

MAY 08 2006

STATE OF FLORIDA
SITING BOARD

SITING COORDINATION

IN RE: FLORIDA POWER & LIGHT
ST. JOHNS-PELLICER-PRINGLE, 230 KV
PROJECT, TRANSMISSION LINE SITING
APPLICATION NO. TA05-13.

OGC CASE NO. 05-1712
DOAH CASE NO. 05-2478TL

FINAL ORDER APPROVING CERTIFICATION OF TRANSMISSION LINE

An administrative law judge with the Division of Administrative Hearings ("DOAH") submitted his Recommended Order in this administrative proceeding. The Recommended Order indicates that copies were served upon counsel for Florida Power & Light Company ("FPL"), Florida Department of Environmental Protection ("DEP" or "Department"), St. Johns County (the "County"), St. Johns River Water Management District (the "District"), and other designated state, regional, and local governmental agencies. A copy of the Recommended Order is attached as Exhibit A. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final agency action under the Transmission Line Siting Act ("TLSA") embodied in §§ 403.52-403.5365, Florida Statutes.

BACKGROUND

On March 25, 2005, FPL submitted a Petition to Determine Need for the St. Johns-Pellicer-Pringle transmission line (the "SJPP Line") to the Florida Public Service Commission ("PSC"). The PSC issued Order No. PSC-05-0527-FOF-EL, dated May 13, 2005, determining the need for the SJPP Line project, pursuant to Section 403.537, Florida Statutes.

On July 5, 2005, FPL filed its Application for Corridor Certification for the SJPP Line ("Application") with DEP pursuant to the TLSA. The Application sought certification from the Siting Board for a new 230-kV overhead transmission line and related facilities connecting the

existing St. Johns substation near St. Augustine in St. Johns County to the proposed Pringle substation in the City of Palm Coast in Flagler County (the "Project"). The total length of the proposed transmission line corridor is approximately 26.1 miles, and it varies in width from approximately 100 to 2,000 feet. The SJPP Line will ultimately be constructed on a narrow right-of-way, when the necessary property interests are acquired. At that time, the boundaries of the SJPP Line corridor will shrink to a typical width varying from 15 to 60 feet.

The various reviewing agencies have submitted reports on the Project and have proposed Conditions of Certification. On December 9, 2005, DEP issued its Summary and Compilation of Agency Reports including Proposed Conditions of Certification for the Project. This DEP document incorporated the reports of the reviewing agencies and proposed a compiled set of Conditions of Certification.

DOAH PROCEEDINGS

On January 10, 2006, a certification hearing was held before Administrative Law Judge, Donald R. Alexander (the "ALJ"), in St. Augustine. Testimony and documentary evidence was presented at the certification hearing by FPL and DEP. The documentary evidence included a Revised Summary and Compilation of Agency Reports (Department Exhibit 1) dated December 29, 2005, containing a revised version of the proposed Conditions of Certification. No evidence was presented at the certification hearing by the County or the District or by any other reviewing agency. In addition, a public hearing was scheduled for 11:00 a.m. on January 10, 2006, for the purpose of allowing members of the public an opportunity to present evidence and testimony. However, the record reflects that no member of the public appeared at the scheduled time.

On March 6, 2006, the ALJ submitted his Recommended Order ("RO") in this TLISA certification proceeding. In the RO, the ALJ determined that, as proposed, the SJPP Line Project

will have minimal environmental impact and will comply with all applicable state, regional, and local non-procedural regulations, including the wetlands regulatory standards applicable to such projects. The ALJ also determined that the Project, as proposed, will comply with all the revised conditions of certification set forth in Department Exhibit 1. The ALJ ultimately recommended that the Siting Board enter a final order approving FPL's SJPP Line Project, subject to the revised Conditions of Certification.

CONCLUSION

The record is devoid of any objections to certification of the SJPP Line Project by any state, regional, or local agency. Furthermore, no Exceptions to the ALJ's RO have been filed by any of the parties to this certification proceeding. Based on a review of the record and the applicable law, the Siting Board concludes that the Project, as proposed, complies with all applicable requirements, including the revised Conditions of Certification. The Siting Board further concludes that the Project, as proposed, will help meet the increasing electrical energy needs of the state with minimal adverse impact to the environment and will thus serve and protect the broad interests of the public.

It is therefore ORDERED:

A. The ALJ's Recommended Order (Exhibit A) is adopted in its entirety and incorporated by reference herein.

B. Certification of the location, construction, and continued operation of the SJPP Line Project, as described in FPL's Application and in the evidence presented at the certification hearing, is APPROVED, subject to the revised Conditions of Certification set forth in Department Exhibit 1 and incorporated by reference herein.

C. Authority to assure and enforce compliance by FPL and its agents with all of the revised Conditions of Certification imposed by this Final Order is hereby delegated to DEP.

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 21st day of April, 2006, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on April 21st, 2006.

THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



THE HONORABLE JEB BUSH
GOVERNOR

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



CLERK

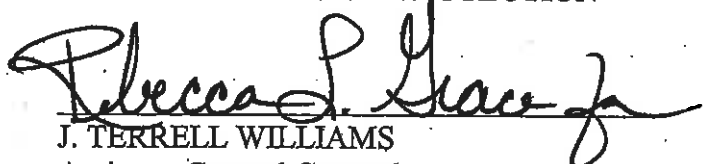
4/27/06

DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Final Order has been sent by United States Postal Service to all parties on the attached service list this 27th day of April, 2006.

STATE OF FLORIDA DEPARTMENT
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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: FLORIDA POWER & LIGHT)
ST. JOHNS-PELLICER-PRINGLE,)
230 KV PROJECT, TRANSMISSION) Case No. 05-2478TL
LINE SITING APPLICATION NO.)
TAO5-13.)
_____)

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on January 10, 2006, in St. Augustine, Florida, before the Division of Administrative Hearings, by its assigned Administrative Law Judge, Donald R. Alexander.

APPEARANCES

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STATEMENT OF THE ISSUES

The issues for determination are whether and the extent to which the properly proposed corridor (the FPL Corridor) for the St. Johns-Pellicer-Pringle 230-kV transmission line (the SJPP Line) complies with the criteria in Section 403.529(4)(a)-(e), Florida Statutes (2005)¹, and whether Florida Power & Light's (FPL's) application for corridor certification should be approved in whole, with modifications or conditions, or denied.

PRELIMINARY STATEMENT

Pursuant to Section 403.537, Florida Statutes, FPL submitted a Petition to Determine Need for the SJPP Line project to the Public Service Commission (PSC) on March 25, 2005. The PSC issued Order No. PSC-05-0527-FOF-EI, dated May 13, 2005, determining the need for the SJPP Line.

On July 5, 2005, FPL filed its Application for Corridor Certification for the SJPP Line (Application) with the Department of Environmental Protection (Department) and paid the appropriate application fee. The Application was filed under the Transmission Line Siting Act (TLSA), codified in Sections 403.52 through 403.5365, Florida Statutes, for a new 230-kV overhead transmission line and related facilities connecting the existing St. Johns substation near St. Augustine in St. Johns County to the proposed Pringle substation in the City of Palm Coast in Flagler County (the Project).

The various reviewing agencies have submitted reports on the Project and have proposed Conditions of Certification. On December 9, 2005, the Department issued its Summary and Compilation of Agency Reports Including Proposed Conditions of Certification for the Project, incorporating the reports of the reviewing agencies and proposing a compiled set of Conditions of Certification. During the certification hearing, a Revised Summary and Compilation of Agency Reports, including an updated version of the proposed Conditions of Certification, dated December 29, 2005, was admitted into the record as Department Exhibit 1.

The certification hearing was held on January 10, 2006. All notices required by law were timely published in accordance with Section 403.527, Florida Statutes. The final hearing was conducted for the purpose of receiving oral, written, and documentary evidence concerning whether the Project should be approved in whole, or with such modifications and conditions as the Siting Board deems appropriate, or denied under the TLISA. FPL presented one witness and offered composite exhibits numbered FPL 1, which includes the prefiled written testimony of four witnesses, Daniel Hronec, Analee Mayes, Anthony N. Arcuri, and Philip Simpson, and exhibits numbered as DH-1, DH-2, DH-3, AM-1, AM-2, PS-1, and TA-1, and FPL 2, which contains the various notices of publication related to this matter. Also, on

January 20, 2006, FPL submitted late-filed exhibit FPL 3, which includes the public notices from the Department's website.

Finally, official recognition of these notices has been taken.

At the hearing, FPL presented the testimony of Daniel Hronec, P.E., an expert in electrical transmission line engineering, who testified and submitted pre-filed written testimony and exhibits. FPL also submitted pre-filed testimony and exhibits from: Analee Mayes, AICP, an expert in land use planning; Anthony N. Arcuri, an expert in botany, vegetative mapping, and listed plant species; and Philip Simpson, an expert in wildlife ecology and transmission line impacts to terrestrial ecological resources. All pre-filed written testimony and exhibits submitted by FPL have been received into evidence without objection.

In addition to presenting the Revised Summary and Compilation of Agency Reports, the Department presented the testimony of Ann Seiler, an Environmental Specialist III who coordinated the processing of the Application, and prepared the Revised Summary and Compilation of Agency Reports.

A public hearing was held at 11:00 a.m. on January 10, 2006, for the purpose of allowing members of the public an opportunity to present evidence and testimony. No member of the public appeared to testify.

The Transcript of the final hearing was filed with the Division of Administrative Hearings on January 18, 2006. On February 16, 2006, FPL filed a Proposed Recommended Order which has been substantially used in the preparation of this Recommended Order.

FINDINGS OF FACT

Based upon all of the evidence the following findings of fact are determined:

I. Parties

1. The TLISA establishes FPL and the Department as parties to this proceeding, and the following became parties upon their timely filing of a notice of intent to be a party, which each has done: Florida Department of Transportation (DOT), Department of Community Affairs (DCA), St. Johns River Water Management District (SJRWMD), St. Johns County, and the City of Palm Coast. See § 403.527(4), Fla. Stat.

II. The Application

A. Project Description

2. Generally, an electrical transmission line's purpose is to transport large amounts of electricity from a generating facility to one or more substations. At the substation, the electricity can be either increased or reduced in voltage through transformers and other electrical equipment for further

safe and practical transportation, or distribution directly to customers.

3. FPL is seeking certification of a corridor between the existing St. Johns substation and the proposed Pringle substation within which it will ultimately construct the SJPP Line on a narrow right-of-way (ROW). Once all property interests in the ROW are acquired, the boundaries of the corridor will shrink to the typical width of the 15 to 60-foot ROW.

4. The service area for the proposed SJPP Line (the Project Service Area) is St. Johns County and Flagler County. The SJPP Line will follow Interstate 95 (I-95) in a north-south direction and will connect to the proposed intermediate Deerwood, Vermont, Anastasia, and Pellicer substations.

5. The Project Service Area includes an area of increasing load and customer base in the area south of St. Johns and north of Pringle substations and to the west of the existing Bunnell-St. Johns 115-kV transmission line.

6. The three objectives of the SJPP Line project are: (1) to address the need, as confirmed by the PSC, to serve FPL's increasing load and customer base in the area south of St. Johns and north of Pringle substations in a reliable manner; (2) to provide additional transmission reinforcement to the existing 115-kV transmission line between the Bunnell and St. Johns

substations; and (3) to efficiently and effectively integrate and serve new distribution substations that are needed to serve projected load growth within Flagler and St. Johns Counties.

The primary path for the SJPP transmission line bringing electricity into the Project Service Area will be aligned within or adjacent to existing linear features, such as existing road, transmission line and railroad ROWs. The only exception is a distance of less than half a mile in length between the proposed Vermont substation in the St. Augustine Industrial Park and I-95, where the corridor largely follows property lines.

7. The primary path for the SJPP transmission line bringing electricity into the Project Service Area will be aligned within or adjacent to existing linear features, such as existing road, transmission line, and railroad ROWs. The only exception is a distance of less than half a mile in length between the proposed Vermont substation in the St. Augustine Industrial Park and I-95, where the corridor largely follows the property line.

B. Need for the SJPP Line

8. The PSC determined a new 230-kV transmission line between the St. Johns substation and the proposed Pringle substation is needed, taking into account the need for electric system reliability and integrity in northeast Florida and the need to provide abundant, low-cost electrical energy to assure

the economic well-being of the citizens of the State, particularly those in northeast Florida.

9. The PSC noted that FPL's planning studies indicate this additional transmission capacity will be needed by December 2008 to alleviate potential overloads and low voltage conditions that could result from a single contingency event. Without the addition of this transmission capability by 2008, the PSC found that up to 8,300 electric customers could experience service interruptions.

10. The PSC recognized that the Siting Board will make the final corridor selection upon consideration of the factors and criteria specified in Section 403.529, Florida Statutes.

C. Transmission Line Design

11. The typical design for the SJPP Line will be a single-circuit unguayed concrete pole structure, 90 feet above grade in height, with the conductors framed in a vertical configuration. Each of the three conductors is anticipated to be a 1,431 thousand circular mils, aluminum conductor, steel reinforced alumoweld core. There will also be a smaller overhead ground wire to provide shielding and lightning protection for the conductors and provide communications capability. The maximum current rating for the line will be 1,905 amperes. In some locations, electric distribution lines and communication cables may also be attached to the structures beneath the conductors.

12. In some locations, such as along FPL's St. Johns-Tocoi transmission line right-of-way and along Tocoi Road, a double-circuit configuration, with or without distribution underbuild, may be used.

13. The span length between structures will typically vary between 250 and 750 feet, depending on site-specific conditions, ROW widths, and other design considerations. Both pole height and span length may vary to accommodate such things as locating poles to coincide with property boundaries or existing collocated utility facility poles, to avoid or minimize wetland impacts, to cross other utility lines, and to facilitate wide crossings of water bodies and roadways.

14. Where the transmission line turns large angles or crosses other major linear facilities, the structures may be guyed or anchored to support the differential tension.

15. Access roads and structure pads will be constructed only where necessary to provide access for construction, maintenance, and emergency restoration. Where constructed, the typical road top width will be about 14 feet, with a 2-to-1 side slope, and a minimum elevation of 6 inches over mean or seasonal high water. Structure pads will have variable sizes, depending on site specific requirements, but will be of sufficient size to provide access to structure locations for the large construction equipment. Access roads and structure pads will not be paved.

Culverts will be installed beneath access roads and structure pads with spacing, diameter, and length to maintain preconstruction flows.

16. The design of the SJPP Line complies with good engineering practices. The SJPP Line will be designed in compliance with all applicable design codes, including the National Electrical Safety Code (NESC), the Department's regulations on electric and magnetic fields, the DOT Utility Accommodation Manual, the St. Johns County and City of Palm Coast noise ordinances, and standards of the American Society of Civil Engineers (ASCE), the Institute of Electrical and Electronics Engineers, American Society of Testing Materials, American National Standards Institute, and American Concrete Institute, as well as FPL's own design standards.

17. The Project assures the citizens of Florida that operation safeguards are technically sufficient for their welfare and protection.

D. Transmission Line Construction

18. Surveying the ROW to facilitate acquisition of the necessary property interests is a first step towards construction. After property rights for the ROW have been acquired, the initial phase of construction is to clear the ROW. Since nearly the entire length of the FPL Corridor is collocated with existing roads and utility facilities, the need for

acquisition of private property and the need for clearing have been minimized. Clearing will consist mainly of tree trimming and the removal of trees that exceed or are capable of exceeding 14 feet in height. In wetlands, trees capable of exceeding 14 feet in height that could come in conflict with the line will be removed by hand-clearing or use of very low ground pressure equipment. Low-growing herbaceous vegetation will not be cleared from wetlands.

19. After the ROW is cleared, any necessary access roads and structure pads will be constructed. Typically, access roads and pads are only required in wet and low areas. This enables all subsequent construction activity in those wet areas to remain on the newly constructed access road and pad.

20. The next phases of construction involve the physical transmission line construction. Initially, materials are brought to the jobsite. Next, holes are augered at each pole location and the poles are then erected using cranes or other heavy equipment. The hole is then backfilled with suitable fill. Typically, the pole is embedded into the ground approximately 16 to 20 feet.

21. After the poles are set, the poles are framed, that is, the insulators and hardware are installed on the pole. Then through a wire pulling operation the conductors and overhead ground wires are installed. The conductors are then properly

sagged and tensioned to provide the proper vertical clearances. Next, the conductors are "lipped in" to the insulator assemblies. The final stage of construction is ROW clean-up.

22. During all stages of construction, FPL will maintain traffic on any adjacent county, state, or federal roadways in compliance with applicable DOT and St. Johns County regulations.

23. Throughout construction, sedimentation management techniques, such as the use of silt screens and hay bales, will be employed as necessary to minimize potential impacts from erosion and sedimentation.

24. While each phase of construction will typically take only 1 to 7 days in an area, the entire SJPP Line construction process will last approximately 13 months.

E. Methodology for Choosing FPL Corridor

25. On project initiation, FPL management instructed its multi-disciplinary corridor selection team to identify, if it could, a corridor for the SJPP Line that connects the St. Johns and Pringle substations and allows connections to the proposed intermediate substations.

a. Corridor Selection and Public Involvement

26. FPL established a multi-disciplinary team to identify and evaluate routing alternatives within the Project Study Area. This multi-disciplinary team was comprised of a transmission line engineer, a land use planner, and an ecologist.

27. FPL's multi-disciplinary team gathered data on siting opportunities and constraints within the study area and identified 45 line segments which could be assembled into approximately 630 alternate routes for the SJPP Line.

28. FPL also engaged in an extensive public participation program to gather input for its route evaluation study. This public participation program included an open house, mass mailings, a community survey, a toll-free telephone number and an e-mail address, a website, and meetings with regulatory agencies, community associations, homeowner groups, and individual homeowners and property owners.

29. The public participation program provided substantive input to the route evaluation study in terms of study area boundary, siting opportunities and constraints in the area, identification of route segments to be evaluated, and weights to be assigned to the route evaluation criteria.

30. FPL's multi-disciplinary team evaluated the 630 routes quantitatively, using 11 weighted factors, and then evaluated in more detail, using both quantitative and qualitative criteria, a few distinct routes identified from among the highest-ranking routes.

31. Through this process, FPL's multi-disciplinary team was able to identify a route of the FPL Corridor that, on

balance, is the most appropriate considering environmental, land use, engineering, and cost considerations.

32. Once the preferred alignment was identified, the multi-disciplinary team delineated the boundaries or width of the FPL Corridor to provide flexibility for locating the eventual ROW within that corridor.

b. Agencies' Review of FPL's Application and Resulting Determinations

33. State, regional, and local agencies with regulatory authority over the project reviewed FPL's Application and submitted to the Department a report as to the impact of the proposed SJPP Line on matters within the agency's jurisdiction, as required by Section 403.526(2), Florida Statutes. The Department then compiled these reports and made a recommendation that the SJPP Line be granted approval subject to appropriate conditions.

III. Stipulations Entered Into by Parties

34. All agency parties filed stipulations with FPL in which these parties and FPL agreed to the Conditions of Certification for the SJPP line and the entry into the record of the pre-filed written testimony and exhibits of FPL's witnesses.

IV. Detailed Description of the FPL Corridor

35. Almost the entire length of the FPL Corridor is collocated with existing linear features, such as roads and

transmission lines. This collocation will minimize impacts of the new SJPP Line. The width of the FPL Corridor varies along the route to provide flexibility within the corridor to minimize or avoid impacts to such areas as existing developments and large wetland areas.

A. From the St. Johns Substation to the Deerwood Substation

36. The SJPP line will exit the existing St. Johns substation at SR 207 near Lightsey Boulevard and utilize the existing 110-foot-wide St. Johns-Tocoi 230-kV ROW. The FPL Corridor will be collocated within this existing ROW north and west until the intersection with I-95. Along the existing ROW and in the vicinity of the St. Johns substation, the land use is residential or vacant.

37. At I-95, the preferred corridor will follow the eastern ROW line of the highway south to the intersection with Tocoi Road. The corridor in this stretch is 500 feet wide. Within the corridor in this stretch, the land use is vacant. There is some residential development outside the corridor to the east.

38. At the I-95/Tocoi Road intersection, the FPL Corridor is expanded in all four quadrants following property lines to allow FPL flexibility in traversing the short distance to

Deerwood substation and crossing I-95 to proceed south from Deerwood.

39. The FPL Corridor follows Tocoí Road to enter and exit the proposed Deerwood substation, encompassing 100 feet or less in width on both the north and south sides of the road. The line will be built either on the south or north side of the road. A FPL distribution line currently exists on the south side of Tocoí Road.

B. From the Deerwood Substation to the Vermont Substation

40. The FPL Corridor will leave the Tocoí Road alignment at the I-95 intersection. The FPL Corridor then follows the western ROW edge of I-95 south to the FEC Railroad, where the corridor turns to the southwest for a short distance. In this section, the corridor is 500 feet wide.

41. At the north end of the St. Augustine Industrial Park, the corridor follows property lines to the access road (Deerpark Boulevard) into the industrial park. The corridor is 200 feet wide in this section. From the north end of the access road, the FPL Corridor follows the east edge of the road south to the Vermont substation site, is 100 feet wide in this section, and includes an existing FPL distribution line.

C. From the Vermont Substation to the Anastasia Substation

42. The FPL Corridor exits the Vermont substation heading northeast toward I-95. In this area, the corridor will be of variable width and will include both sides of State Road 207 (SR 207). An existing 115-kV FPL transmission line already occupies the north side of the SR 207, and a distribution line is located on the south side. An existing FPL distribution line traverses north-south in this area and is also included in the corridor. In the area between the Vermont substation and I-95, the corridor is north and east of existing residential subdivisions.

43. The corridor between the Vermont substation and I-95 is widened to allow flexibility in accommodating a number of land use and engineering considerations. These considerations include the crossing of SR 207, the existing transmission line and distribution lines, existing residential development south of SR 207, existing commercial development north of SR 207, and a large borrow pond west of I-95.

44. The corridor will reach I-95 south of SR 207, at which point it will then follow I-95's western boundary southward. The corridor is 500 feet wide in this area where it parallels I-95 south to SR 206.

45. The predominant land use in the area between the Vermont and Anastasia substations is silviculture.

D. From the Anastasia Substation to the Pellicer Substation

46. At the intersection of SR 206 and I-95, the corridor is again widened variably to include the properties on the northwest and southwest quadrants of the interchange to provide flexibility in finalizing the Anastasia substation plans and providing ingress and egress to that substation.

47. The FPL Corridor will exit the Anastasia substation and follow the western boundary of I-95 southward. The corridor is 500 feet wide in this stretch with the exception of the location of a rest area on the west side of I-95, approximately 2.5 miles south of Anastasia substation. The corridor is of variable width around the rest area, but generally 1,000 feet wide to allow flexibility in traversing either the front or rear of the rest area. In this area, the predominant land use is silviculture.

48. Where I-95 intersects the FEC Railroad north of County Road 204 (CR 204), the FPL Corridor turns and follows the railroad southward. The corridor is located along the east side of the railroad and is 500 feet wide. North of CR 204, the corridor is expanded along the road to allow ingress to the Pellicer substation site located south of CR 204 and east of the railroad. Land uses in this area are primarily silviculture.

E. From the Pellicer Substation to the Pringle Substation

49. The FPL Corridor includes the entire Pellicer site, which is already owned by FPL, along the east side of the FEC Railroad south to Pellicer Creek. The corridor in this area crosses lands owned or proposed to be purchased by the SJRWMD for conservation purposes for approximately one mile.

50. From Pellicer Creek south to the Pringle substation, the corridor will follow the east side of the railroad bed and will be variable in width, generally 150 to 300 feet wide.

51. At the Pringle substation site, which is already owned by FPL, the corridor includes the entire substation site. The FPL Corridor for the stretch south of Pellicer Creek falls in a currently undeveloped portion of the Palm Coast Park Development of Regional Impact (DRI) within the City of Palm Coast's jurisdiction. The development order for the Palm Coast Park DRI provides for an easement for the SJPP transmission line within the FPL Corridor.

V. Compliance With Section 403.529(4) Criteria

A. Ensure Electric Power System Reliability and Integrity

52. The PSC found that there are regional transmission system limitations in St. Johns and Flagler Counties. By 2008, the existing 115kV transmission network between the Bunnell substation in Flagler County and the St. Johns substation in St. Johns County will not have sufficient capacity to provide

reliable electric service to the existing and proposed substations in the area. The SJPP Line would be built to alleviate potential overloads and low voltage conditions from a single contingency event, which occurs when a single element such as a generator, transmission circuit or transformer is eliminated from the system. If the SJPP Line is not built, service interruptions affecting up to 8,300 customers could occur.

53. In addition, the PSC found that the FPL North Region (extending from Indian River County to Nassau County) has grown by a compound annual average growth rate of 3.7 percent over the past five years. The SJPP Line is also needed to serve the increasing load and customer base in the area.

54. Operation of the SJPP Line would be consistent with the North American Electric Reliability Council and Florida Reliability Coordinating Council transmission system standards.

55. FPL has a responsibility to provide safe and reliable service to its customers. See § 366.03, Fla. Stat. The provision of reliable electric service is important to FPL and its customers. In the past, FPL has demonstrated the ability to plan a reliable electric system consistent with the NESC and ASCE standards.

B. Meet the Electrical Energy Needs of the State in an Orderly and Timely Fashion

56. The PSC recognized that FPL's planning studies indicate that the SJPP Line is needed by December 2008 to alleviate potential overloads and low voltage conditions from a single contingency event.

57. Location of the SJPP Line on the FPL Corridor would meet the electrical energy needs of the state in a timely fashion.

C. Comply with the Nonprocedural Requirements of Agencies

58. Construction, operation, and maintenance of the SJPP Line in the FPL Corridor will comply with applicable non-procedural requirements of agencies.

59. The Department has concluded that the project as proposed will comply with all applicable Department statutes, rules, policies, and procedures.

D. Be Consistent with Applicable Local Government Comprehensive Plans

60. The Department has concluded that the SJPP Line as proposed would produce a minimal adverse impact on the environment and public health, safety, and welfare without unduly conflicting with local statutes and local comprehensive plans.

61. After certification of this project, FPL will acquire the necessary property interests in a ROW within the certified

corridor for placement of the SJPP Line. Construction of transmission lines on such established ROWs is excepted from the definition of "development" in Section 163.3164(5), Florida Statutes. Accordingly, the provisions of the local comprehensive plans related to "development" that have been adopted by the local governments crossed by the SJPP Line are not applicable to this project.

62. To the extent the comprehensive plans of the local governments crossed by the SJPP Line include provisions applicable to non-development activities, the proposed transmission line in the FPL Corridor would be consistent with them.

63. The City of Palm Coast Comprehensive Plan is essentially silent on transmission lines as a land use, which is consistent with such lines being excepted from the definition of "development" regulated by the Plan.

64. Policy A.1.8.3 of the St. Johns County Comprehensive Plan provides that "future utility facilities shall be located to promote the efficient provision of services, minimize the cost of construction and maintenance, and minimize the impact on the natural environment." Because of the thoroughness of the corridor selection process and criteria, and the appropriateness of the corridor from a land use perspective, the proposed SJPP Line is consistent with that policy.

65. No variances or exemptions from applicable state or local standards or ordinances are needed for the project.

E. Implementation of Legislative Intent in Section 403.521

a. The Need for the SJPP Line as a Means of Providing Abundant Low-Cost Electrical Energy

66. The PSC determined that the SJPP Line is needed taking into account the factors set forth in Section 403.537, Florida Statutes.

67. In the need proceeding, the PSC considered two alternatives, including transmission modifications to the existing 115-kV system. The PSC accepted FPL's rejection of the two alternatives "due to economics and concerns with the ability to serve additional future customers west of the I-95/US-1 corridor." The PSC found that the proposed transmission line would "assure the economic well-being of the citizens of the state by serving projected new electric load in the region, and improving the region's electric reliability by minimizing the region's exposure to single contingency events."

68. The PSC has determined that the estimated cost of the Project is reasonable, and that the SJPP Line will assure the economic well-being of the citizens of the state by serving projected new electric load in the region and improving the region's electric reliability by minimizing the region's exposure to single contingency events.

b. Impact Upon the Public

69. The SJPP Line is appropriate from a land use perspective because this type of transmission line currently exists in all types of land uses in Florida, including residential, commercial, industrial, agricultural, and vacant land. The SJPP Line takes advantage of the opportunity to be collocated with other transmission lines, roadways, and railroad ROWs for almost the entire distance. By following these existing linear features, the FPL Corridor conforms to existing and future development patterns, and minimizes intrusion into residential areas and conservation lands. As a result, the proposed SJPP Line is in proximity to relatively few residences and only one crossing of lands either purchased or proposed for purchase under federal, state, or local land acquisition programs. Further, by collocating with other public and utility ROWs, the amount of land that will be required for the SJPP line is less than if it were not collocated.

70. The FPL Corridor minimizes impacts to existing homes by following a route where there is very little residential development and where planned residential development is very low density.

71. The SJPP Line as proposed will comply with all applicable non-procedural standards, including the noise ordinances of St. Johns County and the City of Palm Coast, and

the standards adopted by the Department limiting the electric and magnetic fields associated with transmission lines.

c. Impact Upon the Environment

72. The SJPP Line Project as proposed will have minimal environmental impact.

73. Construction of the SJPP Line within the FPL Corridor will not adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats. The FPL Corridor avoids or minimizes intrusion into the undisturbed wildlife habitats due to its collocation with existing linear facilities for almost its entire length. The current condition and relative value of function of the habitat in the FPL Corridor is minimal from a wildlife ecology and protected species perspective. Great care was taken in routing the FPL Corridor to avoid or minimize proximity of the corridor to known listed species locations, including routing inputs from wildlife agencies such as the Florida Fish and Wildlife Conservation Commission (FFWCC) and the U.S. Fish and Wildlife Service. Further, due to the presence of existing linear features along much of the route, clearing of additional natural habitats and potential wetland impacts will be minimized.

74. Construction of the SJPP Line within the FPL Corridor will not cause a significant adverse impact to the current condition and relative value of functions of the vegetative

communities within the FPL Corridor. First, nearly the entire length of the FPL Corridor allows placement of the transmission line within or adjacent to existing linear features to take advantage of previous disturbances to vegetation. FPL will also minimize impacts to forested wetland vegetation through the use of restrictive clearing practices during both construction and maintenance. In the forested wetland portions of the ROW, FPL will only take out trees and shrubs that have an expected mature height greater than 14 feet and "danger trees," which are trees that could fall into the conductors and cause an outage. In these areas, vegetation will be removed by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. The removal of vegetation in forested wetlands will not affect the vegetative root mat or soil surface conditions. The non-forested wetlands should not require any clearing.

75. There will be some filling in wetlands associated with the placement of pole pads and access roads. However, FPL will minimize impacts on wetlands vegetation through a careful alignment of the ROW and the varying of span distances between poles. FPL will also install an appropriate number and size of culverts to properly maintain existing wetland hydroperiods along areas of fill in wetlands. Also, any unavoidable wetland

impacts associated with the project will be mitigated in accordance with the Conditions of Certification.

76. FPL has agreed to avoid the removal of listed plant species on public lands and waters, wherever practicable. When removal is necessary on public lands/waters, FPL will consult with the Department, FFWCC, and the Department of Agriculture and Consumer Services to determine the appropriate steps to minimize, mitigate, or otherwise appropriately address potential project related impacts to listed plant species. FPL's commitment to avoid, minimize and/or mitigate potential impacts to listed plant species within public lands and waters will promote the conservation of endangered and threatened plant species populations and their habitats.

77. The SJPP Line Project will comply with all applicable state, regional, and local non-procedural regulations, including the wetland regulatory standards applicable to such projects.

d. Balance of Need versus Impacts

78. The SJPP Line would effect a reasonable balance between the need for a transmission line as a means for providing abundant low cost energy and the impact upon the public and the environment resulting from the location of the transmission line corridor and the construction and maintenance of the transmission line.

VI. Conditions of Certification

79. The design, construction, and operation of the SJPP Line as proposed in the FPL Corridor will comply with the conditions of certification set forth in Department Exhibit 1.

80. The conditions of certification establish a post-certification review process through which the final right-of-way, access road, and structure locations will be reviewed by agencies with regulatory authority over the project for the purpose of monitoring for compliance with the conditions of certification.

81. While the FPL Corridor has few homes in close proximity to it and very limited wetland crossings, FPL has agreed to conditions of certification that further minimize land use and environmental impacts. For example, FPL has agreed that to the extent practicable it will locate its ROW to avoid the taking of homes, to collocate the ROW within or adjacent to existing ROWs, and to vary the length of the span between poles as appropriate to eliminate or reduce wetland impacts.

CONCLUSIONS OF LAW

82. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, this proceeding. §§ 120.569 and 403.527(2), Fla. Stat.

83. This certification proceeding was held pursuant to the Transmission Line Siting Act, Sections 403.52 through 403.5365,

Florida Statutes, and Florida Administrative Code Chapter 62-17,

Part II. The intent of this licensing process is:

to fully balance the need for the transmission lines with the broad interests of the public in order to effect a reasonable balance between the need for the facility as a means of providing abundant low-cost electrical energy and the impact on the public and the environment resulting from the location of the transmission line corridor and the construction and maintenance of the transmission lines.

§ 403.521, Fla. Stat. To implement this intent, the Legislature has set forth specific requirements for the PSC to determine the need for the proposed transmission line and address other matters within its jurisdiction, for other various agencies to prepare reports and studies regarding matters within their jurisdiction, for publication of notice of the application and certification proceeding, for third parties to have an opportunity to offer alternate corridor routes for consideration, and for criteria to be considered in determining whether an application should be approved in whole, approved with modification or conditions, or denied. See §§ 403.526, 403.527, 403.5271, and 403.529, Fla. Stat.

84. All parties identified in Finding of Fact No. 1 have standing in this proceeding.

85. FPL has the burden of proving that, under the criteria of Section 403.529(4), Florida Statutes, the FPL Corridor for

the SJPP Line should be certified as proposed based upon a preponderance of the evidence presented at the certification hearing. See, e.g., Fla. Dept. of Transp. v. J.W.C Co., Inc., 396 So. 2d 778, 788 (Fla. 1st DCA 1981).

86. The evidence in the record of this proceeding demonstrates compliance with the procedural requirements of the TLSA, including the notice requirements for the certification and public hearings.

87. In deciding whether FPL's Application for Corridor Certification should be approved, approved with conditions, or denied, the Siting Board must determine whether, and the extent to which, the location of the corridor and the construction and maintenance of the transmission line in the corridor will:

- (a) Ensure electric power system reliability and integrity;

- (b) Meet the electrical energy needs of the state in an orderly and timely fashion;

- (c) Comply with nonprocedural requirements of agencies;

- (d) Be consistent with applicable local government comprehensive plans; and

- (e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact upon the public and the environment resulting from the location of the transmission line corridor and the maintenance of the transmission lines.

§ 403.529(4), Fla. Stat.

88. Compliance with Section 403.529(4)(a), Florida Statutes. The PSC determined the need for a new 230-kV transmission line between the St. Johns River and Pringle substations in Order No. PSC-05-0527-FOF-EI, issued on May 13, 2005. Among other things, the PSC found that construction of the proposed SJPP Line would "improve the region's electric reliability by minimizing the region's exposure to single contingency events." The PSC also found that if FPL does not add this new transmission capability by 2008, up to 8,300 electric customers could be subject to service interruptions. These findings of the PSC address the extent to which the reliability, integrity, and service restoration of the electric system will be enhanced. The PSC's determination of need for the SJPP Line Project is binding upon all parties to the certification proceeding. § 403.537(1)(c), Fla. Stat. By submitting the PSC Order Determining Need into the record, FPL made a prima facie showing that the FPL Corridor would enhance electric system reliability, integrity, and restoration of service. The PSC found that the FPL Corridor meets the criterion of Section 403.529(a), Florida Statutes.

89. Compliance with Section 403.529(4)(b), Florida Statutes. The PSC acknowledged in its Order Determining Need for the SJPP Line that FPL's planning studies indicate the

proposed transmission line needs to be in service by December 2008 to alleviate potential overloads and low voltage conditions from a single contingency event. Evidence regarding the design of the transmission line, the construction phases for the transmission line, including the projected 13-month construction schedule, and the proposed location of the SJPP Line demonstrates that the SJPP Line will meet the electrical needs of the state in an orderly and timely fashion within the time frames established by the PSC.

90. Compliance with Section 403.529(4)(c), Florida Statutes. The location of the SJPP Line in the FPL Corridor and the construction and maintenance of that SJPP Line in conformance with the recommended Conditions of Certification contained in Department Exhibit 1 will comply appropriately with the non-procedural requirements of all agencies.

91. Compliance with Section 403.529(4)(d), Florida Statutes. There are no inconsistencies between the proposed SJPP Line project and the local government comprehensive plans adopted by local governments whose jurisdictions are crossed by the SJPP Line.

92. Compliance with Section 403.529(4)(e), Florida Statutes. The location of the FPL Corridor and the construction, operation, and maintenance of the SJPP Line in that corridor provide a reasonable balance between the need for

the transmission line and the impact of the transmission line upon the public and the environment. The impact upon the public and the environment will be minimized by the SJPP Line's collocation with existing linear facilities for nearly its entire length. Furthermore, the impact from clearing activities and any other construction and operation activities associated with the SJPP Line will be minimal, particularly when balanced with the significant electrical energy requirements that will be satisfied by the construction and operation of the SJPP transmission line in the FPL Corridor.

93. Based upon a preponderance of the evidence presented at the certification hearing, FPL has met its burden of proving that the SJPP Line and related facilities should be certified as proposed, subject to the Conditions of Certification included in Department Exhibit 1.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Siting Board enter a Final Order approving FPL's St. Johns-Pellicer-Pringle 230-kV Transmission Line Application for Certification subject to the Conditions of Certification set forth in Department Exhibit 1.

DONE AND ENTERED this 6th day of March, 2006, in
Tallahassee, Leon County, Florida.

Donald R. Alexander

DONALD R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 6th day of March, 2006.

ENDNOTE

1/ All subsequent references are to the 2005 version of the
Florida Statutes.

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NOTICE OF RIGHT TO FILE EXCEPTIONS

All parties have the right to submit written exceptions within 15 days of the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will render a final order in this matter.



Jeb Bush
Governor

Department of Environmental Protection

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3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

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Colleen Castille
Secretary

April 28, 2006

RE: Florida Power & Light
St. Johns-Pellicer-Pringle, 230 kV
Transmission Line Siting Application
OGC No. 05-1712 DOAH No. 05-2478TL

To All Parties:

Enclosed please find the Conditions of Certification that were incorporated by reference in the Final Order Approving Certification of Transmission Line for Florida Power & Light St. Johns-Pellicer-Pringle, 230kV Project. This document was inadvertently separated from the Final Order that was mailed to you on April 27, 2006.

If you have any questions please feel free to contact me.

Sincerely,

Scott Goorland
Senior Assistant General Counsel

Enclosure

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**ST. JOHNS-PELLICER-PRINGLE 230-kV TRANSMISSION LINE
FLORIDA POWER & LIGHT COMPANY
CONDITIONS OF CERTIFICATION: TA 05-13**

Certified XX/XX/2006

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I. CERTIFICATION CONTROL

A. Under the control of these Conditions of Certification, Florida Power & Light Company (FPL) will construct and operate a 230-kilovolt (kV) transmission line consisting of an approximately 26.1 mile transmission line connecting the existing St. Johns substation near St. Augustine in St. Johns County to the proposed Pringle substation in the City of Palm Coast in Flagler County. Four intermediate substations will be constructed in between the St. Johns substation and the proposed Pringle substation; Deerwood, Vermont, Anastasia and Pellicer, and all are located in St. Johns County. The facility is known as the St. Johns-Pellicer-Pringle 230-kV transmission line and is to be located within a certified corridor located within St. Johns and Flagler Counties, Florida.

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

I Citation: Section 403.531, F.S. (2004).

II. APPLICABLE RULES

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

II Citation: Section 403.531, F.S. (2004).

III. DEFINITIONS

Unless otherwise indicated herein, the meaning of terms used herein shall be governed by the definitions contained in Chapters 373 and 403, Florida Statutes, and any regulation adopted pursuant thereto. In the event of any dispute over the meaning of a term used in these conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any

other state or federal statute or regulation or, in the alternative by the use of the commonly accepted meaning as determined by the Department. In addition, the following shall apply:

- A. "Application" shall mean the Application for Corridor Certification for the Florida Power & Light Company St. Johns-Pellicer-Pringle transmission line.
- B. "DCA" shall mean the Florida Department of Community Affairs.
- C. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.
- D. "DHR" shall mean the Florida Department of State, Division of Historical Resources.
- E. "DOT" shall mean the Florida Department of Transportation.
- F. "Emergency conditions" shall mean urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity, and necessitating new or replacement transmission line components or access facilities.
- G. "Facility" or "Project" shall mean the St. Johns-Pellicer-Pringle 230-kV electrical "transmission line" as defined in Section 403.522(21), F.S.
- H. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- I. "FFWCC" shall mean the Florida Fish and Wildlife Conservation Commission.
- J. "FPL" shall mean Florida Power & Light Company, the Applicant/Licensee.
- K. "Licensee" shall mean FPL, which has obtained a certification order for the subject electrical transmission line.
- L. "Listed species" shall mean the species listed in Table 2.3-3 or Table 2.3-2 of the Application as endangered, threatened or species of special concern by FFWCC, the Florida Department of Agriculture and Consumer Services, or the U.S. Fish and Wildlife Service.
- M. "Post-certification submittal" shall mean a submittal made by FPL pursuant to a Condition of Certification.
- N. "ROW" shall mean the transmission line right-of-way to be selected by FPL within the certified corridor in accordance with the Conditions of Certification.
- O. "SJRWMD" shall mean the St. Johns River Water Management District.

P. "State water quality standards" shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapter 62-302, F.A.C., as revised through September 30, 2003.

Q. "Sufficient" shall mean the post-certification filing provides the data required by the relevant condition of certification.

R. "Transmission line" shall mean the Florida Power & Light Company St. Johns-Pellicer-Pringle 230-kV transmission line.

S. "Wetlands" shall mean those areas meeting the definition set forth in Section 373.019(22), F.S., as delineated pursuant to Chapter 62-340, F.A.C., and ratified by Section 373.4211, F.S.

III Citation: Section 403.531, F.S. (2004).

IV. DESIGN AND PERFORMANCE CRITERIA

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

IV Citation: Section 403.531, F.S. (2004).

V. RIGHT OF ENTRY/MONITORING

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

(1) At reasonable times, to enter upon the ROW in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this certification; or

(2) During business hours, to enter FPL's premises in which records are required to be kept under this certification; and to have access to and copy any records required to be kept under this certification.

B. When requested by DEP, on its own behalf or on behalf of another agency with regulatory jurisdiction, FPL shall within 10 working days or such longer period as may be mutually agreed upon by DEP and the Licensee furnish any information required by law, which is needed to determine compliance with the certification. If FPL becomes

aware that relevant facts were not submitted or were incorrect in the Application or in any report to DEP or other agencies, such facts or information shall be corrected promptly.

V Citation: Section 403.531, F.S. (2004).

VI. EMERGENCY REPORTING

Replacement of ROW access roads or transmission lines constructed under this certification necessitated by emergency conditions shall not be considered a modification pursuant to Section 403.5315, F.S. (2004). An oral report of the emergency shall be made to DEP as soon as possible. Within 14 calendar days after correction of an emergency, which would require FPL to perform an activity not in accordance with the Conditions of Certification, a report to DEP shall be made outlining the details of the emergency and the steps taken for its temporary relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas, or alteration of archaeological or historical resources.

VI Citation: Section 403.531, F.S. (2004).

VII. CERTIFIED CORRIDOR

The certified corridor is depicted in by Figure 1.1-2 in the application as attached hereto in Attachments 1 and 2.

VII Citation: Section 403.531, F.S. (2004).

VIII. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. Purpose of Submittals

Conditions of Certification which provide for the post-certification submittal of information to DEP or other agencies by FPL are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the ROW and the construction and maintenance of the transmission line. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with the Conditions of Certification, without any further agency action.

B. Filings

All post-certification submittals of information by FPL are to be filed with DEP Siting Coordination Office and the DEP Northeast District Office. Copies of each submittal shall be simultaneously submitted to any other agency indicated in the specific Condition requiring the post-certification submittal.

C. Completeness

DEP shall promptly review each post-certification submittal for completeness. This review may include consultation with the other agency(ies) receiving the post-certification submittal. For the purposes of this condition, completeness shall mean that the information submitted is both complete and sufficient. DEP's finding of completeness shall specify the area of the right-of-way affected, and shall not delay further processing of the post-certification submittal for non-affected areas. The applicant may request that DEP Siting Coordination Office hold a meeting within 20 days after submittal to discuss any sufficiency issues. The applicant may continue to supplement the submittal with additional information through the 25th day.

Pursuant to Section 62-17.665 (7)(c) if any portion of a post-certification submittal is found to be incomplete, FPL shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

D. Interagency Meetings

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

E. Reasonable Assurances of Compliance

Within 90 days of the filing of a complete post-certification submittal, DEP shall give written notification to FPL and the other agency(ies) to which the post-certification information was submitted of its determination whether there is reasonable assurance of compliance with the conditions of certification. If it is determined that reasonable assurance has not been provided, FPL shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify FPL in writing within 90 days of receipt of a complete post-certification submittal shall constitute a compliance determination.

F. Commencement of Construction

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

G. Water Quality Certification

For each post-certification submittal which addresses matters within DEP's environmental resource permitting jurisdiction, DEP shall provide to the U.S. Army Corps of Engineers (USCOE) a letter in accordance with DEP Rule 62.17.665(7)(f), F.A.C. This

letter shall be sent concurrently with a determination of compliance pursuant to paragraph E. above, or immediately upon request by FPL more than 90 days after the filing of a complete post-certification submittal addressing matters within DEP's environmental resource permitting jurisdiction.

H. Coastal Zone Consistency

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

I. Revisions to Design Previously Reviewed for Compliance

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

J. Variation to Submittal Requirements

DEP, in consultation with the appropriate agencies, and FPL may jointly agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

K. Disputes

Any agency which received a copy of a post-certification submittal pursuant to these Conditions may dispute a determination by DEP that a post-certification submittal provides reasonable assurances of compliance with the Conditions of Certification by following the procedures set forth in Chapter 120, F.S.

VIII Citation: Section 403.531, F.S. (2004); Rules 62-17.600 and 62-17.665, F.A.C.; Sections 373.413 and 373.416, F.S. (2004); Rules 40C-4.101, F.A.C.; Section 120.569, F.S. (2004)

IX. DISPUTE RESOLUTION

If a situation arises in which mutual agreement cannot be reached between DEP and another agency receiving a post-certification submittal or between DEP and FPL regarding compliance with the Conditions of Certification, then the matter shall be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The applicant or DEP may request DOAH to establish an expedited schedule for the processing of such a dispute.

IX Citation: Sections 403.527, 403.531 and 120.57, F.S. (2004).

X. SEVERABILITY

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

X Citation: Sections 403.529 and 403.531, F.S. (2004).

XI. ENFORCEMENT

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of Certification are binding and enforceable pursuant to Sections 403.141, 403.161, and 403.533, F.S. Any noncompliance by the applicant with a Condition of Certification constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, permit termination, permit revocation, or permit revision. The Licensee is placed on notice that the Department will review this certification periodically and may initiate enforcement action for any violation of these Conditions.

B. All records, notes, monitoring data and other information relating to the construction or operation of this certified transmission line which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the certified source arising under the Florida Statutes or Department rules, except where such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

XI Citation: Section 403.141, 403.161 and 403.533, F.S. (2004)

XII. REVOCATION OR SUSPENSION

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

XII Citation: Section 403.532, F.S. (2004).

XIII. PROPERTY RIGHTS

The issuance of this certification does not convey any property rights in either real or personal property, or any exclusive privileges thereto. The Licensee shall obtain title, lease, easement, or right of use from the State of Florida to any sovereignty submerged or other state-owned lands occupied by the right of way for the transmission line.

XIII Citation: Section 403.531, F.S. (2004).

XIV. PROCEDURAL RIGHTS

No term or Condition of Certification shall be interpreted to preclude the post-certification exercise by the Licensee of whatever procedural rights it may have under Chapter 120, F.S.

XIV Citation: Chapter 120, F.S. (2004).

XV. MODIFICATION OF CERTIFICATION

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

1. The Secretary of the Department may modify any condition of this certification after notice and opportunity for hearing.

2. The Secretary of the Department may grant modifications necessary to meet licensing conditions or requirements imposed on FPL by any federal regulatory agency. FPL shall notify DEP at least 30 days prior to the issuance of the federal license that would require such a modification, if known, or in any event, as soon as the federal agency notifies FPL.

3. The Secretary of the Department may authorize the reconstruction of the ROW or transmission line necessary to avoid or mitigate an emergency condition. Such a modification shall be obtained only when an emergency replacement of a transmission line pursuant to Rule 62-17.695 is not required or when an emergency replacement must be further modified after the emergency conditions requiring the original reconstruction are no longer present.

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

XV Citation: Sections 120.569(2)(n) and 403.5315, F.S. (2004); Rule 62-17.680, F.A.C.

XVI. SUBMITTALS AND NOTICES REQUIRED BY CONDITIONS

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

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

Florida Department of Environmental Protection

7825 Baymeadows Way, Ste B200
Jacksonville, FL 32256

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

Florida Fish & Wildlife Conservation Commission
Division of Environmental Services
620 South Meridian Street
Tallahassee, FL 32399-1600

Division of Historical Resources and
State Historic Preservation Officer
Office of the Director
R.A. Gray Building
500 S. Bronough Street
Tallahassee, FL 32399-0250

Northeast Florida Regional Planning Council
Office of the Executive Director
6850 Belfort Oaks Place
Jacksonville, FL 32216

St. Johns River Water Mgmt. District
4049 Reid Street, POB 1429
Palatka, FL 32178-1429

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

St. Johns County
Office of Administrator
4020 Lewis Speedway
St. Augustine, FL 32084

Flagler County
Planning & Zoning
1200 East Moody Blvd. Rm #111
Bunnell, FL 32110

City of Palm Coast
Director – Development Services
2 Commerce Blvd.
Palm Coast, FL 32164

XVII. TRANSFER OF CERTIFICATION

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

XVII Citation: Section 403.531, F.S. (2004), Chapter 62-17, F.A.C.; Rule 40C-4.351, F.A.C.

XVIII. ROW LOCATION

A. To the extent feasible, FPL shall locate the transmission line ROW so as to avoid the taking of homes.

B. To the extent feasible, as described in the Application, FPL shall collocate within or adjacent to existing ROWs for those portions of the corridor which include such existing ROWs.

Agency: Department of Community Affairs

XIX. PROCESS FOR REVIEW OF ROW LOCATION

A. Prior to the finalization of the ROW location, three copies of blue-line reproductions 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 Northeast District Office, SJRWMD, DOT, DCA, St. Johns County and the City of Palm Coast, delineating the certified corridor, and the selected transmission line ROW. In addition, FPL shall note on the aerial photographs new development within the corridor that has occurred since the photograph was taken. FPL shall notify all parties of such filing and, if needed, shall meet with DEP to discuss the ROW location. This information may be submitted in segments. The agencies receiving copies of the aerial photographs from FPL shall have an opportunity to review the photographs and to notify DEP of any apparent conflicts with the requirements of the Conditions of Certification. However, this paragraph shall not operate to avoid the need for post-certification submittals and compliance reviews otherwise required by the Conditions of Certification.

B. After review of the aerial photographs and comments from the other reviewing agencies, if DEP Siting Coordination Office has reason to believe that the construction of the transmission line, access roads or pads within FPL's designated ROW cannot be accomplished in compliance with the Conditions of Certification, FPL shall be so notified in writing, with copies to other parties to the certification proceeding of the

particular basis for DEP's conclusion, and possible corrective measures which would bring the Project into compliance. If such notice is not received within 15 days of FPL's submittal of the aerial photographs to the agencies, FPL may proceed with design of the transmission line on the noticed ROW.

C. The acquisition of a particular ROW or the expenditure of funds toward acquisition of a particular ROW prior to the agencies' review pursuant to this condition will be at FPL's risk, and no party will be 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 FPL has acquired interest in the entire length of the transmission line ROW in a county, FPL shall:

1. File a statement with the clerk of the circuit court for each county through which the corridor passes certifying that all lands required for the transmission line ROW within the corridor have been acquired. FPL shall also file with the county Planning Department a map at the scale of 1" = 400' showing the boundaries of the acquired ROW.

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

XIX Citation: Sections 403.531 and 403.4312, F.S. (2004); Rule 62-17.600(4), F.A.C.

XX. ROW SURVEYS

A. Endangered Species

Prior to ROW acquisition where access is available, but in any event prior to start of construction within any of the ROWs, FPL shall survey the final right-of-way in areas characterized by habitat features for listed species to identify the occurrence of any listed species. The survey shall be conducted in accordance with USFWS/FFWCC guidelines by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for endangered species. The survey shall be done in accordance with recognized methodologies. This survey shall also identify any wading bird colonies within one-half mile of the project ROW that may be affected. If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the DEP Northeast District Office, the FFWCC's Office of Environmental Services, the SJRWMD, St. Johns County, Flagler County and U.S. Fish and Wildlife Service. If listed vegetation species are found on public land or water, their presence shall be reported to the DEP Siting Coordination Office and the Florida Department of Agriculture and Consumer Services. Listed wildlife species and listed vegetation species on public land or water shall not be disturbed, if practicable. If avoidance is not practicable, FPL shall consult with DEP, FFWCC, and, if possible, the U. S. Fish and Wildlife Service for listed wildlife species, and with the Florida Department of Agriculture and Consumer Services for listed vegetation

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

XX.A. Citation: Sections 372.072 and 403.531, F.S. (2004); Chapters 5B-40 and 39-27, F.A.C., Flagler County.

B. Red-cockaded Woodpeckers

Prior to the ROW acquisition where access is available, but in any event prior to construction, all pine forests in the proposed ROW shall be surveyed for the possible occurrence of red-cockaded woodpeckers, colony trees or any adjacent mature timber, which could potentially become colony trees. If any of the above are found, the ROW shall be routed around the colony. In addition, FFWCC shall be contacted for site-specific coordination.

C. Gopher Tortoises

Prior to final design of the transmission line facilities, all open woods, scrub, and grasslands in the proposed ROW shall be surveyed for the possible occurrence of Gopher tortoise, active burrows, inactive burrows, or habitat suitable for potential burrowing. If Gopher tortoise, active burrows, and or inactive burrows are found, the poles, pads, or access road shall be located to avoid the burrows or appropriate permits shall be obtained from the FFWCC. In addition, FFWCC shall be contacted for site-specific coordination.

D. Archaeological Survey

After the ROW has been selected, FPL shall conduct a survey of archaeological sensitive areas, as determined in consultation with the Department of State, Division of Historical Resources (DHR), where they are crossed by the ROW. This report shall be submitted to DHR. If practicable, sites considered to be eligible for the National Register shall be avoided during construction of the transmission line and access roads, and subsequently during maintenance of the ROWs. For any other significant site, FPL shall consult with DHR to determine appropriate action. If avoidance is not practicable, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR. If historical or archaeological artifacts are discovered at any time within the project site, FPL shall notify the DEP Northeast District office and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, Tallahassee, Florida 32399-0250, telephone number (850) 487-2073.

XX.D. Citation: Sections 267.061 and 403.531, F.S. (2004).

XXI. ACTIVITIES IN WETLANDS

A. Activities Within Wetlands or Other Surface Waters

At least 60 days prior to the projected commencement of construction of any portion of the transmission line in wetlands or other surface waters, FPL shall submit to DEP's Northeast District Environmental Resource Permitting Section and the U.S. Army Corps of Engineers a *Joint Environmental Resource Permit Application*, DEP Form No. 62-343.900(1). Information may be submitted by discrete sections of the ROW; FPL shall consult with the DEP to identify mutually agreeable section for purposes of wetlands submittals. The completed application for each section shall be reviewed pursuant to Condition VIII. "Construction" in this context shall include land clearing, excavation, the placement of structure pads, access roads, culverts, fill materials, and related activities. Construction activities shall not include the stringing of conductors on existing transmission line structures or on structures located outside wetlands or other surface waters.

XXI.A. Citation: Sections 373.414 and 373.416, F.S. (2004); Rules 40C-4.091, 40C-4.101, 40C-4.301, 40C-4.302, and 40C-4.900, F.A.C.

B. Reduction and Elimination of Impacts

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

2. Finger roads, connecting the existing road to the structure pads and access roads, which must be constructed in areas where an existing FPL access road or public road is not available shall be constructed in a manner which does not impede natural drainage flows and reduces or eliminates adverse impacts to on-site and adjacent wetlands to the extent practicable. FPL shall be deemed to have satisfied this condition if the access and finger roads satisfy the criteria of Rules 40C-4.301 and 40C-4.302, F.A.C., and the applicable portions of the SJRWMD Applicant's Handbook: Management and Storage of Surface Waters.

3. FPL shall make an effort to reduce or eliminate impacts to wetlands and other surface waters within the certified corridor. The length of the span between transmission line structures shall be varied as appropriate and other design changes, which shall include but not be limited to a reduction in pad size, elimination of access roads, use of finger fill from existing ROWs and/or modification of construction techniques shall be considered to eliminate or reduce wetland impacts.

4. To the extent practicable and utilizing the typical structures shown in the Application, access roads, culverts and structures shall be located:

- a. to reduce or eliminate wetland impacts from the project; and
- b. to avoid conflict with existing underground water and sewer facilities properly documented in county records.

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

XXI.B. Citation: Sections 373.414 and 373.416, F.S. (2004); Rules 40C-4.091, 40C-4.101, 40C-4.301, 40C-4.302, 40C-4.381 and 40C-4.900, F.A.C.

C. Consultation with Wetland Agencies

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

XXI.C. Citation: Section 403.523, F.S.

XXII. DRAINAGE AND EROSION CONTROL

A. Maintenance of Drainage/Hydroperiod

FPL shall employ best management practices, construction techniques, and adequate culverting in order to maintain existing drainage patterns along the transmission line ROW. Within all wetland areas affected, wetland control elevations shall be established and maintained. This condition shall not preclude FPL from improving preconstruction hydroperiods provided such improvement can be achieved in compliance with the other Conditions of Certification. FPL shall be deemed to have satisfied this condition if the access and finger roads satisfy the criteria of Rules 40C-4.301 and 40C-4.302, F.A.C., and the applicable portions of the SJRWMD Applicant's Handbook: Management and Storage of Surface Waters.

XXII.A. Citation: Sections 373.416 and 403.531; Rules 40C-4.091, 40C-4.301, 40C-302 and 40C-4.900, F.A.C.

B. Erosion/Runoff Control

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

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

3. To control runoff which may reach and thereby pollute waters of the state, necessary measures shall be utilized to settle, filter, treat or absorb silt-containing

or pollutant-laden storm water to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units (NTU) above background in waters of the state. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings, and must be maintained in effective condition at all locations where sediment has the potential to reach nearby wetlands until construction in the area is completed and disturbed soil areas are stabilized. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5. FPL shall comply with the applicable nonprocedural requirements in Rule 40C-4, F.A.C.

XXII.B. Citation: Section 403.531, F.S. (2004); Rule 40C-4.381, F.A.C.

XXIII. CONSTRUCTION PRACTICES

A. Wetland Clearing

1. FPL shall use only restrictive clearing practices during construction and maintenance of the transmission line where it crosses forested wetlands. Restrictive clearing, as used in this condition, is the removal of vegetation by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. These methods may be used alone or in combination, as may be appropriate for specific sites. All cut vegetation must be removed from wetlands unless other techniques, such as mulching or burning in place, are agreed to by DEP Siting Coordination Office in the post-certification review process. Restrictive clearing includes the removal of vegetation from areas extending from the transmission line centerline to 20 feet on each side of the outer conductors and in the structure pad areas (approximately 60 feet by 50 feet). Removable construction matting in conjunction with best management practices may be used in wetlands to support equipment. The remainder of the ROW in wetland areas, beyond 20 feet on either side of the outer conductors and the structure pads, shall not be cleared; however, vegetation that has an expected mature height greater than 14 feet may be removed. In addition, danger timber (trees or limbs likely to contact a conductor if felled) within or outside the right-of-way may be removed.

2. Stumps may be removed in wetlands where a structure is to be placed (typically a 10-foot by 10-foot area within the cleared structure pad). Tree stumps under the conductors and in the structure pad may be removed, sheared, or ground to 6 inches below the ground line to allow for travel and construction activities. Tree stumps in the area beyond 20 feet on either side of the outer conductors shall be left in place to preserve the root mat.

XXIII.A. Citation: Section 403.531, F.S.

B. Open Burning

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum, and any other applicable county regulation. Prior to any burning of construction-generated material, after initial land clearing that is allowed

to be burned in accordance with Chapter 62-256, F.A.C., FPL shall seek approval from the DEP Northeast District Office whose approval may be granted in conjunction with the Division of Forestry and any other county regulations that may apply. Burning shall not occur if not approved by the appropriate agency or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.

XXIII.B. Citation: Section 403.531, F. S. (2004); Chapters 5I-2 and 62-256, F.A.C.

C. Solid Wastes

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

XXIII.C. Citation: Section 403.531, F.S. (2004); Chapter 62-701, F.A.C.

D. Hazardous Substances

If hazardous substances are used in the construction or maintenance of the transmission line, FPL shall provide the DEP with reasonable assurances that such hazardous substances will not enter the surface water management system for the transmission line.

XXIII.D. Citation: Sections 403.531 and 403.414. F.S. (2004); Chapter 40C-4, F.A.C.

XXIV. MITIGATION

A. If the project complies with the following mitigation is not required by DEP:

1. All permanent fill shall be at grade. Fill shall be limited to that necessary for the electrical support structures, towers, poles, guy wires, stabilizing backfill, and at-grade access roads limited to 20-foot widths; and
2. The Licensee may utilize access and work areas limited to the following: a linear access area of up to 25 feet wide between electrical support structures, an access area of up to 25 feet wide to electrical support structures from the edge of the right-of-way, and a work area around the electrical support structures, towers, poles, and guy wires. These areas may be cleared to ground, including removal of stumps as necessary, and
3. Vegetation within wetlands may be cut or removed no lower than the soil surface under the conductor, and 20 feet to either side of the outermost conductor, while maintaining the remainder of the project right-of-way within the wetland by selectively cleaning vegetation which has an expected mature height above 14 feet. Brazilian pepper, Australian pine, and melaleuca shall be eradicated throughout the wetland portions of the right-of-way; and
4. Erosion control methods shall be implemented as necessary to ensure that state water quality standards for turbidity are met. Diversion and impoundment of surface waters shall be minimized; and

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

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

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

B. If the project does not comply with the requirements of paragraph A above, mitigation can be required. For construction in wetlands that does not comply with those requirements, FPL shall propose a mitigation plan as a post-certification submittal under Condition VIII., providing the following information to the DEP Northeast District Environmental Resource Permitting Section for review:

1. detailed description, location map, and recent aerial photograph of each wetland impact area in which the Rule 62.341.620(2)(b)-(i), F.A.C. limitations were not met;

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

3. narrative, drawings, location map, and aerial photographs showing and explaining the proposed mitigation;

4. detailed description of the existing conditions at the impact site and at the mitigation area;

5. acreage and wetland type of the proposed mitigation;

6. documentation providing reasonable assurance that the proposed mitigation will be successful; and

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

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

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

E. If the proposed mitigation plan is deemed acceptable by DEP, the construction conditions, success criteria and a monitoring plan will be incorporated into the construction conditions as an Attachment.

F. No construction within wetlands subject to the regulatory jurisdiction of DEP that does not comply with the non-procedural limitations of Rule 62.341.620(2)(b)-(i), F.A.C., shall commence until DEP approves a mitigation plan, and mitigation construction conditions, success criteria and a monitoring plan are incorporated into the certification conditions.

G. FPL shall be deemed to have met the requirements of this condition if FPL satisfies the criteria of either Section 4.3 or 4.4 of the Basis of Review for Environmental Resource Permit Applications.

XXIV. Citation: Sections 373.414 and 403.531, F.S. (2004); Rules 40C-4.091, 40C-4.301, 40C-4.302, 40C-4.900 and 62-341.620, F.A.C.

XXV. ELECTRIC AND MAGNETIC FIELD EFFECTS

A. Bee Hives

FPL shall advise known beekeepers having bee hives within or near the ROW of the potential effect of the transmission line on bee hives.

XXV.A Citation: Section 403.531, F.S.

B. Radio and Television Interference

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

XXV.B Citation: Section 403.531, F.S.

C. Electric and Magnetic Fields

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

XXV.C Citation: Section 403.523(10), F.S. (2004); Chapter 62-814, F.A.C.

XXVI. HERBICIDES

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

XXVI Citation: Sections 403.061, 403.088, 487.031 and 487.041, F.S. (2004).

XXVII. OPERATION AND MAINTENANCE OF FACILITIES

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

XXVII Citation: Section 403.531, F.S. (2004).

XXVIII. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

A. Legal/Administrative Conditions

1. Compliance Requirements

This transmission line shall be constructed, operated and maintained in compliance with and meet all non-procedural requirements set forth in Chapter 373, F.S. and Chapter 40C-9 (Water Management Lands Acquisition and Management Rule), F.A.C.

[Section 373.1391, F.S.; Section 40C-9.350, F.A.C.]

2. Construction, Operation, and Maintenance Responsibilities

The Licensee shall be responsible for the construction, operation, and maintenance of all facilities installed for the proposed project.

B. Enforcement

1. The SJRWMD may take any and all lawful actions that are necessary to enforce any condition of this Certification related to SJRWMD Lands (Condition XXVIII). Prior to initiating such action, the SJRWMD shall notify the Secretary of DEP and the Licensee of the proposed action.

Agency: SJRWMD Reference: Section 373.603, F.S.;Chapter 40C-9, F.A.C.

2. Licensee agrees to pay all removal and restoration costs, investigative costs, court costs and reasonable attorney's fees, including appeals, resulting from any action taken by the SJRWMD to obtain compliance with this Condition XXVIII.

C. Right Of Way Conditions Within Lands Of SJRWMD

1. Licensee's right-of-way may include lands owned by SJRWMD only after Licensee has demonstrated and provided written documentation acceptable to SJRWMD that it is unable to obtain for fair market value approval to use the Florida East Coast Railway's right-of-way for construction, operation and maintenance of the transmission line.

Agency: SJRWMD.

2. In the event that any portion of the right-of-way is located on lands owned by SJRWMD as authorized by this Certification, any such portion shall be located on the eastern side of the Florida East Coast Railway right-of-way (i.e. on the western boundary of lands owned by SJRWMD that lie to the east of the Florida East Coast Railway). The width of the right-of-way shall be the minimum necessary for construction, operation and maintenance of the transmission line in the location on SJRWMD lands and any access road constructed by the Licensee on SJRWMD lands with the right-of-way shall be maintained by the Licensee and available for use by SJRWMD.

Agency: SJRWMD.

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

4. Prior to the commencement of any activities associated with the construction of any portion of the transmission line that will cross over, on, under, or otherwise use SJRWMD lands, Licensee shall submit to SJRWMD for review and written approval an independent appraisal of the land described by the Right-of-Way Survey. Licensee shall submit to SJRWMD funds in an amount agreed upon by SJRWMD and Licensee sufficient to compensate SJRWMD for the loss of intended use of the land within the transmission line's right-of-way that is located on SJRWMD lands.

Agency: SJRWMD.

5. Upon completion and acceptance by SJRWMD of the Right-of-Way Survey, and upon receipt of funds in an amount agreed upon by SJRWMD and Licensee to be sufficient to compensate SJRWMD for the loss of intended use of the land within the transmission line's right-of-way that is located on SJRWMD lands, Licensee shall be entitled to receive an easement substantially in the form attached hereto as "Attachment 3" (Right-of-Way Easement).

Agency: SJRWMD.

6. In the event Licensee seeks to use SJRWMD lands outside of the transmission line right-of-way for access during construction of the transmission line and/or for inspection and maintenance after construction, Licensee shall submit to SJRWMD a detailed plan identifying the proposed route, type and number of vehicles to be used and the frequency of such use. All use of SJRWMD lands prior to conveyance of a right-of-way easement by SJRWMD, including, but not limited to survey or engineering work, or use of SJRWMD lands outside of the transmission line right-of-way, once conveyed, shall be in accordance with Section 40C-9.360, F.A.C.

Agency: SJRWMD.

7. Prior to commencement of construction, Licensee shall contact the SJRWMD's regional land manager for Pellicer Creek Conservation Area to arrange a pre-construction meeting on-site.

Agency: SJRWMD.

8. Any portion of the transmission line that is constructed on SJRWMD lands in accordance with this Certification shall to the greatest extent possible span or otherwise avoid wetlands. No transmission line structures shall be located within open waters.

XXIX. TRANSMISSION LINE DESIGN

A. Where feasible, FPL shall avoid the use of guyed transmission line tangent structures in residential areas.

B. In the construction of the transmission line, FPL shall make all road crossings as nearly perpendicular to the road as practicable, and place all transmission line structures at road crossings in such a manner as to accommodate future road widening to the extent practicable.

C. If either the permanent power line towers or any temporary construction cranes used for the project will penetrate the imaginary surfaces for public use airports outlined in Federal Aviation Regulations Part 77.13, Licensee must notify and coordinate airspace issues with the Federal Aviation Administration. This must be accomplished by submitting a complete "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) to the FAA Southern Region Office and obtaining a determination of no hazard on the application. If the tall structure review thresholds of St. Johns County Land Development Code Section 34-1008 are exceeded for any licensed airport or Helistop in the county, Licensee must also complete and submit to the Port Authority a St. Johns County Tall Structure Review Application and obtain approval prior to commencing construction.

Agency: St. Johns County.

XXX. FLORIDA DEPARTMENT OF TRANSPORTATION

A. State Road Crossing Permits

The Florida Department of Transportation (FDOT) shall grant to FPL approval for the transmission line crossing of any State Roads within the FPL ROW within 30 days of FPL's submission of a complete utility permit application form and detailed construction plans for such transmission line crossing in compliance with Rule Chapter 14-46, F.A.C., and DOT's Utility Accommodation Manual, as a post-certification submittal pursuant to Condition VIII.

XXX.A. Citation: Section 403.531, F.S. (2004).

B. State Road Right-of-Way Standards

In the construction of the transmission line on or crossing State Road rights-of way, FPL shall:

1. Comply with the requirements of the FDOT's Utility Accommodation Manual (Document 710-020-001 and Rule Chapter 14-46, Utilities Installation or Adjustment, F.A.C.; and
2. Place transmission line structures at crossings of State Roads in such a manner as to accommodate future road widening, to the extent practicable. If future widening of any State Road in the area of the transmission line is required, the cost of relocating the transmission line will be borne by the Licensee to the extent required by Section 337.403, F.S. and Rule Chapter 14-46, F.A.C.

XXX.B. Citation: Chapter 14-46, F.A.C.

C. Post-Certification Reviews of FDOT Matters

1. Access Management to the State Highway System: No new access to the State Highway System is proposed in the siting application. If new access is later proposed, access permitting as defined in Rule Chapters 14-96, State Highway System Connection Permits, Administrative Process, and 14-97, State Highway System Access Management Classification System and Standards, F.A.C., will be required and submitted.

Same as DOT Condition.

2. Overweight or Overdimensional Loads: Operation of overweight or overdimensional loads by the Licensee on State transportation facilities during construction and operation of the transmission line will be subject to the non-procedural safety and permitting requirements as defined in Chapter 316, Florida Statutes, and Rule Chapter 14-26, State Highway System Access Management Classification System and Standards, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C. The Licensee shall submit the appropriate information, as specified in Rule 14-26.006, Florida Administrative Code, to FDOT for each proposed overweight and/or overdimensional vehicle or load to be operated over state maintained roads. If the

Licensee uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the applicant 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, F.A.C.

3. Use of State of Florida Right of Way or Transportation Facilities: Any use of State of Florida right-of-way and certain activities on State transportation facilities will be subject to the requirements of the DOT's Utility Accommodation Manual (Document 710-020-001) and Rule Chapter 14-46, Utilities Installation or Adjustment, F.A.C. If Licensee's structures are within DOT right-of-way, the cost of relocating the transmission line due to the widening of the state transportation facility shall be borne by the Licensee.

Agency: DOT.

4. Drainage: Any drainage onto State of Florida right-of-way and transportation facilities will be subject to the requirements of Rule Chapter 14-86, Drainage Connections, F.A.C. Licensee shall submit information to DOT on adopted agency forms demonstrating compliance with applicable drainage-related standards. That submittal shall be governed by the procedures of Condition VIII for post-certification submittals. Licensee shall locate and construct the transmission line in such manner so as not to interfere with, obstruct, or otherwise adversely impact any drainage from the DOT's existing or announced planned transportation facilities. Licensee agrees to provide DOT a drainage easement to accommodate such transportation facilities in or across the fee-owned transmission line ROW consistent with the operation of the transmission line, if such becomes necessary to comply with requirements of a water management district or the State.

5. Use of Air Space: Any structures proposed in the application which exceed 200 feet in height will be subject to an aeronautical study by the Federal Aviation Authority under the provisions of 14 CFR Part 77. If the aeronautical study finds an adverse effect on the safe and efficient use of navigable airspace, the project will require the issuance of a variance by state or local government.

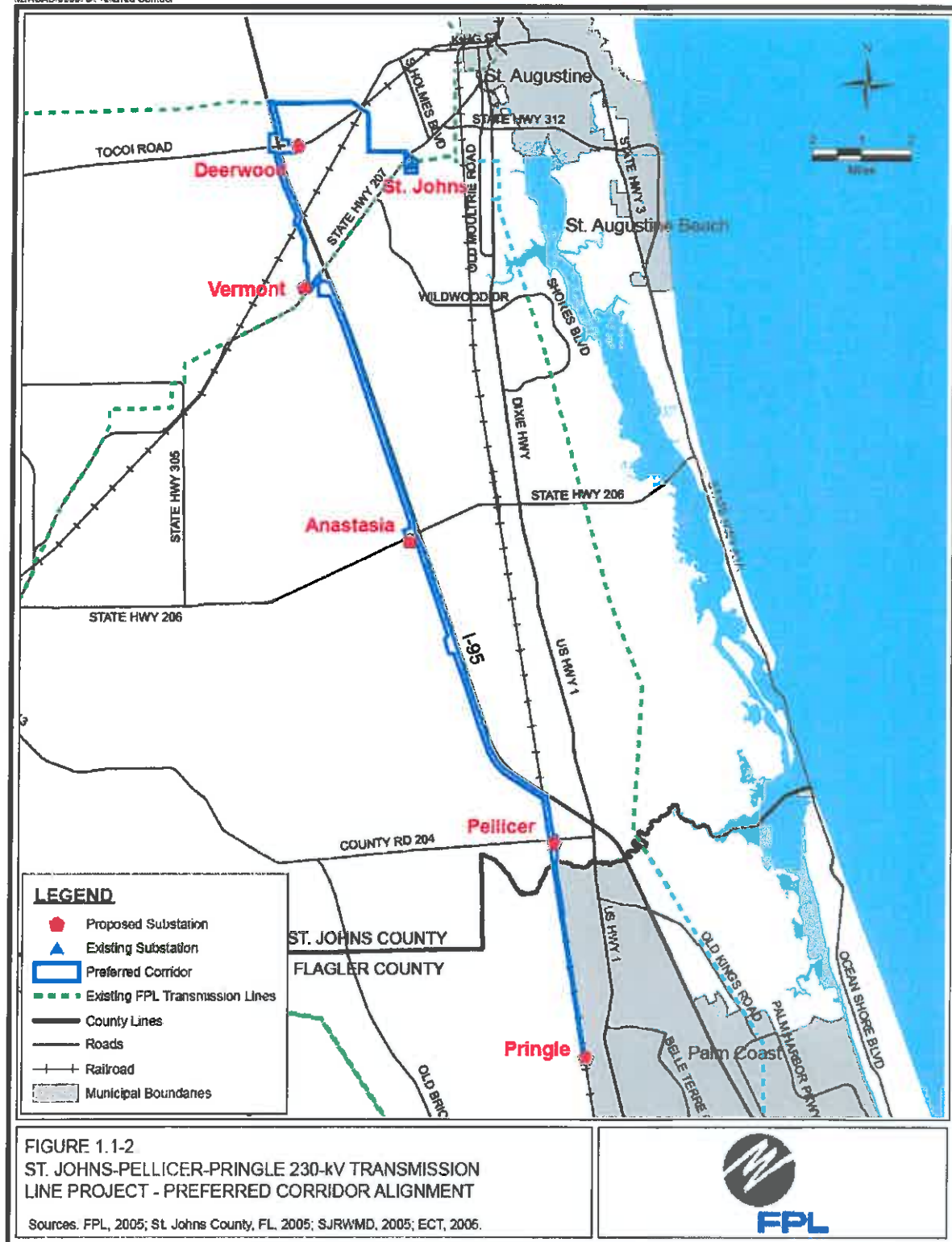
D. Best Management Practices

Traffic control will be maintained during project construction and maintenance in compliance with the standards contained in the Manual of Uniform Traffic Control Devices, Rule Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C.; DOT's Roadway and Traffic Design Standards; and DOT's Standard Specifications for Road and Bridge Construction, and the DOT's Utility Accommodation Manual, whichever is more stringent.

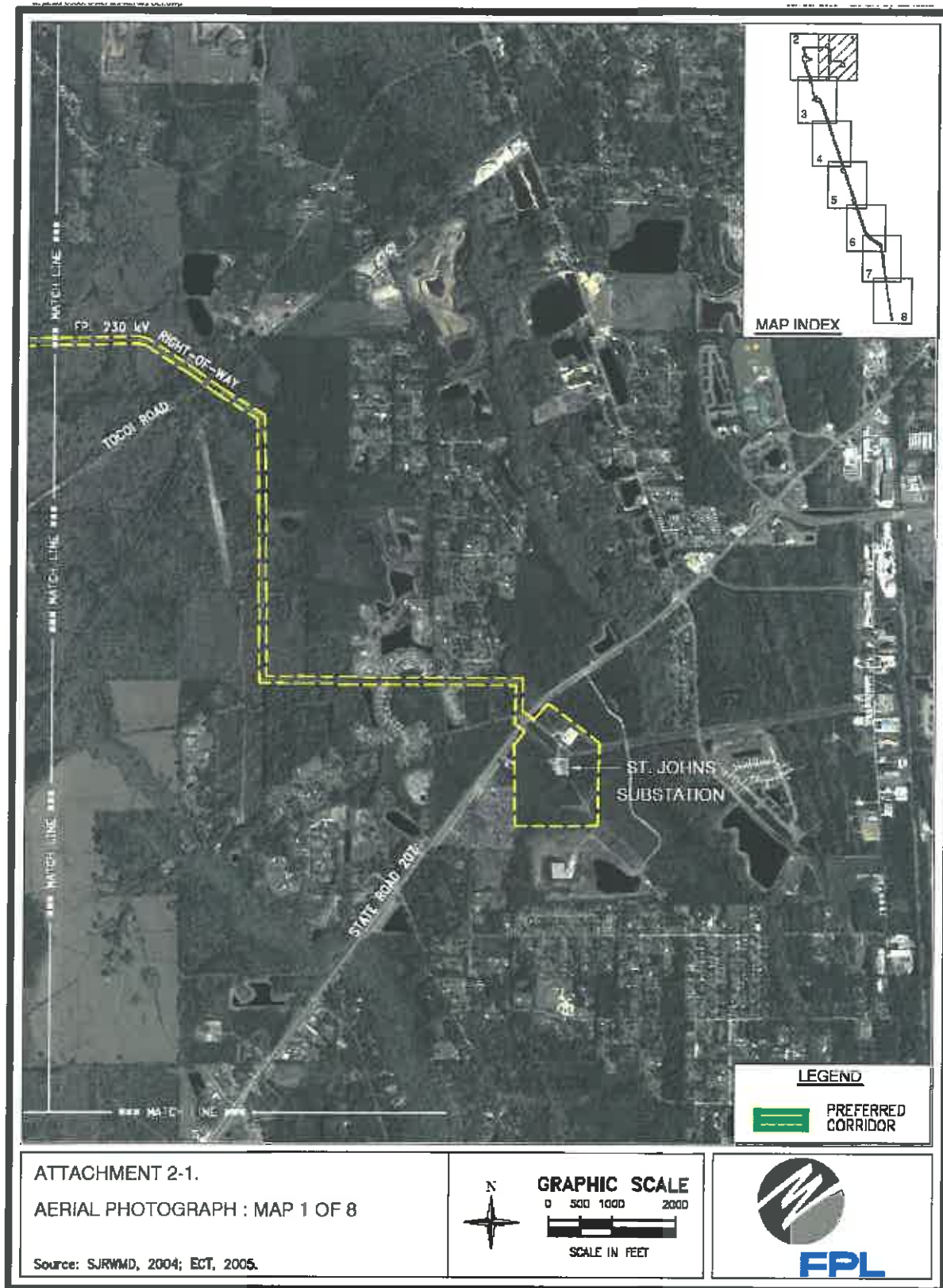
XXX.D. Citation: Chapter 14-94, F.A.C.

Attachment 1: Figure 1.1-2 Corridor Alignment

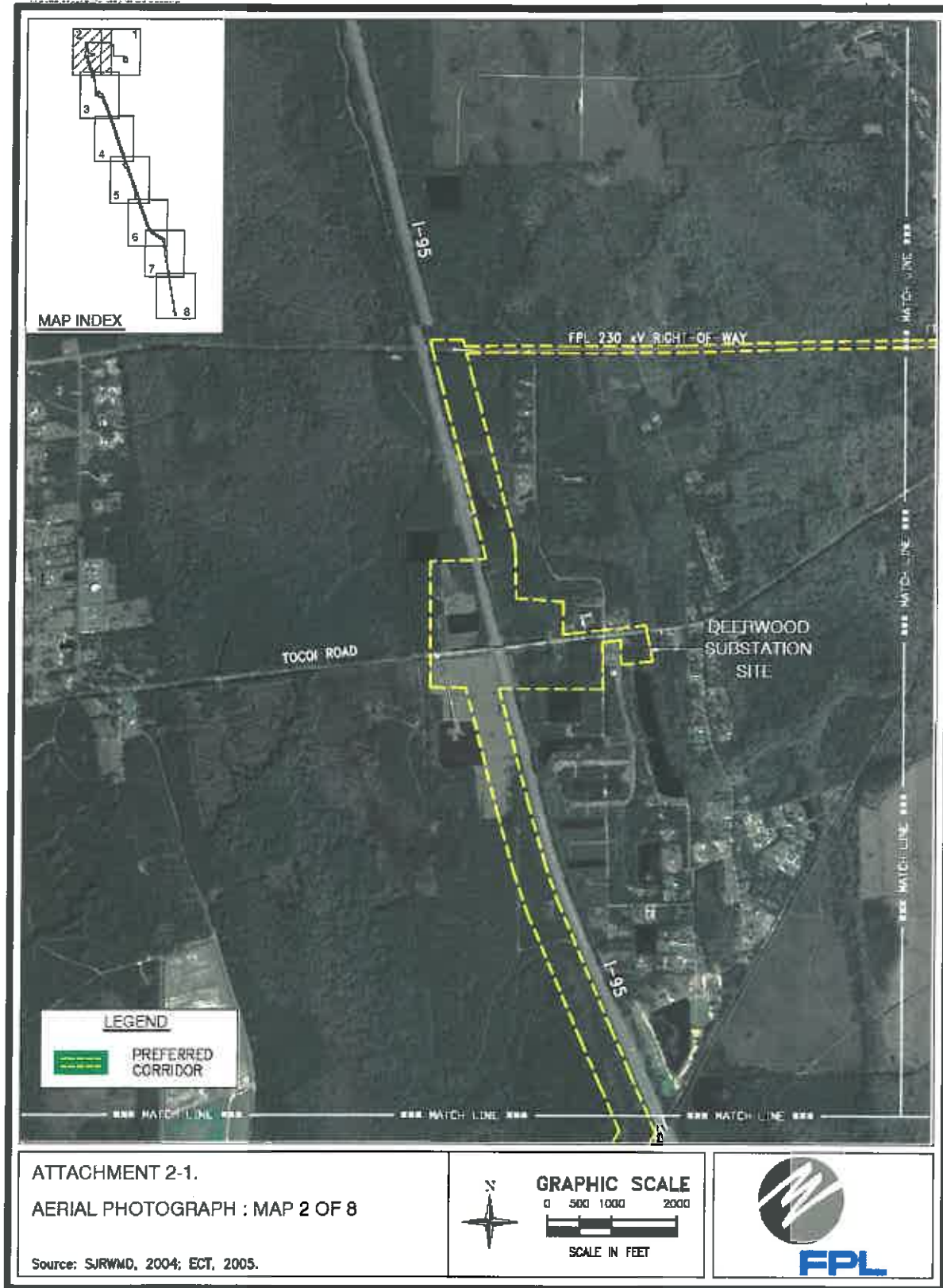
M:\ACAD\853073\Preferred Corridor



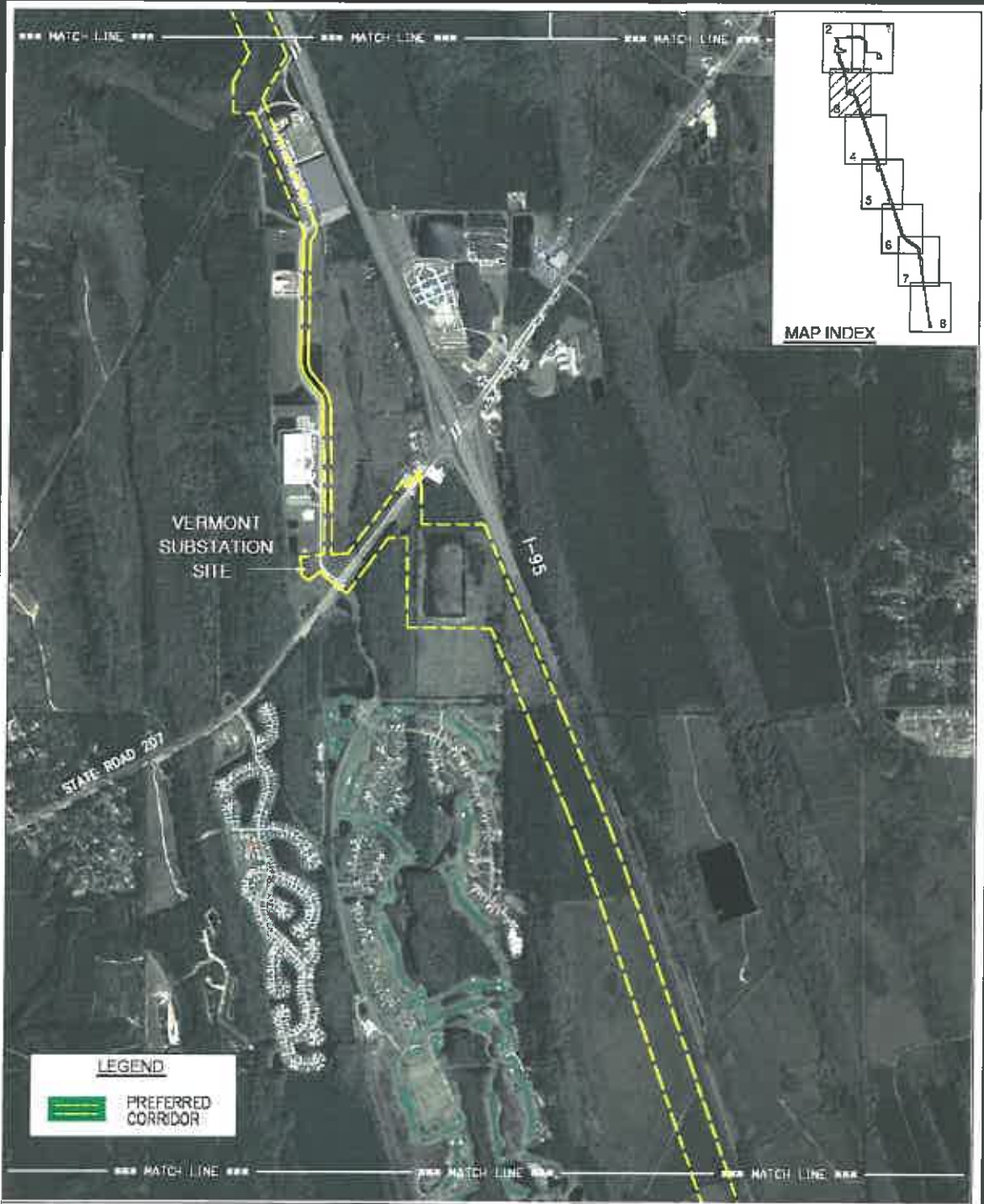
Attachment 2-1: ROW Location – St. John Substation



Attachment 2-2: ROW Location – Deerwood substation



Attachment 2-3: ROW Location – Vermont Substation



ATTACHMENT 2-1.

AERIAL PHOTOGRAPH : MAP 3 OF 8

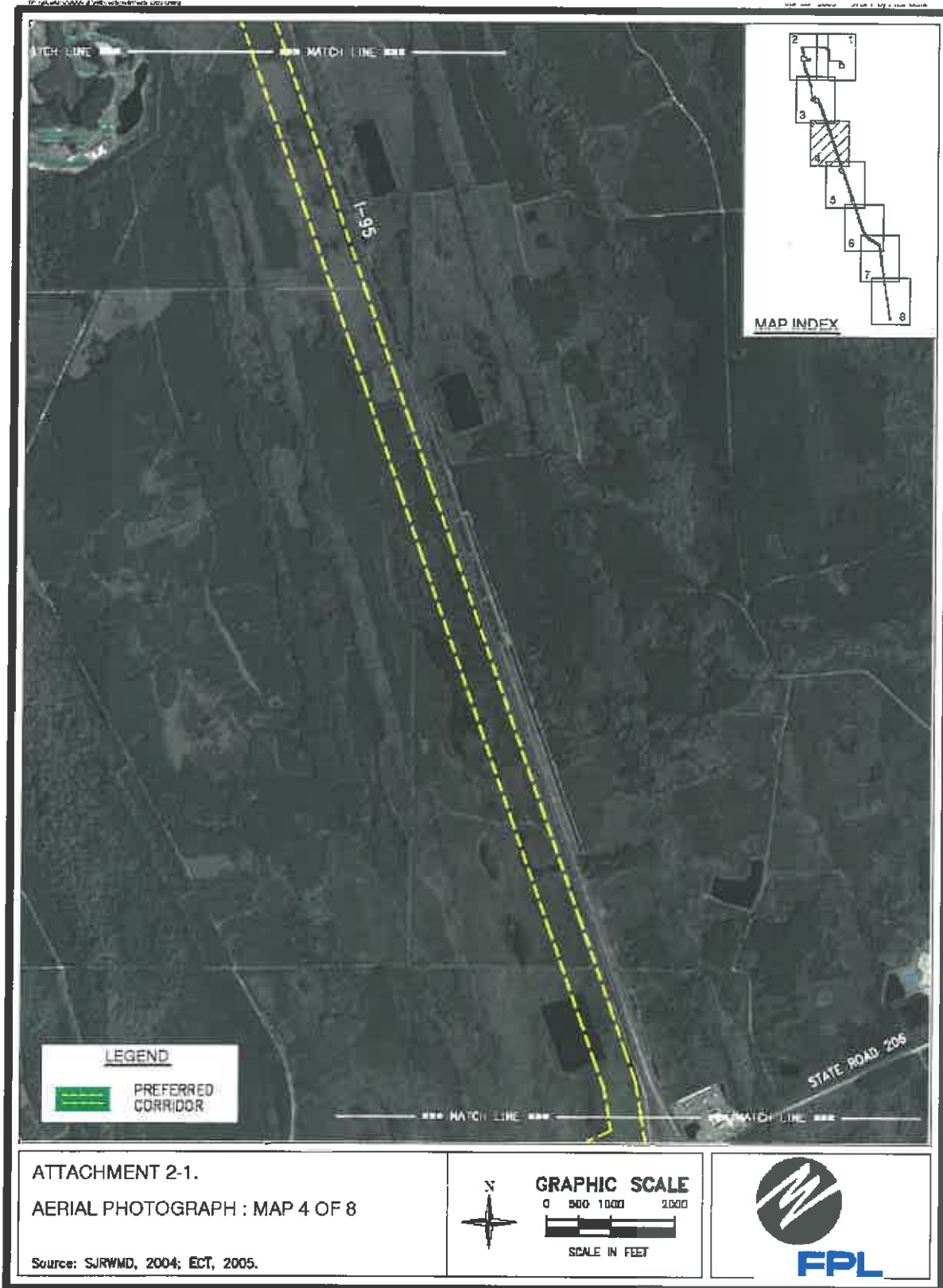
Source: SJRWMD, 2004; ECT, 2005.



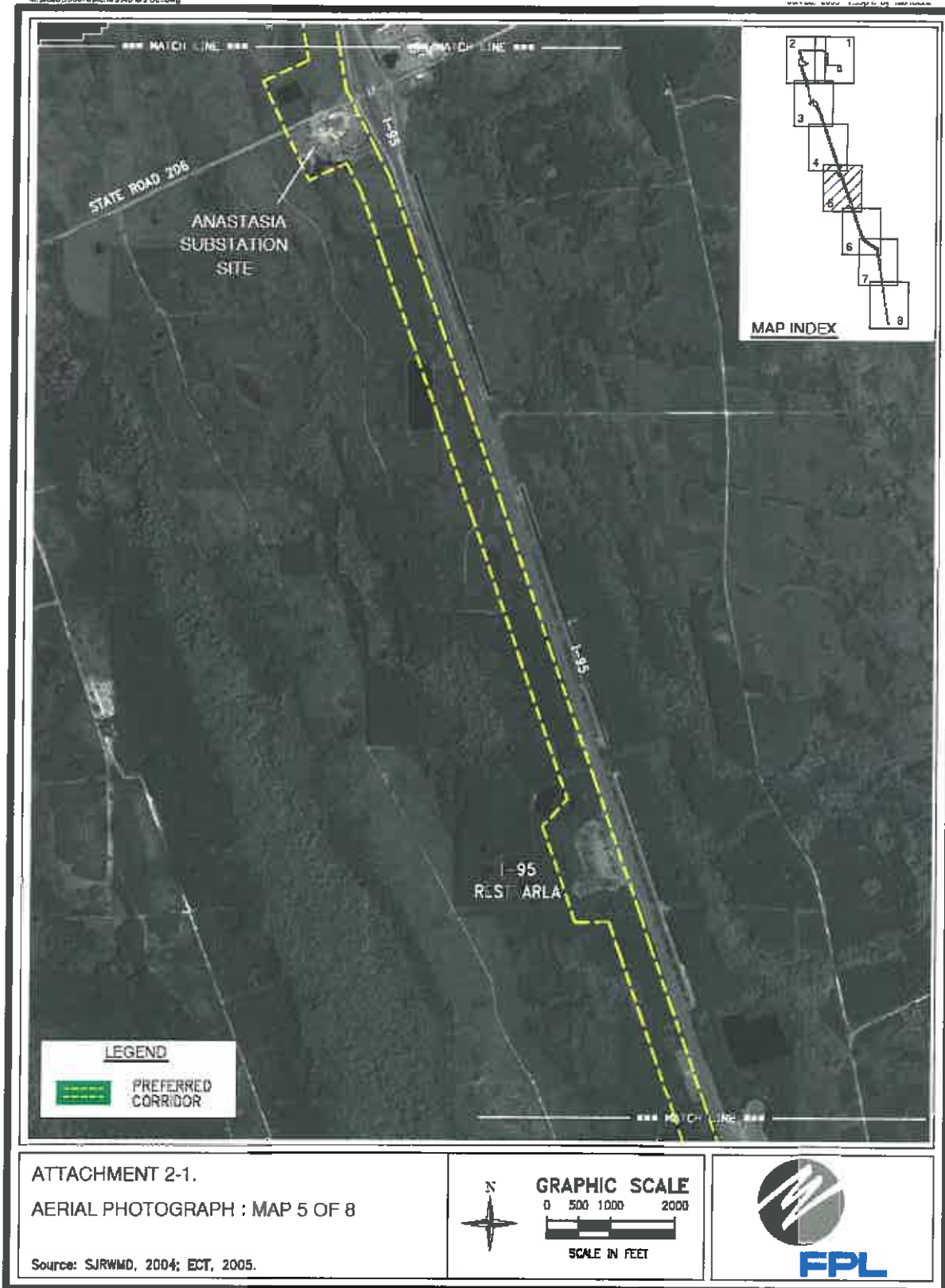
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SCALE IN FEET



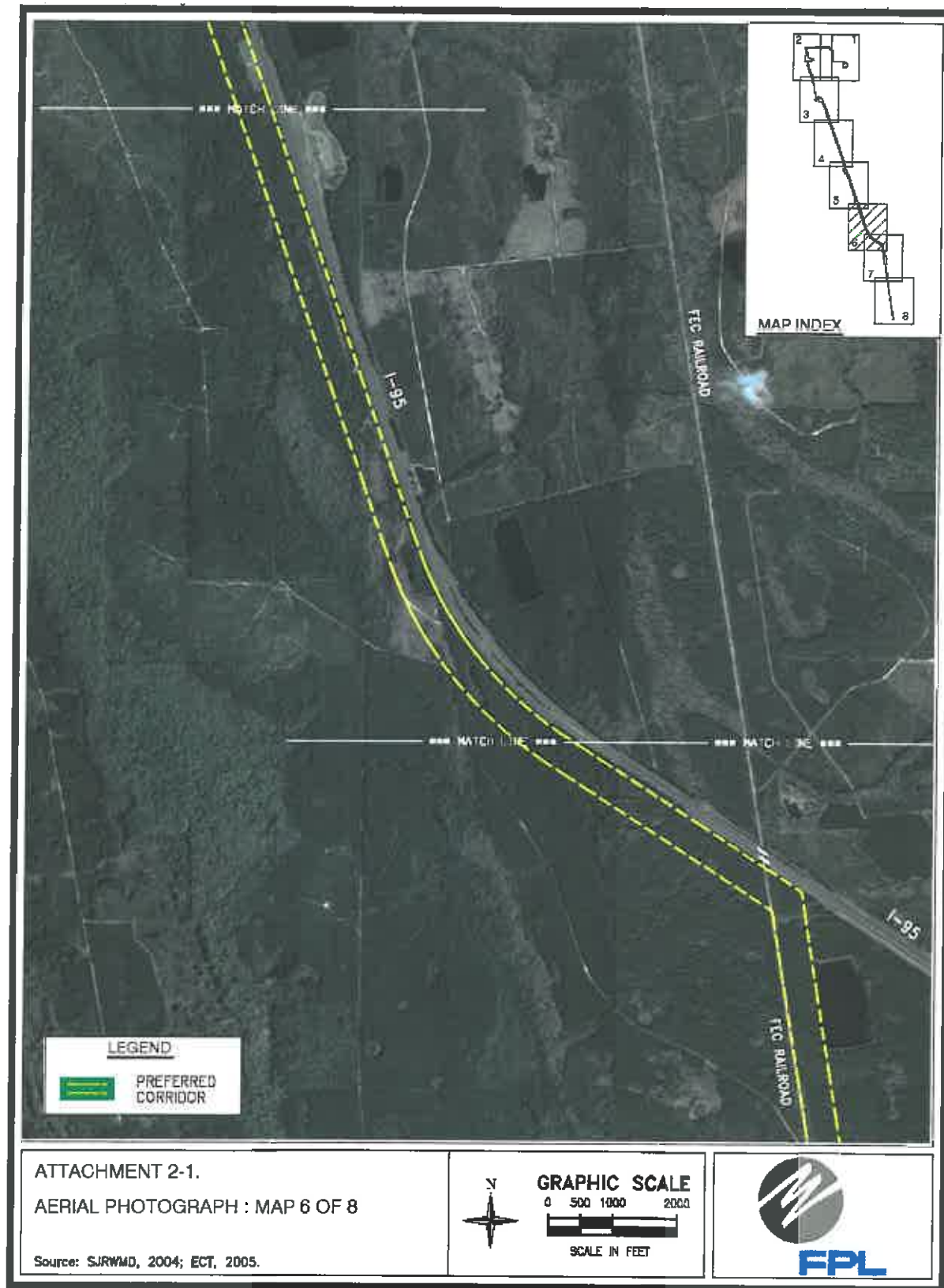
Attachment 2-4: ROW Location



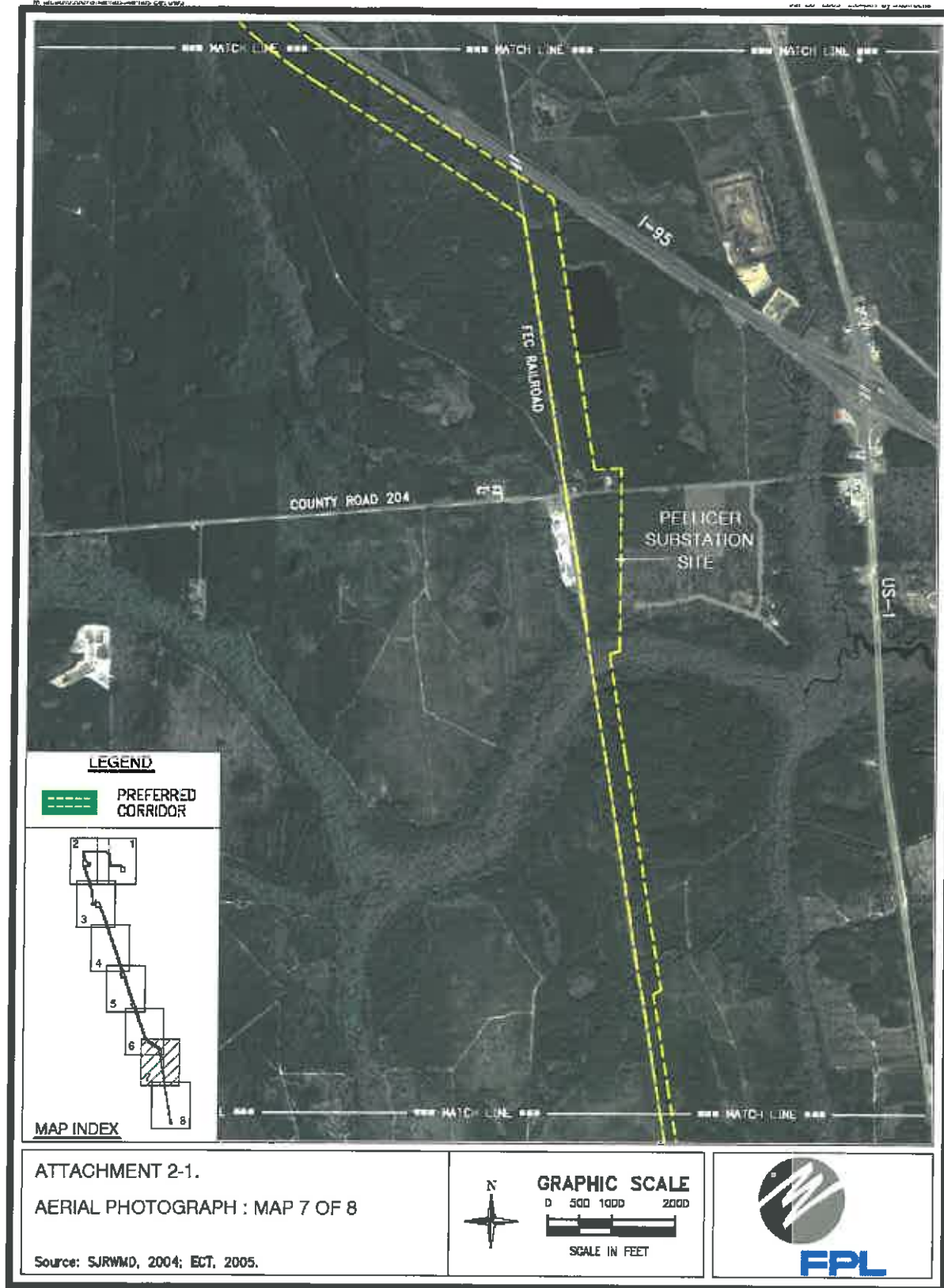
Attachment 2-5: ROW Location – Anastasia Substation



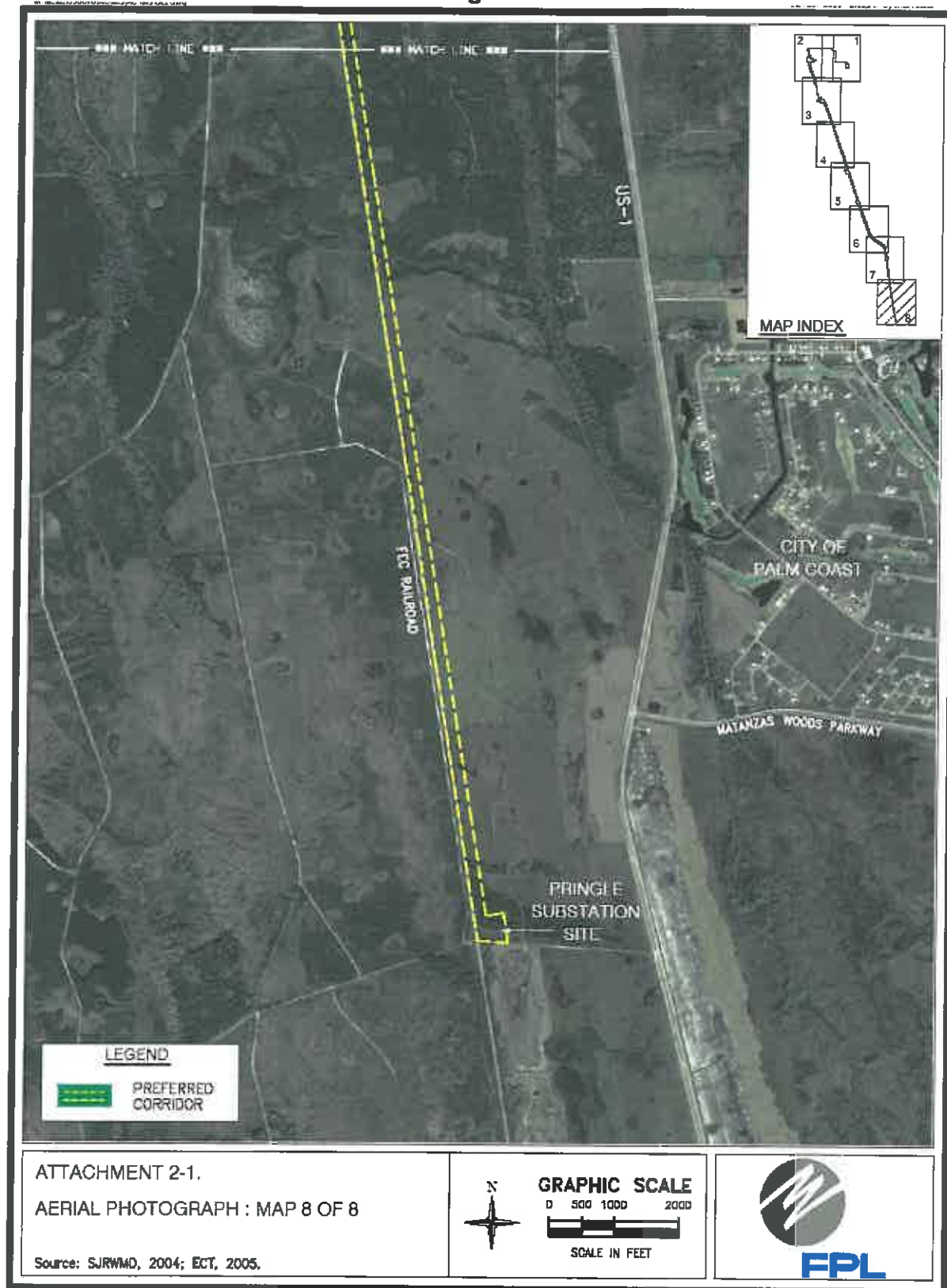
Attachment 2-6: ROW Location



Attachment 2-7: ROW Location – Pellicer Substation



Attachment 2-8: ROW Location – Pringle Substation



Attachment 3

This INSTRUMENT PREPARED BY:

ST. JOHNS RIVER WATER

MANAGEMENT DISTRICT RECORD

AND RETURN TO:

EASEMENT

Work Order No. _____
Sec. _____. Twp _____. Rge ____

The undersigned, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grants and gives to Florida Power & Light Company, its licensees, agents, successors, and assigns, an easement forever for the construction, operation and maintenance of overhead and underground electric utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage, as well as, the size of and remove such facilities or any of them within an easement _____ feet in width described as follows:

See Exhibit "A" attached hereto and by this reference made a part hereof.

1. Together with the right to permit any other person, firm or corporation to attach wires to any facilities hereunder and lay cable and conduit within the easement and to operate the same for communications purposes; the right of ingress and egress to said premises at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the easement area; to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside the easement area which might interfere with or fall upon the lines or systems of communications or power transmission or distribution; and further grants to the fullest extent the undersigned has the power to grant, if at all, the rights herein above granted on the land heretofore described, over, along, under and across the roads, streets or highways adjoining or through said property; **PROVIDED, HOWEVER,** Florida Power & Light Company, its licensees, agents, successors, and assigns or any other person, firm or corporation utilizing said easement shall remove all non-woody debris and shall

**GRANTOR
GOVERNING BOARD OF THE ST.
JOHNS RIVER WATER
MANAGEMENT DISTRICT**

OMETRIAS DEON LONG, Chairman

ATTEST:

(SEAL)

ROBERT CLAYTON ALBRIGHT, Secretary

**STATE OF FLORIDA
COUNTY OF _____**

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by **OMETRIAS DEON LONG**, personally known to me and known to me to be the Chairman of the Governing Board of the St. Johns River Water Management District, who executed the foregoing instrument as such officer on behalf of the St. Johns River Water Management District and he was authorized to do so.

(NOTARIAL SEAL)

Notary Public-State of Florida

Print Name: _____

My Commission Expires: _____

**STATE OF FLORIDA
COUNTY OF _____**

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by **ROBERT CLAYTON ALBRIGHT**, personally known to me and known to me to be the Secretary of the Governing Board of the St. Johns River Water Management District, who executed the foregoing instrument as such officer on behalf of the St. Johns River Water Management District and he was authorized to do so.

(NOTARIAL SEAL)

Notary Public-State of Florida

Print Name: _____

My Commission Expires: _____