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*Managing fish and wildlife
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July 18, 2022

Ann Seiler
Florida Department of Environmental Protection
Siting Coordination Office
2600 Blair Stone Road, MS 5500
Tallahassee, FL 32399-2400
Ann.Seiler@FloridaDEP.gov

RE: Florida Power & Light Sweatt - Whidden 230-Kilovolt Transmission Line Project, Site Certification Application TA22-19, Okeechobee, Glades, Highlands, and DeSoto Counties, Agency Report

Dear Ms. Seiler:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the Site Certification Application for the above referenced project submitted by the Florida Power & Light Company (FPL) and provides the enclosed Agency Report and proposed Conditions of Certification to be included in the FPL Sweatt-Whidden 230-Kilovolt Transmission Line State Certification in accordance with 403.507(2)(a)4, Florida Statutes.

FWC staff recommends approval of the FPL Sweatt-Whidden 230-Kilovolt Transmission Line with the inclusion of the proposed conditions related to listed species of fish and wildlife and their habitats, biological surveys, and mitigation for impacts. FPL will need to consider the State of Florida's listed species requirements found in Chapter 68A-27, Florida Administrative Code, prior to, during, and following construction of the transmission line.

FWC staff appreciates the opportunity to review this Site Certification Application and looks forward to working with FPL throughout the Site Certification process. For specific technical questions regarding the content of this letter, please contact Michelle Sempstrott at (407) 572-9122 or by email at Michelle.Sempstrott@MyFWC.com. All other inquiries may be sent to ConservationPlanningServices@MyFWC.com.

Sincerely,

Jason Hight, Director
Office of Conservation Planning Services

jh/ms

FPL Sweatt-Whidden Transmission Line_47612_07182022

Attachment:

1) Agency Report and Proposed Conditions to be Included in the State Certification

cc: Franck LeBlanc, Florida Power & Light Company, franck.l.leblanc@fpl.com
Brian Yates, Florida Power & Light Company, brian.yates@fpl.com
Jude Dawson, Environmental Consulting & Technology, Inc., jdawson@ectinc.com
Siting Coordination Office, sco@dep.state.fl.us

Agency Report and Proposed Conditions to be Included in the State Certification

Project Description

Florida Power & Light Company (FPL) is proposing the construction of a 230-kilovolt transmission line that will extend approximately 80.5 miles through portions of Okeechobee, Glades, Highlands, and DeSoto Counties. The project originates at FPL's existing Sweatt substation located in Okeechobee County and terminates at FPL's existing Whidden substation located in DeSoto County.

The typical width of the transmission line right-of-way will be less than 100 feet, but at this point in planning the corridor footprint is generally between 200 and 600 feet, with several wider points where the alignment is uncertain. The corridor as presented contains approximately 5,023.5 acres and land uses within the proposed corridor consists of approximately 3,868 acres of agriculture, 410 acres of wetlands and other surface waters, 314 acres of urban areas, 192 acres of rangeland, 182 acres of transportation and utilities, and 56.5 acres of upland forests.

The applicant proposes to minimize wetland and surface water impacts to the extent practicable. Impacts will be reduced by spanning transmission lines across the Kissimmee River along an existing bridge and other infrastructure. Other creeks, ponds, canals, and impoundments will be spanned with structures placed within adjacent uplands where practicable to minimize wetland fill required for poles or structural pads. Construction in wetlands will minimize disturbance to natural ground cover by using construction mats and low-pressure rubber-tired or non-tracked vehicles where appropriate. Low-lying vegetation and root mats will remain where practicable to reduce erosion potential and state water quality standards for turbidity will be maintained. Where crossings of existing drainage swales, ditches, or canals are required, appropriately sized culverts will be installed to accommodate flow regimes. Restoration of the right-of-way will begin after transmission line construction activities have been completed.

Potentially Affected Resources

Effects on State-Listed Species

According to the Site Certification Application the species that have the potential to occur within the proposed right-of-way or surrounding vicinity include the following:

- Florida manatee (*Trichechus manatus*, Federally Threatened)
- Gopher tortoise (*Gopherus polyphemus*, State Threatened [ST])
- Southeastern American kestrel (*Falco sparverius paulus*, ST)
- Florida burrowing owl (*Athene cunicularia floridana*, ST)
- Florida sandhill crane (*Antigone canadensis pratensis*, ST)
- Little blue heron (*Egretta caerulea*, ST)
- Tricolored heron (*Egretta tricolor*, ST)
- Roseate spoonbill (*Platalea ajaja*, ST)

If, after conducting the surveys required by the proposed conditions below, there is evidence that any individuals of these species or other state-listed species are present, then the applicant should report the findings to the FWC. If impacts to these species cannot be avoided, then the applicant should contact the FWC before taking any action that might result in an impact to those species, as indicated in the recommended Conditions of Certification proposed below.

Effects on FWC Facilities

In addition to the listed species above, the proposed corridor contains portions of state-owned conservation lands, including FWC's Lake Wales Ridge Wildlife and Environmental Area. In

these areas, the installation of larger transmission line structures and expanded rights-of-way may impact FWC management activities. In the June 9, 2022 *Responses to the Completeness Determination* for this project, FPL states that once the location of the final route has been identified, FPL will initiate the steps necessary to obtain the required state lands authorizations including coordinating with applicable land managers to determine suitable replacement lands and other net positive benefits as required by Chapter 253, Florida Statutes (F.S.), and the Use of Natural Resource Lands by Linear Facilities Policy, dated January 23, 1996.

The potential use of state lands will be addressed by general conditions in the final Conditions of Certification issued by the Florida Department of Environmental Protection. These conditions stipulate that the Licensee will be required to comply with rules and statutes governing the use of lands of the state pursuant to applicable portions of Chapters 253 and 258, 403.531, F.S.; Chapters 18-2, 18-14, 18-21, 62-340, and Rules 62-330.060(1) and 62-4.160(4), Florida Administrative Code. Based on these commitments and anticipated general conditions, no specific conditions related to the use of state lands are proposed.

Proposed Conditions

Florida Fish and Wildlife Conservation Commission staff recommends approval of the FPL Sweatt-Whidden 230-Kilovolt Transmission Line Project Site Certification with the following proposed conditions to be included as part of the Site Certification process related to specific listed species and their habitat, biological surveys, and mitigation for impacts.

FLORIDA POWER & LIGHT COMPANY SWEATT-WHIDDEN 230-KILOVOLT TRANSMISSION LINE CONDITIONS OF CERTIFICATION

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. General Listed Species Surveys

1. The Licensee shall coordinate with the Florida Fish and Wildlife Conservation Commission (FWC) to obtain and follow the current survey protocols for all listed species that may occur within the Florida Power & Light Company (FPL) Sweatt - Whidden 230-kilovolt Transmission Line rights-of-way, construction staging areas, and accessible appropriate buffers within the rights-of-way as defined by the listed species survey protocols, prior to conducting detailed surveys. Guidance related to species-specific survey protocols can be found in the appropriate species conservation measures and permitting guidelines at <https://myfwc.com/wildlifehabitats/wildlife/species-guidelines/>, or in the Florida Wildlife Conservation Guide at <https://myfwc.com/conservation/value/fwcg/>.
2. Surveys shall be conducted prior to clearing and construction in accordance with the survey protocols. The results of those surveys shall be provided to the FWC in a report, and coordination shall occur with the FWC on appropriate impact avoidance, minimization, or mitigation methodologies. Reports can be sent to ConservationPlanningServices@MyFWC.com.

[Article IV, Sec. 9, Florida Constitution; Sections 379.2291, , 403.526, and 403.5317, Florida Statutes (F.S.); and Rule 68A-27, Florida Administrative Code (F.A.C.)]

B. Specific Listed Species Surveys

1. Before land clearing and construction activities within the FPL Sweatt-Whidden 230-kilovolt Transmission Line rights-of-way and construction staging areas, the Licensee shall conduct an assessment for terrestrial listed species and shall note all habitat,

occurrence, or evidence of listed species. Wildlife surveys shall be conducted during the reproductive or active season for each species that falls before the projected clearing activity schedule unless otherwise approved by the FWC. For species that are difficult to detect, the Licensee may make the assumption that the species is present and plan appropriate avoidance or mitigation measures after consultation with the FWC. The Licensee will submit avoidance or mitigation measures to the FWC for post-certification review and approval at least 60 days prior to commencing clearing or construction activities within the surveyed area. The surveys required by these Conditions of Certification may be conducted prior to issuance of the final order of certification, in which case this Condition would be considered satisfied.

2. These surveys shall be conducted in accordance with U.S. Fish and Wildlife Service (USFWS) or FWC guidelines and methodologies and by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for each potentially occurring listed species.
3. These surveys shall identify locations of breeding sites, nests, and burrows for listed wildlife species. Nests and burrows shall be recorded with global positioning system (GPS) coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, FWC staff prefers that any applicable protection radii surrounding groups of nest sites and burrows be included on a site-specific basis, rather than around individual nests and burrows, and be physically marked so that clearing and construction shall avoid impacting them.
4. These surveys shall include an estimate of the acreage and percent cover of each existing vegetation community that is contained within the FPL Sweatt-Whidden 230-kilovolt Transmission Line rights-of-way, construction staging areas, and accessible appropriate buffers prior to land clearing and construction activities using a geographic information system (GIS). Examples of such wildlife-based habitat classification schemes include Florida's State Wildlife Action Plan¹ (FWC 2019) or the Natural Communities Guide² (Florida Natural Areas Inventory 2010).

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317, and 379.2291, F.S.; and Rules 68A-27, 68A-4, and 68A-16, F.A.C.]

1. Florida Fish and Wildlife Conservation Commission (FWC). 2019. Florida's Wildlife Legacy Initiative: Florida's State Wildlife Action Plan. Tallahassee, Florida.
2. Florida Natural Areas Inventory. 2010. Guide to the Natural Communities of Florida: 2010 edition. Florida Natural Areas Inventory, Tallahassee, Florida.

C. Listed Species Locations

1. Where any suitable habitat or evidence is found of the presence of listed species, including but not limited to those specified in D, E, F, G, H, and I below, within the FPL Sweatt-Whidden 230-kilovolt Transmission Line rights-of-way, construction staging areas, and accessible appropriate buffers, the Licensee shall report those locations to, and confer with, the FWC to determine whether additional pre-clearing surveys are warranted, and to identify potential mitigation or avoidance recommendations. If additional pre-clearing surveys are required by the FWC as appropriate and as specified in these Conditions of Certification, they shall occur in the reproductive season prior to the anticipated date for the start of construction within the FPL Sweatt-Whidden 230-kilovolt Transmission Line area to be impacted. The Licensee shall not construct in areas where evidence of listed species was identified during the initial survey until the listed species issues have been resolved.
2. If listed wildlife species are found, their presence shall be reported to the Florida Department of Environmental Protection Siting Coordination Office, the FWC, and the

USFWS.

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

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317, and 379.2291, F.S.; and Rule 68A-27, F.A.C.]

D. Gopher Tortoise

1. The Licensee shall conduct surveys for gopher tortoise (*Gopherus polyphemus*) and their burrows, in accordance with the FWC-approved Gopher Tortoise Management Plan (as revised) and the FWC-approved Gopher Tortoise Permitting Guidelines, or subsequent FWC-approved versions of the Plan or Guidelines. A burrow survey covering a minimum of 15% of the potential gopher tortoise habitat to be impacted by development, including staging areas, is required in order to apply for a relocation permit. Immediately prior to capturing tortoises for relocation, a 100% survey is required to effectively locate and mark all potentially occupied tortoise burrows and to subsequently remove the tortoises. Burrow survey methods are outlined in Appendix 4 of the Gopher Tortoise Permitting Guidelines, "Methods for Locating Gopher Tortoise Burrows on Sites Slated for Development." All surveys completed by authorized agents or other licensees are subject to field verification by the FWC.
2. The Licensee is not required to provide a monitoring compliance assessment for activities that occur more than 25 feet from a gopher tortoise burrow entrance, provided that such activities do not harm gopher tortoises or violate rules protecting gopher tortoises. Examples of such violations noted in the past by the FWC include, but are not limited to, killing or injuring a tortoise more than 25 feet away from its burrow, harassing a tortoise by blocking access to its burrow, and altering gopher tortoise habitat to such an extent that resident tortoises are taken.
3. The Licensee shall coordinate with the FWC and provide detailed gopher tortoise relocation information in accordance with the FWC-approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal. This information shall provide details on the location for on-site recipient areas and any off-site FWC-approved temporary contiguous habitat, as well as appropriate mitigation contributions per tortoise, as outlined in the Gopher Tortoise Permitting Guidelines.
4. Any commensal species observed during the burrow excavations that are listed by the FWC shall be relocated in accordance with the applicable guidelines for that species in accordance with Appendix 9 of the Gopher Tortoise Permitting Guidelines.
5. To the maximum extent practicable or feasible, all staging and storage areas shall be sited to avoid impacts to gopher tortoise burrows and habitat.

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317 and 379.2291, F.S.; and Rules 62-17.660 and 68A-27, FA.C.]

E. Wading Birds

1. The Licensee shall conduct surveys for state-threatened wading birds and their nests in accordance with the FWC-approved Conservation Measures and Permitting Guidelines: <https://myfwc.com/media/18634/threatenedwadingbirds-guidelines.pdf>. Surveys shall be conducted for wading birds in areas potential for nesting prior to the commencement of any clearing, grading, or filling activities and during their breeding season, which extends from March through August.

2. If wading bird nesting is identified within or adjacent to the planned right-of-way or other areas associated with the project, a 330-foot (100-meter) buffer distance from the nest shall be maintained.
3. If wading bird nesting is identified on the site, the Licensee shall also provide a detailed post-certification submittal. This submittal should include location information for the wading bird nesting areas and what steps were taken to avoid these areas. If these areas, cannot be avoided, the submittal should also include the Licensee's proposed coordination with the FWC.
4. If nesting is discovered after site activities have begun, if the removal or trimming of trees with active nests is unavoidable, or if maintaining the recommended buffer is not possible, the Licensee shall consult with FWC staff to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317, and 379.2291, F.S.; and Rule 68A-27, F.A.C.]

F. Florida Sandhill Crane

1. The Licensee shall conduct surveys for nesting Florida sandhill cranes in accordance with the FWC-approved Species Conservation Measures and Permitting Guidelines: <https://myfwc.com/media/11565/final-florida-sandhill-crane-species-guidelines-2016.pdf>. Surveys for nesting Florida sandhill cranes shall be conducted prior to commencement of construction activities in or adjacent to habitat where Florida sandhill cranes could nest, and during the December through August breeding season. If construction occurs over several years, it may be necessary to conduct surveys each year as Florida sandhill cranes do not nest in the same location every year.
2. If Florida sandhill crane nesting is identified within or adjacent to the right-of-way or other areas associated with the project, a 400-foot buffer distance from the nest with eggs shall be maintained, or 1500-foot buffer distance from a nest with flightless young shall be maintained until the young can fly.
3. If Florida sandhill crane nesting is identified on the site, the Licensee shall also provide a detailed post-certification submittal. This submittal should include location information for the nesting areas and what steps were taken to avoid these areas. If these areas, cannot be avoided, the submittal should also include the Licensee's proposed coordination with the FWC.
4. If nesting or flightless young are discovered after site activities have begun, or if maintaining the buffer is not possible, the applicant shall consult with FWC staff to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317, and 379.2291, F.S.; and Rule 68A-27, F.A.C.]

G. Southeastern American Kestrel

1. The Licensee shall conduct surveys for southeastern American kestrel and their nest cavities in accordance with the FWC-approved Species Conservation Measures and Permitting Guidelines: <https://myfwc.com/wildlifehabitats/wildlife/species-guidelines/>.
2. If surveys encounter southeastern American kestrel nesting, a 490-foot (150-meter) buffer shall be maintained from the nest during the breeding season (March through July) to avoid disturbance.
3. If southeastern American kestrel nesting is identified on the site, the Licensee shall also provide a detailed post-certification submittal. This submittal should include location information for the nests and what steps were taken to avoid these areas. If these areas,

cannot be avoided, the submittal should also include the Licensee's proposed coordination with the FWC.

4. If nesting is discovered after site activities have begun, or if maintaining the buffer is not possible, the applicant shall consult with FWC staff to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317, and 379.2291, F.S.; and Rule 68A-27, F.A.C.]

H. Florida Burrowing Owl

1. The Licensee shall conduct project planning surveys for Florida burrowing owls and their burrows in accordance with FWC-approved Species Conservation Measures and Permitting Guidelines: <https://myfwc.com/media/2028/floridaburrowingowlguidelines-2018.pdf>. Project planning surveys shall be conducted within 90 days of clearing or earthwork activities.
2. If potentially occupied Florida burrowing owl burrows (as defined by the Species Conservation Measures and Permitting Guidelines) are found during the project planning surveys, pre-activity surveys shall be conducted in the active part of the project site within 48 hours prior to commencing site preparation, clearing, or project activities.
3. If Florida burrowing owl burrows are identified on-site, the following buffers shall be maintained to avoid disturbance:
 - a. During the non-breeding season (July 11 to February 14), no site preparation, clearing, staging, or other project-related activities shall occur within a 10-foot (3-meter) radius from the entrance of potentially occupied burrows, including those on adjacent properties.
 - b. During the breeding season (February 15 to July 10), no site preparation, clearing, staging, or project activities shall occur within a 33-foot (10-meter) radius from the entrance of potentially occupied burrows, including those on adjacent properties.
4. Buffers for potentially occupied burrows shall be posted as follows:
 - a. Posting shall be installed prior to earthwork or other construction activities that are to occur in the general vicinity of the burrow(s) to deter equipment operators or project personnel from entering the recommended buffers.
 - b. Posting shall be placed at a minimum of 33 feet from the burrows from February 15 to July 10 and a minimum 10 feet from July 11 to February 14. No posting materials shall be placed within 10 feet (3 meters) of the burrow.
 - c. Posting shall consist of 1 to 4 PVC poles or 2-inch by 1-inch by 4-foot wooden stakes. The wooden stakes may be constructed in t-perch fashion.
 - d. Silt fencing shall not be used for posting, except when needed to prevent soil and debris from construction from encroaching upon a burrow. In these instances, silt fencing shall be installed on the uphill side but shall not completely encircle the burrows.
 - e. Educational signage warning of the State Threatened status of the burrowing owl shall be posted on wooden stakes at minimum of 10 feet from the burrow.
5. The Licensee shall ensure all personnel associated with the project are advised of the presence of Florida burrowing owls and that it is a violation of state law to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect Florida burrowing owls or their eggs, or to collapse or block their burrows, or to attempt to engage in such conduct. All personnel shall be directed not to enter posted areas around potentially occupied burrows.
6. If a Florida burrowing owl burrow is identified on-site the Licensee shall also provide a detailed post-certification submittal. This submittal should include location information for the nests and what steps were taken to avoid these areas. If these areas, cannot be

avoided, the submittal should also include the Licensee's proposed coordination with the FWC.

7. If previously undetected burrows are found either in pre-activity surveys or later during project activities and required buffers cannot be maintained, the applicant shall consult with FWC staff to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317, and 379.2291, F.S.; and Rule 68A-27, F.A.C.]

I. Florida Manatee

1. All personnel associated with portions of the project expected to occur in manatee accessible waters shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The Licensee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
4. All onsite project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shut down if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
5. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission's Alert Hotline at (888) 404-3922. Collision and/or injury should also be reported to the USFWS in Jacksonville at (904) 731-3336 for north Florida or Vero Beach at (772) 562-3909 for south Florida, and to FWC at ImperiledSpecies@myFWC.com.
6. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads Caution Boaters: Watch for Manatees must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at <https://myfwc.com/wildlifehabitats/wildlife/manatee/education-for-marinas/>. Questions concerning these signs can be sent to the email address listed above.

[Article IV, Sec. 9, Florida Constitution; Sections 403.526, 403.5317, and 379.2291, 379.2431(2), and 373.414(1)(a)2, F.S.;]