be provided as a separate document for each transmission line, if any. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the SCO, in a sortable spreadsheet, electronically, in the format shown below or equivalent. For subsequent modifications and certifications, a Post-Certification Submittal Requirements Summary shall be required only for new or altered post-certification requirements.

| Condition Number | Requirement and Timeframe | Due Date | Name of Agency or Agency Subunit to whom the submittal |
|------------------|---------------------------|----------|--------------------------------------------------------|
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*[Section 403.5317, F.S.; Subsection 62-17.660, F.A.C.]*

### **XXIII. POST CERTIFICATION AMENDMENTS**

If, subsequent to certification, the Licensee proposes any material change to the SCA and revisions or amendments thereto, as certified, the Licensee shall submit a written request for amendment and a description of the proposed change to the SCA to the Department. Within 30 days after the receipt of a complete request for an amendment, the Department shall determine whether the proposed change to the SCA requires a modification to the Conditions.

A. If the Department concludes that the change would not require a modification to the Conditions, the Department shall provide written notification of the approval of the proposed amendment to the Licensee, all agencies, and all other parties to the certification.

B. If the Department concludes that the change would require a modification to the Conditions, the Department shall provide written notification to the Licensee that the proposed change to the SCA requires a request for modification pursuant to Section 403.5315, F.S.

*[Section 403.5317, F.S.]*

### **XXIV. MODIFICATION OF CERTIFICATION**

A. Pursuant to Section 403.5315(1), F.S., and Rule 62-17.680, F.A.C., the Siting Board hereby delegates the authority to the Department to modify any Condition which would not otherwise require approval by the Siting Board, after notice and receipt of no objection by a party to the Certification within 45 days after notice by mail to the party's last address of record, and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days of public notice.

B. Except as otherwise provided in the Conditions of Certification, the Licensee shall petition to modify the certification for all changes in transmission line corridor alignment.

C. Expansions in right-of-way width following the narrowing of the certified area pursuant to Section 403.522(10), F.S., will be considered modifications pursuant to Section 403.5315, F.S. If such a modification occurs the Licensee shall submit a revised ROW map to replace Attachment B.

D. Once all property interests required for the right-of-way have been acquired by the Licensee, the area of the corridor certified narrows to only that land within the boundaries of the right-of-way, unless specified otherwise by the Conditions of Certification. Under the

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provisions of Section 403.522(10), F.S., this shall not be construed to require a modification or further agency review.

*[Section 403.5315, F.S.; Rule 62-17.680, F.A.C.]*

### **XXV. WATER QUALITY CERTIFICATION**

Pursuant to the Operating Agreement between the Department, Water Management Districts and U.S. Army Corps of Engineers, a written final order granting ‘certification’ constitutes certification by the Department that the project activities comply with applicable state water quality standards.

*[2012 Operating Agreement, Jacksonville District USACOE, DEP and Water Management Districts, Section II.A.1.(f) and Rule 62-17.665(6)(f), F.A.C.]*

### **XXVI. LABORATORIES AND QUALITY ASSURANCE**

Chemical, physical, biological, microbiological, and toxicological data collected as a requirement of these Conditions must be reliable and collected and analyzed by scientifically sound procedures. Unless otherwise specified in these Conditions, the Licensee shall adhere to the minimum field and laboratory quality assurance, methodological and reporting requirements of the Department as set forth in Chapter 62-160, F.A.C.

*[Chapter 62-160, F.A.C.]*

### **XXVII. ROW LOCATION**

A. OUC 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, Licensee's design shall reflect that new widened right-of-way.

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

C. To the extent feasible and consistent with good engineering design and practices, the Licensees shall use best management practices to minimize impacts to pre-existing natural features and minimize tree removal and trimming of vegetation.

*[Sections 253.034(10), 258.007(4), 380.0677, 403.522(18), 403.526(2)(a)5, and 403.526(2)(b)3, F.S.]*

### **XXVIII. 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 Central District Office, SFWMD, SJRWMD, DOT, DEO, Orange County, and Osceola County delineating the certified corridor, and the selected transmission line ROW. In addition, Licensee shall note on the aerial photographs, new construction within the corridor that has occurred since the photograph was taken. Licensee 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 Licensee shall have an opportunity to review the

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photographs and to notify DEP, within 12 days of Licensee'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 Licensee's designated ROW cannot be accomplished in compliance with the Conditions of Certification, Licensee 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 Licensee's submittal of the aerial photographs to the agencies, Licensee 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 Licensee's risk, and no party will be estopped 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 Licensee has acquired the necessary property interests in the entire length of the transmission line ROW, Licensee 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. Licensee 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, Licensee shall file a statement with DEP Siting Coordination Office accordingly.

E. Once the ROW has been determined, the Licensee will submit to Orange County and Osceola County, respectively, the information that is consistent with County ROW permits for the portions of the line which pass through each affected county.

*[Sections 403.531 and 403.5312, F.S.; Rule 62-17.600, F.A.C.]*

## **XXIX. ENVIRONMENTAL RESOURCES**

### **A. General**

#### **1. Submittals for Construction Activities**

- a. Prior to the commencement of construction of new facilities and/or new associated facilities the Licensee shall provide to the DEP Central District for review, with a copy to the SCO, all information necessary for a complete *Application for Individual and Conceptual Approval Environmental Resource Permit and authorization to Use State-Owned Lands* (ERP), DEP Form 62-330.060(1), F.A.C., or other applicable ERP authorization form(s). A copy of the submittal shall also be provided to the SCO.

## SECTION A: GENERAL CONDITIONS

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This form may: a) be submitted concurrently with a SCA; b) be submitted as part of an amendment request or a petition for modification; or c) be submitted as a post-certification submittal following approval of a project through certification, modification or amendment. Such ERP submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapter 62-330, F.A.C., as applicable unless otherwise stated in these Conditions. While the information is provided for review via submittal of the Environmental Resources Permit form, pursuant to Section 403.531, F.S., issuance of a separate Environmental Resources Permit is not required for certified facilities, and therefore, a separate ERP will not be issued.

Those forms submitted as part of a SCA, an amendment, or modification, shall be processed concurrently with the respective SCA, amendment, or modification in compliance with the applicable TLSA procedures. Those forms submitted as a post-certification submittal (after certification, modification, or amendment and prior to construction) shall be processed in accordance with Section A. General Conditions, Condition XXI. Procedures for Post-Certification Submittals. Post-certification submittal information may be submitted for discrete portions of the certified facilities for a determination of compliance with these Conditions.

No construction shall commence on a Project feature, or in a particular segment for a linear facility, until the Department has determined that there is a demonstration of compliance with these Conditions. For post-certification submittal reviews, the Department's determination is governed by Section A. General Conditions, Condition XXI. Procedures for Post-Certification Submittals.

b. Concurrent with submittal of the DEP form required in Subparagraph A.1.a. above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department compliance review. Available DEP-approved wetland and surface water delineations within the boundaries of a certified site or a portion thereof may be used and reproduced for this delineation submittal and verification. Formal DEP-approved wetland and surface water delineations are valid only for a period of five years

*[Section 373.416, F.S.; Chapters 62-330 and 62-340, F.A.C.]*

2 Construction, operation and maintenance of the proposed project (including any access roads and structures constructed within wetlands and other surface waters, and/or associated facilities) shall satisfy any applicable non-procedural requirements in the Department rules.

*[Section 373.414(1)(a), F.S.]*

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by Subparagraph A.1.a. above, including plans or other supporting documentation, shall not be considered binding on the Department unless a specific condition of this Certification or a formal wetlands jurisdictional determination under Section 373.421(2), F.S., provides otherwise.

*[Sections 373.421 and 403.523, F.S.]*



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## SECTION A: GENERAL CONDITIONS

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### ***B. Surface Water Management Systems***

1. Information regarding surface water management systems (SWMS) will be reviewed for consistency with the applicable non-procedural requirements of Part IV of Chapter 373, F.S., following submittal of Form 62-330.060(1) F.A.C., to the DEP Central District.

2. All construction, operation, and maintenance of the SWMS(s) for the certified facilities shall be as set forth in the plans, specifications and performance criteria contained in the SCA and other materials presented during the certification proceeding, post-certification submittals, and as otherwise approved. If specific requirements are necessary for construction, operation and/or maintenance of an approved SWMS, those requirements shall be incorporated into a SWMS Operation and Maintenance Requirements for that system and included in Attachment C (Surface Water Management System Plans). Any alteration or modification to the SWMS Plan or the SWMS as certified requires prior approval from the Department.

3. To allow for stabilization of all disturbed areas, immediately prior to construction, during construction of the SWMS, and for the period of time after construction of the SWMS, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the licensed work, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007), as updated, unless a project-specific erosion and sediment control plan is approved as part of this License. If project-specific Conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual*. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

4. The Licensee shall complete construction of all aspects of the SWMS described in the ERP Application Form, submitted as part of a post-certification submittal, amendment, modification, or Site Certification Application, including water quality treatment features and discharge control facilities, prior to use of the portion of the certified facility being served by the SWMS.

## SECTION A: GENERAL CONDITIONS

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5. At least 48 hours prior to beginning the authorized activities, the Licensee shall submit to the DEP Central District a fully executed Form 62-330.350(1), "Construction Commencement Notice," (October 1, 2013), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>, indicating the expected start and completion dates. A copy of this form may be obtained from the Department, as described in subsection 62-330.010(5), F.A.C., and shall be submitted electronically. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction and, in such a case, submittal of Form 62-330.350(1) is not required.

6 Each phase or independent portion of the approved system must be completed in accordance with the submitted DEP Form prior to the operation of the portion of the certified facility being served by that portion or phase of the system.

7. Within 30 days, or such other date as agreed to by DEP and the Licensee, after completion of construction of any new portions of the SWMS, the Licensee shall submit to the DEP Central District and copy the SCO, a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required "As-Built Certification and Request for Conversion to Operation Phase" (DEP Form 62-330.310(1), F.A.C.). Additionally, if deviations from the approved drawings are discovered, the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

8. Any substantial deviation from the approved drawings, exhibits, specifications or Conditions, may constitute grounds for revocation or enforcement action by the Department.

9. The operation phase of any new SWMS approved by the Department shall not become effective until the Licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the approved plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system.

10. The DEP Central District must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must be submitted to and approved by the Department prior to the dewatering event. Additional authorizations may be required for certain dewatering activities.

*[Section 373.414, F.S.; Chapters 62-25, 62-302, 62-330, and Rule 62-4.242, F.A.C.]*

### **C. Wetland and Other Surface Water Impacts**

1. All certified facilities shall be constructed in a manner which will eliminate or reduce adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent practicable or otherwise comply with the Department's substantive criteria for elimination or reduction of such impacts. When impacts to wetlands will occur as a result of a future amendment, modification, or certification, and cannot be practicably eliminated or reduced, the Licensee may propose and the Department or Board shall consider mitigation to

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## SECTION A: GENERAL CONDITIONS

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offset otherwise such impacts under the ERP review process pursuant to subparagraph A.1.a. above.

2. Proposed mitigation requirements submitted with the DEP ERP Application forms required in Condition A.1.a. above, or submitted as part of an amendment, modification, or certification, and that are deemed acceptable by DEP, shall include applicable construction conditions, success criteria monitoring plans, and remedial actions (if applicable), and shall be incorporated into these Conditions as Attachment D (Mitigation Requirements/Plans).

*[Sections 373.413, 373.414, 373.4145, and 403.531, F.S.; Chapters 62-330, 62-340, 62-342, and 62-345, F.A.C.]*

### **XXX. THIRD PARTY IMPACTS**

The Licensee is responsible for maintaining compliance with these Conditions even when third party activities authorized by the Licensee occur in or on the certified site/area.

*[Section 403.524(1), F.S.]*

### **XXXI. FACILITY OPERATION**

The Licensee shall properly operate and maintain the certified facility and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with these Conditions, as required by the final order of certification, these Conditions, or a post-certification amendment or modification. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the final order of certification, these Conditions, or a post-certification amendment or modification. Further, the Licensee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.

*[Rule 62-4.160(6), F.A.C.]*

### **XXXII. RECORDS MAINTAINED AT THE FACILITY**

A. These Conditions or a copy thereof shall be kept at the Licensee's main office.

B. The Licensee shall hold at the site, or other location designated by these Conditions, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation required by these Conditions, copies of all reports required by these Conditions, and records of all data used to complete the SCA for this approval. These materials shall be retained at least three (3) years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

C. Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;
2. the person responsible for performing the sampling or measurements;
3. the dates analyses were performed;
4. the person responsible for performing the analyses;



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## SECTION A: GENERAL CONDITIONS

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5. the analytical techniques or methods used; and,
6. the results of such analyses.

*[Rules 62-4.160(12) and 62-4.160(14)(b), F.A.C.]*

### **XXXIII. WATER DISCHARGES**

A. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption or other relief is granted or authorized by these Conditions, the Licensee shall not discharge to surface or ground waters of the State wastes in concentrations which alone or in combinations with other substances, or components of discharges (whether thermal or non-thermal) are carcinogenic, mutagenic, or teratogenic to human beings (unless specific criteria are established for such components in Rule 62-520.400, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

B. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption or other relief is granted or authorized by these Conditions, all discharges and activities must be conducted so as to not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, 62-620, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;

C. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption or other relief is granted or authorized by these Conditions, all dewatering discharges must be in compliance with Rule 62-621.300, F.A.C.

*[Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C., and Rule 62-621.300, F.A.C.]*

### **XXXIV. SOLID AND HAZARDOUS WASTE**

#### **A. Solid Waste**

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-701, F.A.C., for any solid waste generated within the certified facility during construction, operation, maintenance, and closure.

*[Chapters 62-701, F.A.C.]*

#### **B. Hazardous Waste, Used Oil, Petroleum Contact Water and Spent Mercury**

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-730, F.A.C., for any hazardous waste generated within the certified facility. An EPA identification number must be obtained before beginning hazardous waste activities unless the facility is a Very Small Quantity Generators (VSQGs). VSQGs generate no more than 100 kg (220 lbs) of hazardous waste in any month.

## SECTION A: GENERAL CONDITIONS

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The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-710, F.A.C., for any used oil and used oil filters generated within the certified facility.

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-737, F.A.C., for any spent mercury-containing lamps and devices generated within the certified facility.

The Licensee shall comply with all applicable provisions of DEP Chapter 62-740, F.A.C. for any petroleum contact water located within the certified facility.

*[Chapters 62-710, 62-730, 62-737, and 62-740, F.A.C.]*

### **C. Hazardous Substance Release Notification**

1. Any owner or operator of a facility who has knowledge of any release of a hazardous substance from a certified facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the State Watch Office, (800) 320-0519, as soon as possible, but not later than one working day of discovery of the release.

2. Any owner or operator of a facility who has knowledge of any release of a hazardous substance from a certified facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the public by submitting a Public Notice of Pollution, <https://prodenv.dep.state.fl.us/DepPNP/user/pnpRequest>, as soon as possible, but not later than 24 hours after discovery of the release.

3. Releases of mixtures and solutions are subject to these notification requirements only where a component hazardous substance of the mixture or solution is released in a quantity equal to or greater than its reportable quantity.

4. Notification of the release of a reportable quantity of solid particles of antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc is not required if the mean diameter of the particles released is larger than 100 micrometers (0.004 inches).

*[Section 403.077, F.S. and Chapter 62-150, F.A.C.]*

### **D. Contaminated Site Cleanup**

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-780, F.A.C., for any violations of relevant provisions of Chapter 376 or 403, F.S., that result in legal responsibility for site rehabilitation pursuant to those chapters. This responsibility for site rehabilitation does not affect any activity or discharge permitted or exempted pursuant to Chapter 376 or 403, F.S., or rules promulgated pursuant to Chapter 376 or 403, F.S.

*[Chapter 62-780, F.A.C.]*

**SECTION B. SPECIFIC CONDITIONS**

**I. DEPARTMENT OF TRANSPORTATION**

**A. *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, Florida Administrative Code.

*[Chapters 14-96 and 14-97, F.A.C.]*

**B. *Overweight or Overdimensional Loads***

Operation of overweight or overdimensional loads by the Licensee on State transportation facilities during construction and operation of the utility facility will be subject to safety and permitting requirements of Chapter 316, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

*[Chapter 316, F.S.; Chapter 14-26, F.A.C.]*

**C. *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, Florida Administrative Code; Florida Department of Transportation's Utility Accommodation Manual; 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.

*[Sections 337.403 and 337.404, F.S.; Chapters 14-15 and 14-46, F.A.C.]*

**D. *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.

*[Chapter 14-15, F.A.C.]*

**E. *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, Florida Administrative Code, including the attainment of any permit required thereby.

*[Chapter 14-86, F.A.C.]*

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## SECTION B: SPECIFIC CONDITIONS

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### ***F. Use of Air Space***

Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, Florida Statutes, and Rule 14-60.009, Florida Administrative Code. 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 geographical 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 Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

*[Chapter 333, F.S.; Rule 14-60.009, F.A.C.]*

### ***G. Best Management Practices***

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, Florida Administrative Code; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway; 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.

It is recommended that the Licensee encourage transportation demand management techniques by doing the following:

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

If the Licensee uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the Licensee should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

*[Chapter 316, F.S.; Chapter 14-26, F.A.C.]*

## **II. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

The requirements in Sections A and B, below, apply in areas within the SJRWMD.

## SECTION B: SPECIFIC CONDITIONS

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### ***A. Dewatering Activities Less Than 30 Days***

1. Any withdrawals of groundwater or surface water to facilitate construction (dewatering) shall be conducted by one of the following methods:

a. A conventional wellpoint system consisting of one or more stages of wellpoints installed near the excavation in lines or rings. These wellpoints shall be installed in variable spacings and connected to a common header pumped by one or more wellpoint pumps.

b. Vacuum underdrain consisting of a typical pipeline dewatering with the underdrain or “sock” placed horizontally below the design invert elevation of the pipeline via a large trenching machine. The underdrain is connected to a pump with the water conveyed through the underdrain and discharged from the pump.

c. Shallow vacuum well consisting of one or more stages installed near an excavation in lines or rings. Vacuum wells shall be constructed of six inch or smaller diameter pipe with a slotted screen area near the bottom of the well and connected to a common header pumped by one or more pumps.

*[Rule 40C-2.051 (7)(a), F.A.C.]*

2. The withdrawal of ground or surface water to facilitate construction (dewatering) shall be 300,000 gallons per day or less.

*[Rule 40C-2.051(7)(b), F.A.C.]*

3. The withdrawal of ground or surface water to facilitate construction (dewatering) does not exceed 30 days in duration.

*[Rule 40C-2.051 (7)(c), F.A.C.]*

4. The water withdrawn to facilitate construction (dewatering) shall not be discharged directly into an Outstanding Florida Water (OFW), Class I or Class II waterbody. A direct discharge means a discharge which enters OFW, Class I or Class II waters without an adequate opportunity for prior mixing and dilution to prevent significant degradation.

*[Rule 40C-2.051 (7)(a), F.A.C.]*

5. The following turbidity control measures shall be implemented, as appropriate, for any discharges off-site:

a. If the discharge is to be to a drainage system, the water shall be piped directly into the drainage structure, if possible; but if the discharge is through a swale or overland to a structure or water body, the path of discharge shall be lined with plastic sheeting, sod or hay bales appropriately, to prevent a turbid discharge to the structure or water body.

b. If water will discharge to an open water body, appropriate fabric silt screen or hay bales shall be used to prevent turbid discharges. When possible, a detention area shall be established to allow suspended solids to settle prior to entering the water body.

c. If the above turbidity control measures are inadequate to retain sediment on-site and prevent turbid discharge, additional or modified erosion and sediment control measures must be selected, implemented, and operated as necessary to prevent harmful water quality impacts from dewatering discharges to receiving waters.

*[Rule 40C-2.051 (7)(e), F.A.C.]*

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## SECTION B: SPECIFIC CONDITIONS

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### **B. Dewatering Activities Less Than 180 Days**

2.900(12). 1. Dewatering withdrawals will not exceed any limitations in form 40C-

*[Rule 40C-2.042(9), F.A.C.]*

2. Dewatering discharge must not cause or contribute to flooding of off-site properties.

*[Rule 40C-2.042(9), F.A.C.]*

3. The permittee shall implement the following turbidity control measures, as appropriate, for any discharges off-site:

a. If the discharge is to be to a drainage system either pipe water directly into the drainage structure; or if the discharge will be through a swale, or overland, to a structure or water body, then the path of discharge shall be lined with plastic sheeting, sod, or hay bales appropriately to prevent a turbid discharge to the structure or water body.

b. If water will discharge to an open water body, appropriate fabric silt screen or hay bales shall be used to prevent turbid discharges. When possible, establish a detention area to allow suspended solids to settle prior to entering the water body.

c. If the above turbidity control measures are inadequate to retain sediment on-site and prevent turbid discharge, the permittee shall select, implement, and operate such additional or modified erosion and sediment control measures necessary to prevent harmful water quality impacts from dewatering discharges to receiving waters.

*[Rule 40C-2.042(9), F.A.C.]*

4. District authorized staff, upon advance notice and proper identification, shall have permission to inspect and observe dewatering operations in order to determine compliance with this permit.

*[Rule 40C-2.042(9), F.A.C.]*

5. The permittee must mitigate any adverse impact caused by withdrawals permitted herein on adjacent land uses or legal uses of water existing at the time of permit application. Adverse impacts include but are not limited to:

a. Reductions of well water levels resulting in a reduction of 10% in the ability of an adjacent well to produce water;

b. Reductions of water levels in an adjacent surface water body resulting in a significant impairment of the use of water in that water body;

c. Saline water intrusion;

d. Change in water quality resulting in either impairment or loss of use of a well or water body;

e. Land collapse or subsidence caused by a reduction in water levels;

f. Damage to crops and other types of vegetation; and



## SECTION B: SPECIFIC CONDITIONS

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g. Harmful hydrologic alterations to natural systems, including wetlands and other surface waters, that cause an unmitigated adverse impact to such systems.

*[Rule 40C-2.042(9), F.A.C.]*

### III. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

The requirements in Sections A, B, and C, below, apply in areas within the SFWMD.

#### A. *Applicable General Agency Standards*

##### 1. Minimum Standards

This certification is based on the Licensee's submitted information to SFWMD which reasonably demonstrates that harm to the water resources will not be caused by the authorized activities. The plans, drawings, and design specifications submitted shall be considered minimum standards for compliance.

*[Sections 373.085, 373.086, 373.113, 373.118, 373.219, 373.223, 373.229, 373.308, and 373.316, 373.342, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, and 40E-3.500-531, and 40E-6.381, F.A.C.]*

##### 2. Compliance Requirements

The Project must be constructed, operated and maintained in compliance with and meet all non-procedural requirements set forth in Chapter 373, F.S., and Chapters 40E-2 (Consumptive Use), 40E-3 (Water Wells), and 40E-6 (Utilization of District Works), F.A.C., as applicable.

##### 3. Liability

The Licensee shall hold and save SFWMD harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, operation, maintenance, removal, abandonment, and/or use of any system authorized by this Certification, to the extent allowed under Florida law.

*[Sections 373.223, 373.443, and 373.423, F.S.; Rules 40E-2.091, 40E-2.381, and 40E 6.381, F.A.C.]*

##### 4. Access

With advance notice to the Licensee, SFWMD staff with proper identification shall have permission to enter, inspect, observe, collect samples, and take measurements of licensed facilities to determine compliance with the Conditions of Certification and approved plans and specifications. The Licensee shall either accompany SFWMD staff onto the property or make provision for SFWMD to access the property.

*[Sections 373.223 and 373.319, F.S.; Rules 40E-2.301, 40E-2.381, and 40E-6.381, F.A.C.]*

##### 5. Construction, Operation, and Maintenance Responsibilities

The Licensee shall be responsible for the construction, operation, and maintenance of all facilities installed for the project authorized by this Certification. All structures on SFWMD works or lands constructed by the Licensee shall remain the property of the Licensee, who shall be solely responsible for ensuring that such structures and other uses



## SECTION B: SPECIFIC CONDITIONS

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remain in good and safe condition and comply with all applicable federal, state and local safety standards. The SFWMD assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused others by any such failure. The SFWMD further assumes no duty to ensure that the permitted use complies with the safety standards of other governmental entities. The SFWMD is not responsible for any damages to installations located within its rights-of-way. The Licensee shall be responsible for the repair and/or replacement of existing facilities located within the SFWMD's rights-of-way to the extent that such facilities are damaged as a result of the Licensee or its employees, agents, principals, contractors, or subcontractors' activities. Canal right-of-way disturbed during construction, installation or maintenance of the licensed facility shall be restored to original or better condition.

*[Sections 373.309, 373.413, and 373.416, F.S.; Rules 40E-2.301, 40E-3.301, and 40E-6.381, F.A.C.]*

### 6. Non-interference with SFWMD Operations

a. Except as may be authorized by this certification, the Licensee shall not engage in any activity regarding the authorized use which interferes with the construction, alteration, maintenance or operation of the works of the SFWMD, including, but not limited to:

- (1) discharging pollutants, debris, or aquatic weeds into SFWMD works;
- (2) causing erosion or shoaling within SFWMD works;
- (3) degrading the existing condition and/or adversely impacting the performance, required specifications, or standards of District property interests in any manner; and
- (4) planting trees or shrubs or erecting structures which limit or prohibit access by SFWMD equipment and vehicles.

b. The Licensee shall be responsible for any costs incurred by the SFWMD resulting from any such interference.

*[Sections 373.016, 373.085, 373.086, 373.117, and 471.003 F.S., Rule 40E-6.221, F.A.C.]*

### 7. Enforcement

The SFWMD may take any and all lawful actions to enforce any condition of this certification that is based on SFWMD's rules. Prior to initiating such action, SFWMD may confer with DEP. SFWMD shall seek modification of this Certification for any change in any activity resulting from the SFWMD's enforcement of this Certification which change will have a duration longer than 60 days.

*[Sections 373.223, 373.319, 373.603, and 403.514, F.S.; Rules 40E-2.091, 40E-2.301, 40E-2.381, 40E-3.461, and 40E-6.501, F.A.C.]*

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### 8. Revisions to Site Specific Design Authorizations

The Licensee shall submit any proposed revisions to the site-specific design authorizations specified in this Certification to the SFWMD for review and approval prior to implementation. The submittal shall include all the information necessary to support the proposed request, including detailed drawings, calculations and/or any other applicable data. Such requests may be included as part of the appropriate additional information submittals required by this Certification provided they are clearly identified as a requested amendment or modification to the previously authorized design.

*[Sections 373.085, 373.086, 373.219, 373.223, 373.313, and 373.342, F.S.; Rules 40E-2.091, 40E-2.301, 40E-3.461, 40E-6.091, 40E-6.201, and 40E-6.221, F.A.C.]*

### 9. Changes to Information Requirements

The SFWMD and the Licensee may jointly agree to vary the informational requirements.

*[Sections 373.085, 373.086, and 373.229, F.S.; Rules 40E-2.101 and 40E-3.101, F.A.C.]*

### 10. Off-site Impacts

It is the responsibility of the Licensee to ensure that harm to the water resources does not occur during construction, operation, and maintenance of the project.

*[Sections 373.223, 373.309, and 373.413; Rules 40E-2.091, 40E-2.381, 40E-3.301, and 40E-6.381, F.A.C.]*

## **B. Water Use**

### 1. General

#### a. Water Shortage Compliance

Nothing in this Certification should be construed to limit the authority of the SFWMD to declare a water shortage and issue orders pursuant to Chapter 373, F.S. In the event of a declared water shortage, the Licensee must adhere to the water shortage restrictions, as specified by the SFWMD. The Licensee is advised that during a water shortage, reports shall be submitted as required by SFWMD rule or order. The Licensee is advised that during a water shortage, pumpage, water levels, and water quality data shall be collected and submitted as required by SFWMD orders issued pursuant to Chapter 40E- 21, F.A.C.

*[Sections 373.223 and 373.246, F.S.; Rules 40E-2.301, 40E-21.231, 40E-21.251, and 40E-21.271, F.A.C.]*

#### b. Interference with Existing Legal Uses

The Licensee shall mitigate interference with existing legal uses that was caused in whole or in part by the Licensee's withdrawals, consistent with the approved mitigation plan. As necessary to offset the interference, mitigation may include pumpage reduction, replacement of the impacted individual's equipment, relocation of wells, change in withdrawal source, or other means. Interference to an existing legal use is defined as an impact that occurs under hydrologic conditions equal to or less severe than a 1 in 10-year drought event that results in the:

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(1) Inability to draw water consistent with the provisions of these Conditions for Certification, such as when remedial structural or operational actions not materially authorized by existing permits must be taken to address the interference; or

(2) Change in the quality of water pursuant to primary State Drinking Water Standards to the extent that the water can no longer be used for its authorized purpose, or such change is imminent.

*[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

### c. Harm to Existing Off-Site Land Uses

The Licensee shall mitigate harm to existing off-site land uses caused by the Licensee's withdrawals, as determined through reference to these Conditions for Certification. When harm occurs, or is imminent, the SFWMD will require the Licensee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to these Conditions of Certification includes:

(1) Significant reduction in water levels on the property to the extent that the designed function of the water body and related surface water management improvements are damaged, not including aesthetic values. The designed function of a water body is identified in the original permit or other government authorization issued for the construction of the water body. In cases where a permit was not required, the designed function shall be determined based on the purpose for the original construction of the water body (e.g., fill for construction, mining, drainage canal, etc.);

(2) Damage to agriculture, including damage resulting from reduction in soil moisture resulting from consumptive use; or

(3) Land collapse or subsidence caused by reduction in water levels associated with consumptive use.

*[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

### d. Harm to Natural Resources.

The Licensee shall mitigate harm to natural resources caused by the Licensee's withdrawals, as determined through reference to these Conditions for Certification. When harm occurs, or is imminent, the SFWMD will require the Licensee to modify withdrawal rates or mitigate the harm. Harm, as determined through reference to these Conditions of Certification includes:

(1) Reduction in ground or surface water levels that results in harmful lateral movement of the fresh water/saltwater interface;

(2) Reduction in water levels that harm the hydroperiod of wetlands;

(3) Significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond;

(4) Harmful movement of contaminants in violation of state water quality standards; or

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(5) Harm to the natural system including damage to habitat for rare or endangered species.

*[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-2.381, F.A.C.]*

### 2. Site Specific Design Authorizations/Requirements

#### a. Water Use

(1) The Licensee shall submit all data as required by the implementation schedule for each of the above Conditions for Certification to: SFWMD at [www.sfwmd.gov/ePermitting](http://www.sfwmd.gov/ePermitting), or Regulatory Support, 3301 Gun Club Road, West Palm Beach, FL 33406.

*[Section 373.223, F.S.; Rules 40E-2.091, 40E-2.301 and 40E-2.381, F.A.C.]*

#### b. Dewatering Activities

Prior to commencement of construction of those portions of the licensed project that involve dewatering activities, the Licensee shall submit a detailed plan for any such activities to the SFWMD for a determination of compliance with the applicable non-procedural requirements of Chapters 40E-2, F.A.C., in effect at the time of Certification. The following information, referenced to NGVD or NAVD where appropriate, shall include:

- (1) detailed site plan which shows the location(s) for each proposed dewatering area;
- (2) The method(s) used for each dewatering operation;
- (3) The maximum depth for each dewatering operation;
- (4) The location and specifications for all proposed wells and/or pumps associated with each dewatering operation;
- (5) The duration of each dewatering operation;
- (6) The discharge method, route, and location of receiving waters generated by each dewatering operation, including the measures (Best Management Practices) that will be taken to prevent water quality problems in the receiving water(s);
- (7) An analysis of the impacts of the proposed dewatering operations on any existing on and/or off-site legal users, wetlands, or existing groundwater contamination plumes;
- (8) The location of any infiltration trench(es) and/or recharge barriers; and
- (9) All plans must be signed and sealed by a Professional Engineer or a Professional Geologist registered in the State of Florida.

*[Section 373.229 and 373.308, F.S.; Rules 40E-2.091, 40E-2.301, and 40E-3.500-531, F.A.C.]*

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### *C. Right-of-Way*

#### 1. General

a. Prior to commencing construction of any portion of the transmission line, which may cross over, on, under, or otherwise use, the SFWMD's right-of-way, the Licensee must submit complete drawings showing the proposed facilities to the SFWMD for documentation of compliance with Chapter 40E-6, Florida Administrative Code (F.A.C.), and the Right of Way Criteria Manual for Use of Works or Lands of the District, incorporated by reference in Rule 40E-6.091(1), F.A.C. These drawings must depict the proposed crossing in both plan and profile views and must show, at a minimum:

- (1) The canal right-of-way lines;
- (2) The top of the canal bank and its elevation;
- (3) The centerline of the levee and its elevation;
- (4) The canal maintenance berm and its elevation at its highest point;
- (5) The location of any poles, tower, and/or access roads located within the SFWMD's right-of-way;
- (6) The location of any anchors, down-guys or span-guys within the SFWMD's right-of-way;
- (7) The elevation of the lowest line, wire, or cable crossing over the SFWMD's right-of-way, given at the lowest point of sag in the span within the SFWMD's right-of-way;
- (8) The location and elevation of any buried facilities installed as part of this transmission line project; and
- (9) The location of the facilities in relation to a section line, major road or other prominent well-known landmark by which the facilities may be located in the field.

b. Any parallel run of transmission line within the SFWMD's is prohibited.

c. The Licensee shall submit all data and information as required by the above Conditions for Certification to: [rowpermits@sfwmd.gov](mailto:rowpermits@sfwmd.gov), or the Right-of-Way Section, 3301 Gun Club Road, West Palm Beach, FL 33406.

*[Sections 373.085, 373.086, F.S.; Rules 40E-6.091, 40E-6.201, 40E-6.221, 40E-6.381, F.A.C.]*

#### 2. Access

a. Should the Licensee desire to utilize the SFWMD's right-of-way for access during construction of the transmission line and/or for inspection, maintenance, and/or operation of the transmission line after construction, the Licensee shall submit to the SFWMD a detailed plan identifying the following: proposed route; type, weight, length, and number of vehicles to be used; daily trips for each vehicle; proposed material and/or vehicle/equipment storage within the right-of-way; and dates of proposed access of the right of way. If travel over a

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District bridge or facility is required, Licensee shall submit engineering analysis required by the District to determine if the bridge or facility can support the vehicles/equipment proposed to travel over the bridge or facility. Prior to the use of any portion of the SFWMD right-of-way, the Licensee must post a financial assurance, which shall be a minimum of \$5,000 per one-half mile, or a greater amount as determined by SFWMD, depending on the scope of work, the route, use of or travel over SFWMD bridges and/or facilities, types of vehicles, and duration. In addition, the Licensee must obtain liability insurance covering the Licensee's use of that portion of the right-of-way. The Licensee shall comply with all safeguards and guarantees, financial or otherwise, required by SFWMD to ensure that no damage, liability or loss occurs to the District's right-of-way, including its bridges and facilities, as a result of the Licensee or its employers, agents, principals, contractors, or subcontractors' actions. All use of the SFWMD's right-of-way by the Licensee shall be in accordance with Chapter 40E-6, F.A.C., and the Right of Way Criteria Manual for Use of Works or Lands of the District, incorporated by reference in Rule 40E-6.091(1), F.A.C.

*[Sections 373.085, 373.086, F.S.; Rules 40E-6.091, 40E-6.201, 40E-6.221 40E-6.361, 40E-6.381, F.A.C.]*

### IV. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

#### A. General Listed Species Surveys

1. The Licensee shall coordinate with the Florida Fish and Wildlife Conservation Commission (FWC) to obtain and follow the current survey protocols for all listed species that may occur within the OUC St. Cloud East-Magnolia Ranch North 230 kV Transmission Line area to be impacted, as well as accessible appropriate buffers within the rights-of-way as defined by the listed species' survey protocols, prior to conducting detailed surveys. Guidance related to species-specific survey protocols can be found in the appropriate species conservation measures and permitting guidelines at <https://myfwc.com/wildlifehabitats/wildlife/species-guidelines/>, or in the Florida Wildlife Conservation Guide at <https://myfwc.com/conservation/value/fwcg/>.

2. Surveys shall be conducted prior to clearing and construction in accordance with the survey protocols. The results of those surveys shall be provided to the FWC in a report, and coordination shall occur with the FWC on appropriate impact avoidance, minimization, or mitigation methodologies. Reports can be sent to [ConservationPlanningServices@MyFWC.com](mailto:ConservationPlanningServices@MyFWC.com).

*[Article IV, Sec. 9, Florida Constitution; Sections 379.2291, 403.507, 403.526, and 403.5113(2), Florida Statutes (F.S.); and Rule 68A-27, F.A.C.]*

#### B. Specific Listed Species Surveys

1. Before land clearing and construction activities within the OUC St. Cloud East-Magnolia Ranch North 230 kV Transmission Line area, the Licensee shall conduct an assessment for terrestrial listed species and shall note all habitat, occurrence, or evidence of listed species. Wildlife surveys shall be conducted during the reproductive or active season for each species that falls before the projected clearing activity schedule unless otherwise approved by the FWC. For species that are difficult to detect, the Licensee may make the assumption that the species is present and plan appropriate avoidance or mitigation measures after consultation with the FWC. The Licensee will submit avoidance or mitigation measures to the FWC for post-



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certification review and approval at least 60 days prior to commencing clearing or construction activities within the surveyed area. The surveys required by these Conditions of Certification may be conducted prior to issuance of the final order of certification, in which case this Condition would be considered satisfied.

2. These surveys shall be conducted in accordance with U.S. Fish and Wildlife Service (USFWS) or FWC guidelines and methodologies and by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for each potentially occurring listed species.

3. These surveys shall identify locations of breeding sites, nests, and burrows for listed wildlife species. Nests and burrows shall be recorded with global positioning system (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, FWC staff prefers that any applicable protection radii surrounding groups of nest sites and burrows be included on a site-specific basis, rather than around individual nests and burrows, and be physically marked so that clearing and construction shall avoid impacting them.

4. These surveys shall include an estimate of the acreage and percent cover of each existing vegetation community that is contained within the OUC St. Cloud East-Magnolia Ranch North 230 kV Transmission Line area to be impacted prior to land clearing and construction activities using a geographic information system (GIS). Examples of such wildlife-based habitat classification schemes include Florida's State Wildlife Action Plan (FWC 2019) or the Natural Communities Guide (Florida Natural Areas Inventory 2010).

*[Article IV, Sec. 9, Florida Constitution; Section 379.2291, F.S.; and Rules 68A-27, 68A-4, and 68A-16, F.A.C.]*

### **C. Listed Species Locations**

1. Where any suitable habitat or evidence is found of the presence of listed species, including but not limited to those specified in D, E, F, and G below, within the OUC St. Cloud East-Magnolia Ranch North 230 kV Transmission Line area to be impacted, the Licensee shall report those locations to, and confer with, the FWC to determine whether additional pre-clearing surveys are warranted, and to identify potential mitigation or avoidance recommendations. If additional pre-clearing surveys are required by the FWC as appropriate and as specified in these Conditions of Certification, they shall occur in the reproductive season prior to the anticipated date for the start of construction within the OUC St. Cloud East-Magnolia Ranch North 230 kV Transmission Line area to be impacted. The Licensee shall not construct in areas where evidence of listed species was identified during the initial survey until the listed species issues have been resolved.

2. If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the FWC, and the USFWS.

3. If avoidance of state-listed wildlife species is not feasible, the Licensee shall consult with the FWC to determine the steps appropriate for the species potentially impacted to avoid, minimize, mitigate, or otherwise appropriately address potential impacts. These steps shall be memorialized in a Species Management Plan attached herein as Attachment E and fully enforceable, and submitted to the FWC.



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*[Article IV, Sec. 9, Florida Constitution; Section 379.2291, F.S.; and Rule 68A-27, F.A.C.]*

### **D. Gopher Tortoise**

1. The Licensee shall conduct surveys for gopher tortoise (*Gopherus polyphemus*) and their burrows, in accordance with the FWC-approved Gopher Tortoise Management Plan (as revised) and the FWC-approved Gopher Tortoise Permitting Guidelines, or subsequent FWC-approved versions of the Plan or Guidelines. A burrow survey covering a minimum of 15% of the potential gopher tortoise habitat to be impacted by development, including staging areas, is required in order to apply for a relocation permit. Immediately prior to capturing tortoises for relocation, a 100% survey is required to effectively locate and mark all potentially occupied tortoise burrows and to subsequently remove the tortoises. Burrow survey methods are outlined in Appendix 4 of the Gopher Tortoise Permitting Guidelines, "Methods for Locating Gopher Tortoise Burrows on Sites Slated for Development." All surveys completed by authorized agents or other licensees are subject to field verification by the FWC.

2. The Licensee is not required to provide a monitoring compliance assessment for activities that occur more than 25 feet from a gopher tortoise burrow entrance, provided that such activities do not harm gopher tortoises or violate rules protecting gopher tortoises. Examples of such violations noted in the past by the FWC include, but are not limited to, killing or injuring a tortoise more than 25 feet away from its burrow, harassing a tortoise by blocking access to its burrow, and altering gopher tortoise habitat to such an extent that resident tortoises are taken.

3. The Licensee shall coordinate with the FWC and provide detailed gopher tortoise relocation information in accordance with the FWC-approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal. This information shall provide details on the location for on-site recipient areas and any off site FWC-approved temporary contiguous habitat, as well as appropriate mitigation contributions per tortoise, as outlined in the Gopher Tortoise Permitting Guidelines.

4. Any commensal species observed during the burrow excavations that are listed by the FWC shall be relocated in accordance with the applicable guidelines for that species in accordance with Appendix 9 of the Gopher Tortoise Permitting Guidelines.

5. To the maximum extent practicable or feasible, all staging and storage areas shall be sited to avoid impacts to gopher tortoise burrows and habitat.

*[Article IV, Sec. 9, Florida Constitution; Sections 403.507, 403.526, 403.5113 and 379.2291, F.S.; and Rules 62-17.660 and 68A-27, F.A.C.]*

### **E. Wading Birds**

1. The Licensee shall conduct surveys for state-threatened wading birds and their nests in accordance with the FWC-approved Conservation Measures and Permitting Guidelines. Surveys shall be conducted for wading birds in areas potential for nesting prior to the commencement of any clearing, grading, or filling activities and during their breeding season, which extends from March through August.

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2. If wading bird nesting is identified within or adjacent to the planned ROW or other areas associated with the project, a 330-foot (100-meter) buffer distance to from the nest shall be maintained.

3. If wading bird nesting is identified on site the Licensee shall also provide a detailed post-certification submittal. This submittal should include location information for the wading bird nesting areas and what steps were taken to avoid these areas. If these areas, cannot be avoided, the submittal should also include the Licensee's proposed coordination with the FWC.

4. If nesting is discovered after site activities have begun, if the removal or trimming of trees with active nests is unavoidable, or if maintaining the recommended buffer is not possible, the applicant shall consult with FWC staff to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts. Species Conservation Measures and Permitting Guidelines for state-threatened wading birds can be found on the FWC website: <https://myfwc.com/media/18634/threatened-wading-birds-guidelines.pdf>.

*[Article IV, Sec. 9, Florida Constitution; Section 379.2291, F.S.; and Rule 68A-27, F.A.C.]*

### ***F. Florida Sandhill Crane***

1. The Licensee shall conduct surveys for nesting Florida sandhill cranes in accordance with the FWC-approved Species Conservation Measures and Permitting Guidelines. Surveys for nesting Florida sandhill cranes shall be conducted prior to commencement of construction activities in or adjacent to habitat where Florida sandhill cranes could nest, and during the December through August breeding season. If construction occurs over several years, it may be necessary to conduct surveys each year as Florida sandhill cranes do not nest in the same location every year.

2. If Florida sandhill crane nesting is identified within or adjacent to the final corridor, or other areas associated with the project, a 400-foot buffer distance from the nest with eggs shall be maintained, or 1500-foot buffer distance from a nest with flightless young shall be maintained until the young can fly.

3. If Florida sandhill crane nesting is identified on site the Licensee shall also provide a detailed post-certification submittal. This submittal should include location information for the nesting areas and what steps were taken to avoid these areas. If these areas, cannot be avoided, the submittal should also include the Licensee's proposed coordination with the FWC.

4. If nesting or flightless young are discovered after site activities have begun, or if maintaining the buffer is not possible, the applicant shall consult with FWC staff to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts. Species Conservation Measures and Permitting Guidelines for Florida sandhill cranes can be found on the FWC website: <https://myfwc.com/media/11565/final-florida-sandhill-crane-species-guidelines-2016.pdf>.

*[Article IV, Sec. 9, Florida Constitution; Section 379.2291, F.S.; and Rule 68A-27, F.A.C.]*

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### **G. Southeastern American Kestrel**

1. The Licensee shall conduct surveys for southeastern American kestrel and their nest cavities in accordance with the FWC-approved Species Conservation Measures and Permitting Guidelines: <https://myfwc.com/media/24482/seamkestrelgl.pdf>.
2. If surveys encounter southeastern American kestrel nesting, a 490-foot (150 meters) buffer shall be maintained from the nest during the breeding season (March through July) to avoid disturbance.
3. If southeastern American kestrel nesting is identified on site the Licensee shall also provide a detailed post-certification submittal. This submittal should include location information for the nests and what steps were taken to avoid these areas. If these areas, cannot be avoided, the submittal should also include the Licensee's proposed coordination with the FWC.
4. If nesting is discovered after site activities have begun, or if maintaining the buffer is not possible, the applicant shall consult with FWC staff to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

*[Article IV, Sec. 9, Florida Constitution; Section 379.2291, F.S.; and Rule 68A-27, F.A.C.]*

### **V. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES**

A. Prior to new construction in areas not previously surveyed, the Licensee shall conduct a survey of sensitive cultural resource areas, as determined in consultation with the Department of State, Division of Historical Resources (DHR). A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the Certified facility. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR. Upon completion of the survey, the results will be compiled into a report which shall be submitted to DHR. If feasible, sites considered to be eligible for the National Register shall be avoided during construction of the project and access roads, and subsequently during maintenance. If avoidance of any discovered sites is not feasible, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR, as appropriate.

B. If historical or archaeological artifacts or features are discovered at any time within the Certified facility, the Licensee shall notify the appropriate DEP District office(s) and the DHR, R.A. Gray Building, 500 South Bronough Street, Room 423, Tallahassee, Florida 32399-0250, telephone number (850) 245-6333, and the Licensee shall consult with DHR to determine appropriate action.

*[Sections 267.061, 403.531, and 872.02, F.S.]*

### **VI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

Only herbicides registered by the U.S. Environmental Protection Agency and the Florida Department of Agriculture and Consumer Services shall be used at Certified Facilities. Herbicide applications will be in accordance with label directions and will be carried out by a licensed applicator, in compliance with all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.

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*[Chapter 487, F.S.]*

### **VII. ORANGE COUNTY**

The requirements in Sections A, B, C, and D, below, apply in areas within Orange County.

#### ***A. Noise Pollution Control***

Consistent with section 15-184, Orange County Code, and subject to the provisions of sections 15-185 and 15-186, no person shall produce, cause to be produced, or allow to be produced, by any means, any noise disturbance on any private or public property, including a right-of-way, when such noise is plainly audible or when such noise is measured pursuant to section 15-183, and where applicable, exceeds the applicable sound level limits set forth in section 15-182. Section 15-185(12), Orange County Code, however, provides that construction or demolition activities, other than the placement of concrete as described in section 15-185(13), for which the County has issued a development permit, provided such activity occurs between 7:00 a.m. and 10:00 p.m. Accordingly, construction activities associated with the transmission line project shall occur between 7:00 a.m. and 10:00 p.m., to remain consistent with section 15-185(12), Orange County Code, or otherwise be compliant with section 15-184, Orange County Code.

#### ***B. Tree Protection and Removal***

Section 15-278, Orange County Code states it shall be unlawful for any person to, or cause, to destroy, permanently injure, or remove any protected tree as defined in this article without first obtaining a tree removal permit or other removal authorization or otherwise establish that the protected tree qualifies for an exception or exemption. Section 15-279(a)(1), Orange County Code, however provides that a tree removal permit shall not be required for tree removal activities that include public road or public drainage rights-of-way, utility rights-of-way, or permanent utility easement and/or drainage tracts, unless the area is designated as a conservation area. Conservation area shall mean lands which have unsuitable or nonrated soils, wetland vegetative species, are seasonally flooded and perform an environmental function, as described in the county's comprehensive policy plan. See Section 15-277. The removal of trees in a conservation area is also regulated by DEP pursuant to Chapters 62-330 and 62-331, F.A.C., which govern construction activities in wetland areas and require mitigation for adverse impacts to such areas. Accordingly, to the extent that, any construction activities associated with the transmission line project result in the removal of a protected tree within a conservation area, OUC shall comply with Chapters 62-330 and 62-331, F.A.C. in lieu of Section 15-278, Orange County Code. Compliance with the F.A.C. requirements shall be demonstrated in a post-certification submittal, as described in Sections A.XXI and A.XXIX above.

#### ***C. Right-of-Way Utilization***

Chapter 21, Article VI, ("Right-of-Way Utilization Regulations") provides the necessary regulations for use of any Orange County right-of-way or traveled ways and shall apply to all private contractors, private citizens, utility companies, municipalities and to any person or group proposing to install, construct, maintain or repair any facility or structure within any of the existing or planned rights-of-way, or traveled ways or drainage easements dedicated or planned to be dedicated to the public or Orange County, or maintained by Orange County. See § 21-172, Orange County Code. Section 21-196 requires the submittal of an application for

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either a right-of-way utilization permit, an underground utility contractor work permit, or both. The application shall contain a maintenance of traffic (MOT) management plan for temporary traffic control of the work activity that must be reviewed and approved by Orange County Traffic Engineering Division. The application shall also be accompanied by a sketch and other information concerning the proposed activity, including the minimum vertical clearance above the pavement of the County road. Section 21-231 (a) Orange County Code provides that the primary concern in the design and location of utility installations is protection of the right-of-way and the safety of the highway user. A secondary concern is aesthetics. The construction activities associated with the transmission line project shall give full consideration to the sound engineering principles and design, consistent with section 21-231, Orange County Code.

More specifically, where possible, all longitudinal underground utility facilities should be placed within seven feet inside of the outer edge of the right-of-way line. Aboveground facilities should be placed at or as close as practical to the right-of-way line. See § 21-231 l(b), Orange County Code. If OUC owns or maintains one or more sets of poles with accompanying overhead lines along a right-of-way or road and proposes to install another set of poles along the same right-of-way road, OUC shall co-locate all the lines on a single set of poles along one side of the right-of-way or road. OUC shall utilize the least number of poles, lowest height of poles and poles of uniform height, all in keeping with sound engineering principles and design. See § 21-231(c)(1), Orange County Code. If OUC owns or maintains more than one set of poles with accompanying overhead lines along a right-of-way or road, OUC is required to remove or relocate some or all of the poles and accompanying overhead lines due to roadway construction along one or both sides of a right-of-way or road, the entity shall co-locate all the lines on a single set of poles along one side of the right-of-way or road. In doing so, OUC shall utilize the least number of poles, lowest height of poles, and poles of uniform height, all in keeping with sound engineering principles and design. See § 21-231(c)(2), Orange County Code. The proposed location of OUC poles should take into consideration future road widening, sidewalk, storm drainage, or other construction. See § 21-231(e), Orange County Code.

### ***D. Floodplain Management:***

Any FEMA designated floodplain impacts shall be coordinated with Orange County Stormwater Management Division. See §§ 19-6, 19-8, Orange County Code.

## **VIII. OSCEOLA COUNTY**

The requirements in Sections A, B, C, and D, below, apply in areas within Osceola County.

### ***A. Access Management to the County Road System***

Any access to a County Maintained road will be subject to the requirements of Article 4.4 Access Management of the Osceola County Land Development Code.

*[Chapter 163, F.S., Section 337.401, F.S., Osceola County Comprehensive Plan adopted January 13, 2020, and Osceola County Ordinance 19-100 adopted December 16, 2019.]*

### ***B. Overweight or Overdimensional Loads***

Operation of overweight or overdimensional loads by the applicant on the County Road System during construction and operation of the utility facility will be subject to safety and permitting requirements of Chapter 316, Florida Statutes.



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## SECTION B: SPECIFIC CONDITIONS

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*[Chapter 316, F.S.]*

### **C. Use of Osceola County Right-of-Way**

All usage and crossing of Osceola County rights-of-way will be subject to Article 4.12.2 Right-of-Way Utilization of the Osceola County Land Development Code.

*[Sections 337.401, 337.402, 337.403, and 337.404, F.S.]*

### **D. Best Management Practices**

Osceola County is the owner of parcels 12-26-31-0000-0010-0000, 11-26-31-0000-0010-0000, and 01-26-31-0000-0010-0000 which comprise the Lake Lizzie Nature Preserve. OUC shall comply with the following conditions when working in the OUC right-of-way that passes through the Lake Lizzie Nature Preserve:

1. OUC shall provide construction plans for that portion of the power line adjacent to County owned property for informational purposes;
2. OUC shall contact Osceola County Parks & Recreation Office (Mr. Robert Mindick at 407-742-0200, or appropriate person) prior to beginning construction in OUC right-of-way that passes through Lake Lizzie Nature Preserve; and
3. OUC shall provide a double row of silt fence around all construction areas where the ground will be disturbed in manner that could lead to erosion of soils in order to minimize potential impact to the Lake Lizzie Nature Preserve.

*[Applicant Agreement]*

## **IX. ADDITIONAL STIPULATED CONDITIONS**

A. The construction and maintenance of electric transmission lines, poles and infrastructure owned by OUC shall not interfere with the City of Cocoa's (Cocoa's) Well #17 or the other water facilities located on Cocoa's Well #17 Parcel (ID. 06-24-32-0000-00-004).

B. Prior to construction on the Well #17 Parcel, OUC shall submit to the City of Cocoa, for review and written approval, design plans and specifications for transmission line poles and structures. Power lines located above the Well #17 Parcel will be allowed if the condition stated in Paragraph C below is satisfied by OUC.

C. A minimum 60' vertical clearance under maximum operating conditions and wind scenarios is required for all OUC-owned electric transmission lines crossing Cocoa's water facilities on the Well #17 Parcel.

D. A minimum 25' vertical clearance under maximum operating conditions and wind scenarios is required for all OUC-owned electric transmission lines crossing Cocoa's water facilities that are located on existing easements along Wewahootee Road and are related to the Well #17 Parcel and other Cocoa wells in the area.

E. OUC shall not construct any pole or structure within 50' of any above or below ground Cocoa facility (such as wells, buildings, pipes, valves, etc.) located on the Well #17 Parcel unless OUC submits for Cocoa's review, duly engineered construction plans and specifications, and Cocoa grants, at its discretion, prior written approval. Cocoa's review will be limited to whether the proposed OUC construction and any related excavation has any adverse

## SECTION B: SPECIFIC CONDITIONS

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impacts on Cocoa's water facilities that must be addressed by OUC before its construction can proceed.

F. OUC shall coordinate with the City of Cocoa before OUC constructs any pole or structure within 50' of any above or below ground Cocoa facility (such as pipes, valves, etc.) located within an existing easement along Wewahootee Road that is not on the Well # 17 Parcel. Before OUC constructs any such pole or structure, OUC shall submit to the City, duly engineered construction plans and specifications, designed to ensure that the proposed construction and any related excavation will not cause adverse impacts on Cocoa's water facilities

*[Stipulated agreement between OUC and City of Cocoa, 10/25/2021]*

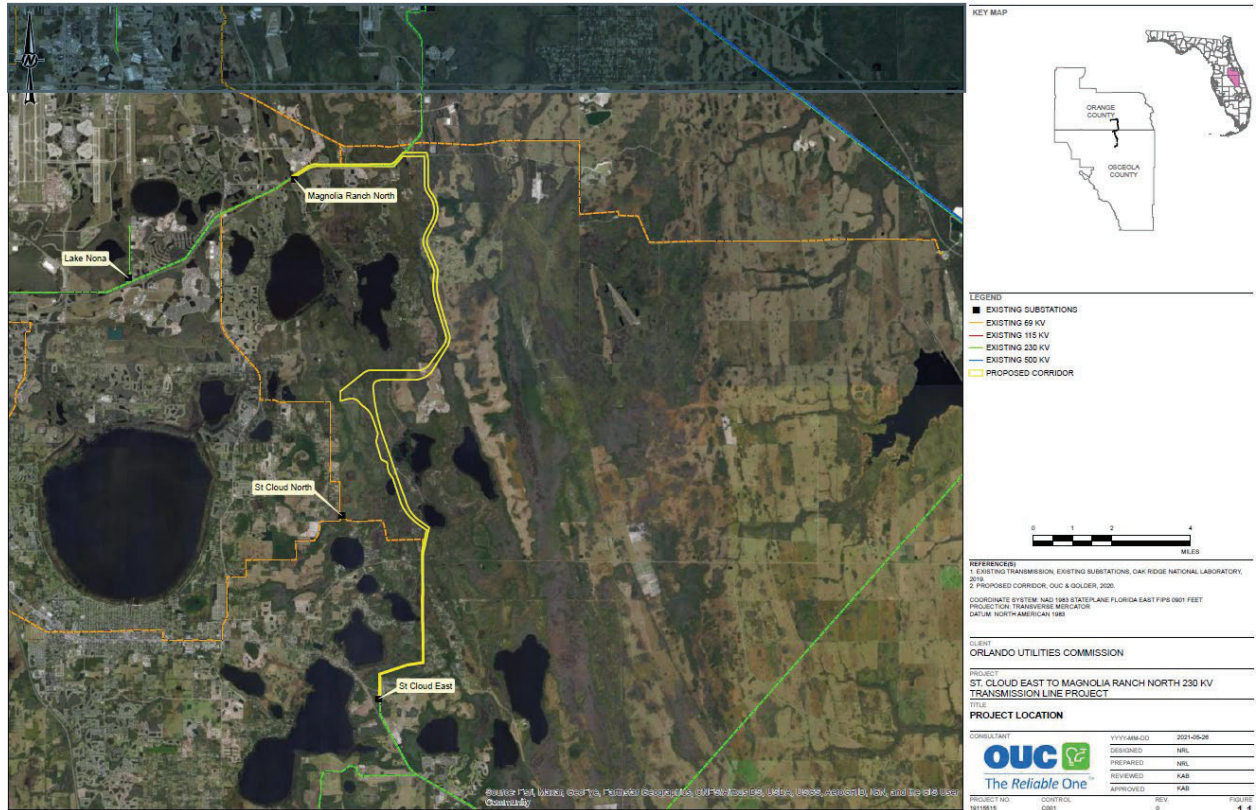
### **HISTORY**

Certification issued 12/13/2021, signed by Secretary Shawn Hamilton



# ATTACHMENTS

## ATTACHMENT A: Certified Corridor Maps



## ATTACHMENTS

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### **ATTACHMENT B: Final ROW Maps**

**ATTACHMENT C: Surface Water Management System (SWMS) Operation and Maintenance Requirements**

1. In accordance with Section 373.416(2), F.S., unless revoked or abandoned, all stormwater management systems, dams, impoundments, reservoirs, appurtenant works, or works permitted under Part IV of Chapter 373, F.S., must be operated and maintained in perpetuity. The operation and maintenance shall be in accordance with the designs, plans, calculations, and other specifications that are submitted with any Application, amendment, or modification and approved by the Department.
2. A registered professional must perform inspections annually after conversion of the project to the operation and maintenance phase to identify if there are any deficiencies in structural integrity, degradation due to insufficient maintenance, or improper operation of the stormwater management system or other surface water management systems that may endanger public health, safety, or welfare, or the water resources, and to insure that systems are functioning as designed and approved. Within 30 days of the inspection, a report shall be submitted electronically or in writing to the Department's Central District Office and SCO using Form 62-330.311(1), "Operation and Maintenance Inspection Certification".
3. If deficiencies are found, OUC will be responsible for correcting the deficiencies so that the project is returned to the operational functions as designed and approved. The corrections must be done a timely manner to prevent compromises to flood protection and water quality.
4. If the operational maintenance and corrective measures are insufficient to enable the systems to meet the performance standards of this chapter, OUC must either replace the systems or construct an alternative design.
5. OUC shall provide for periodic inspections in addition to the annual inspections, especially after heavy rain. OUC must maintain a record of each inspection, including the date of inspection, the name and contact information of the inspector, whether the system was functioning as designed and approved, and make such record available upon request of the Department. Within 30 days of any failure of any system or deviation from the permit, a report shall be submitted electronically or in writing to the Department's Central District Office and SCO using Form 62-330.311(1), "Operation and Maintenance Inspection Certification," describing the remedial actions taken to resolve the failure or deviation.
6. OUC shall immediately notify the Department by telephone whenever a serious problem occurs at this facility. Notification shall be made to the Central District Office at (904) 256-1700. Within 7 days of telephone notification, a report shall be submitted electronically or in writing to the Department using Form 62-330.311(1), "Operation and Maintenance Inspection Certification," describing the extent of the problem, its cause, the remedial actions taken to resolve the problem.
7. The following operational maintenance activities shall be performed on approved systems on a regular basis or as needed:
  - (1) Removal of trash and debris from the surface water management systems,
  - (2) Inspection of culverts, culvert risers, pipes and screwgates for damage, blockage, excessive leakage or deterioration, if applicable,
  - (3) Inspection of stormwater berms, if applicable,

## ATTACHMENTS

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- (4) Inspection of pipes for evidence of lateral seepage,
  - (5) Inspection of flapgates for excessive backflow or deterioration, if applicable,
  - (6) Removal of sediments when the storage volume or conveyance capacity of the surface water management system is below design levels,
  - (7) Stabilization and restoration of eroded areas,
  - (8) Inspection of pump stations for structural integrity and leakage of fuel or oil to the ground or surface water, if applicable, and
  - (9) Inspection of monitoring equipment, including pump hour meters and staff gauges, for damage and operational status, if applicable.
8. In addition to the practices listed above, specific operational maintenance activities are required, if applicable, depending on the type of approved system, as follows:
- (1) Overland flow systems shall include provisions for:
    - a. Mowing and removal of clippings, and
    - b. Maintenance of spreader swales and overland flow areas to prevent channelization.
  - (2) Spray irrigation systems for reuse/disposal shall include provisions for:
    - a. Inspection of the dispersal system, including the sprayheads or perforated pipe for damage or clogging, and
    - b. Maintenance of the sprayfield to prevent channelization.
  - (3) Treatment systems which incorporate isolated wetlands shall include provisions for:
    - a. Stabilization and restoration of channelized areas, and
    - b. Removal of sediments which interfere with the function of the wetland or treatment system.

## ATTACHMENTS

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### **ATTACHMENT D: Mitigation Plans**

Mitigation Plans shall be submitted in accordance with Section A. Condition XXIX, Environmental Resources, paragraph C of this License as applicable.

## ATTACHMENTS

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### **ATTACHMENT E: Species Management Plan**

The Species Management Plan shall be submitted in accordance with Section B. Condition V, Florida Fish and Wildlife Conservation Commission, paragraph C, Listed Species Locations, part 3. of this License as applicable.