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April 5, 2016

RECEIVED

Received 4/6/16

Ann Seiler
Florida Department of Environmental Protection
Siting Coordination Office
2600 Blair Stone Road, MS 5500
Tallahassee, FL 32399-2400
ann.seiler@dep.state.fl.us

Dept. of Environmental Protection
Siting Coordination Office

Re: Site Certification Application PA15-57, Florida Power & Light (FPL) Okeechobee Clean Energy Center, Agency Report, Okeechobee County

Dear Ms. Seiler:

Florida Fish and Wildlife Conservation Commission (FWC) staff has coordinated our agency's review of the Site Certification Application for the Okeechobee Clean Energy Center and associated non-linear facilities, including off-site linear facilities. We provide the enclosed Agency Report and Recommendations for Conditions to be included in the Okeechobee Clean Energy Center Certification in accordance with 403.507(2)(a)4, Florida Statutes.

Florida Power and Light will need to comply with the State of Florida's listed species requirements found in Chapter 68-27A, Florida Administrative Code (F.A.C.), and Ch. 379, Florida Statutes, prior to construction of the Okeechobee Clean Energy Center, associated non-linear facilities, and off-site linear facilities.

We recommend approval of the Okeechobee Clean Energy Center Site, including associated non-linear facilities and associated off-site linear facilities with the inclusion of recommended conditions related to listed species and their habitat; biological survey and monitoring (pre- and post-construction); and mitigation for impacts.

We appreciated the opportunity to review this project. If you need any further assistance, please do not hesitate to contact Jane Chabre either by phone at (850) 410-5367 or by email at FWCConservationPlanningServices@MyFWC.com. If you have specific technical questions regarding the content of this letter, please contact Marissa Krueger by phone at (561) 882-5711 or by email at Marissa.Krueger@MyFWC.com.

Sincerely,

Jennifer D. Goff
Land Use Planning Program Administrator
Office of Conservation Planning Services

jdg/mk
ENV 2-11-2
FPL Okeechobee Clean Energy SCA Agency Reports_30611_040516
Enclosure

cc: Agnes Ramsey, FPL, Agnes.Ramsey@fpl.com
Karl Bullock, Golder Associates Inc., Karl_Bullock@golder.com
Brooke Lewis, Hopping, Green & Sams, P.A., BrookeL@hgsllaw.com

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

Project Description

Florida Power and Light (FPL) proposes to construct and operate a new combined cycle natural gas fired generating unit (OCEC Unit 1) that would provide approximately 1,600 megawatts (MW) nominal of electric generation by 2019. The project includes the construction of OCEC Unit 1 and associated facilities, including off-site linear facilities. The OCEC Unit 1 will be a new 1600-MW nominal 3-on-1 combined cycle electrical generating unit that will consist of three new advanced-technology combustion turbine/electric generators, three new heat-recovery system generators, and one steam turbine/electric generator, along with on-site support facilities. The new unit and site will cover approximately 2,341 acres of FPL's 2,842-acre property located adjacent to the existing 500-kV transmission system in northeastern Okeechobee County. Specifically, the site is located approximately 24 miles west of Vero Beach and one mile south of the intersection of State Road 60 and 226th Court. The minimal off-site linear facilities will be located in Indian River County. The site includes the approximately 220-acre plant area where the new generating facilities will be located, along with construction laydown areas, parking, stormwater ponds and associated infrastructure, an approximately 376-acre mitigation area, approximately 1,629 acres for potential future solar generation, and approximately 104 acres identified as open space. The area designated for potential development of approximately 200 MW of photovoltaic (PV) solar generation will bring the net generating capacity to 1,800 MW nominal. The site also has groundwater available to support plant operations including process water, steam cycle makeup, cooling water makeup, and miscellaneous plant uses.

Potentially Affected Resources

Effects on State-Listed Species

The Okeechobee Clean Energy Center Project, including associated linear and non-linear facilities, do not contain significant areas of preferred habitat for nesting, roosting, or significant foraging areas within the site or linear facilities corridor, as described in the application. A listing of all the state- and federally listed species potentially impacted by the proposal and their listing status is included in the proposed conditions.

There are a number of listed species either observed within the Okeechobee Clean Energy Center Project Site, associated linear facilities or with a moderate to high likelihood probability of occurrence including the following species: limpkin, little blue heron, white ibis, tricolored heron, wood stork, Florida sandhill crane, American alligator, Southeastern American kestrel, Audubon's crested caracara, Sherman's fox squirrel, gopher frog, Eastern indigo snake, Florida grasshopper sparrow, Florida burrowing owl, snowy egret, Everglade snail kite, and gopher tortoise.

On a case-by-case basis, either a relocation or incidental take permit may be required for each impacted species. If there is evidence that any individuals of these species are present, then the applicant must report the findings to the Florida Fish and Wildlife Conservation Commission

(FWC). If impacts to these species cannot be avoided, then the applicant must 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.

Proposed Conditions

We recommend approval of Florida Power and Light's Florida Okeechobee Clean Energy Center Project Site, associated non-linear facilities, and associated linear facilities with the following proposed conditions to be included in the special conditions as part of the certification process related to specific listed species and their habitat; biological survey and monitoring (pre- and post- construction); and mitigation for impacts.

OKEECHOBEE CLEAN ENERGY CENTER CONDITIONS OF CERTIFICATION

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. *Listed Species Conditions*

The following table contains state- and federally listed species that occur in the State of Florida and may occur within the Florida Power and Light's Okeechobee Clean Energy Center Project Site and associated linear facilities right-of-way. The table contains species that are potentially impacted by the activities proposed on the Florida Power and Light's Okeechobee Clean Energy Center Project Site and associated linear and non-linear facilities. Therefore, these recommended conditions of certification apply to the species listed in this table.

Table 1.

Common Name	Scientific Name	Status
American alligator	<i>Alligator mississippiensis</i>	FT(SA)*
Audubon's crested caracara	<i>Polyborus plancus audubonii</i>	FT
Eastern indigo snake	<i>Drymarchon corais couperi</i>	FT
Everglade snail kite	<i>Rostrahmus sociabilis plumbeus</i>	FE
Florida burrowing owl	<i>Athene cunicularia</i>	SSC
Florida grasshopper sparrow	<i>Ammodramus savannarum floridanus</i>	FE
Florida sandhill crane	<i>Grus canadensis pratensis</i>	ST
Gopher frog	<i>Lithobates capito</i>	SSC
Gopher tortoise	<i>Gopherus polyphemus</i>	ST
Limpkin	<i>Aramus guarauna</i>	SSC

Little blue heron	<i>Egretta caerulea</i>	SSC
Sherman's fox squirrel	<i>Sciurus niger shermani</i>	SSC
Snowy egret	<i>Egretta thula</i>	SSC
Southeastern American kestrel	<i>Falco sparverius paulus</i>	ST
Tricolored heron	<i>Egretta tricolor</i>	SSC
White ibis	<i>Eudocimus albus</i>	SSC
Wood stork	<i>Mycteria americana</i>	FT

FE = Federally designated Endangered; FT = Federally designated Threatened; ST = State-designated Threatened; SSC = State Species of Special Concern

* Due to similarity to another federally threatened species

Note: Florida's Endangered and Threatened species rule changed in November 2010. The list is now comprised of federally designated endangered and threatened species or state-designated threatened species. Additionally, the Species of Special Concern (SSC) designation has been retained in the rule until those species designated as SSC are evaluated for listing as state-designated threatened species.

[Article IV, Sec. 9, Florida Constitution; Chapters 68A-27 and 68A-16, Florida Administrative Code (F.A.C.)]

B. General Listed Species Survey

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 Okeechobee Clean Energy Center Project Site and associated linear facilities' right-of-way, as well as accessible appropriate buffers within the FPL property or 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 FWC's Florida Wildlife Conservation Guide at <http://myfwc.com/conservation/value/fwcg/>.
2. Surveys shall be conducted for the species listed in Table 1 above prior to clearing and construction in accordance with the survey protocols. The results of those detailed 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.

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

C. Specific Listed Species Surveys

Before land clearing and construction activities within the FPL Okeechobee Clean Energy Project Site and associated linear facilities right-of-way, 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/mitigation measures after consultation with the FWC. The Licensee will submit avoidance/mitigation measures for FWC 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.

1. This survey shall be conducted in accordance with U.S. Fish and Wildlife Service (USFWS) or FWC guidelines and methodologies by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for each potentially occurring listed species.
2. This survey shall identify any wading bird colonies within the FPL Okeechobee Clean Energy Project Site and associated linear facilities that may be affected.
3. This survey 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, the FWC 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. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community (Florida Land Use, Cover and Forms Classification System, or FLUCFCS, at the third degree of detail) of each community that is contained within the FPL Okeechobee Clean Energy Project Site and associated linear facilities prior to land clearing and construction activities using a geographic information system (GIS). Examples of such wildlife-based habitat classification schemes include Florida's State Wildlife Action Plan (FWC 2012), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (Florida Natural Areas Inventory 2010)*.

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

*Florida Fish and Wildlife Conservation Commission. 2012. Florida's State Wildlife Legacy Initiative: Florida's State Wildlife Action Plan. Tallahassee, Florida.

Florida Natural Areas Inventory. 2010. Guide to the natural communities of Florida: 2010 edition. Florida Natural Areas Inventory, Tallahassee, Florida.

Stys, B., R. Kautz, D. Reed, M. Kertis, R. Kawula, C. Keller, and A. Davis. 2004. Florida vegetation and land cover data derived from 2003 Landsat ETM+ Imagery. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida.

D. *Listed Species Locations*

Where any suitable habitat or evidence is found of the presence of listed species, including but not limited to those specified in E through I below, within the FPL Okeechobee Clean Energy Center Project Site and associated linear facilities, 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 Okeechobee Clean Energy Center Project Site and associated linear facilities' right of way. The Licensee shall not construct in areas where evidence of listed species was identified during the initial survey until the particular listed species issues have been resolved as follows:

1. **Listed Wildlife Species:** If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the FWC, and the USFWS.
2. **Species Management Plan:** If total 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. For wildlife species, these steps shall be memorialized in a Species Management Plan and submitted to the FWC for review and approval.

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

E. *Gopher Tortoise*

1. The Licensee shall conduct surveys for gopher tortoises (*Gopherus polyphemus*), 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 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." Surveys must be conducted as described in E.3 below. Surveys shall not be conducted within 30 days of any ground disturbance or clearing activities on the donor site. 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 and provide the FWC detailed gopher tortoise relocation information in accordance with the FWC-approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal. This information shall provide details on the location for on-site recipient areas and any off-site FWC-approved temporary contiguous habitat, as well as appropriate mitigation contributions per tortoise, as outlined in the Gopher Tortoise Permitting Guidelines.
4. Any commensal species observed during the burrow excavations that are listed by the FWC shall be relocated in accordance with the applicable guidelines for that species in accordance with Appendix 9 of the Gopher Tortoise Permitting Guidelines.
5. To the maximum extent practicable or feasible, all staging and storage areas shall be sited to avoid impacts to gopher tortoise burrows and habitat.

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

F. Sandhill Crane

1. The Licensee shall conduct surveys for nesting sandhill cranes immediately prior to any construction that occurs during the January through August breeding season. Basic guidance for conducting wildlife surveys may be found in the Florida Wildlife Conservation Guide and the FWC Nongame Technical Report No. 15 (http://f50006a.eos-intl.net/ELIBSQL12_F50006A_Documents/97stys.pdf) provides guidance on survey methods for sandhill cranes.
2. If there is evidence of nesting during this period, any active Florida sandhill crane nests shall be buffered by 400 feet to avoid disturbance by human activities. If nesting is discovered after construction has begun or if maintaining the recommended buffer is not possible, the Licensee shall consult with the FWC to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

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

G. Wading Birds

1. The Licensee shall conduct surveys for nesting wading birds during their breeding season, which extends from March through August. Basic guidance for conducting wildlife surveys may be found in the Florida Wildlife Conservation Guide.
2. If there is evidence of nesting during this period, any wading bird nest sites shall be buffered by 100 meters (328 feet) to avoid disturbance by human activities. If nesting is discovered after construction has begun, or 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 the FWC to determine the steps appropriate to minimize, mitigate, or otherwise appropriately address potential impacts.

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

H. Eastern Indigo Snake

The Licensee shall consult with the USFWS and the FWC to ensure measures to avoid the “take” of Eastern indigo snakes on FPL Okeechobee Clean Energy Center Project Site and associated linear facilities right-of-way are implemented during construction and operation, in accordance with the *Standard Protection Measures for the Eastern Indigo Snake* (USFWS, 2013). The Eastern indigo snake protection/education plan (Plan) has been developed by the USFWS. At least 30 days prior to any clearing/land alteration activities, the applicant shall notify the USFWS South Florida Field Office at verobeach@fws.gov that the Plan will be implemented.

Pre-Construction Activities

1. The Licensee will post educational posters in the construction office and throughout the construction site, including any access roads. The posters must be clearly visible to all construction staff. Please see the following link for a sample poster:
http://www.fws.gov/northflorida/indigosnakes/20130812_EIS%20Standard%20Protection%20Measures_final.pdf
2. Prior to the onset of construction activities, the Licensee will conduct a meeting with all construction staff (annually for multi-year projects) to discuss identification of the snake, its protected status, what to do if a snake is observed within the project area, and applicable penalties that may be imposed if state and/or federal regulations are violated. An educational brochure including color photographs of the snake will be given to each staff member in attendance and additional copies will be provided to the construction superintendent to make available in the onsite construction office.
3. Construction staff will be informed that in the event that an Eastern indigo snake (live or dead) is observed on the project site during construction activities, all such activities are to cease until the established procedures are implemented according to the Plan, which includes notification to the USFWS South Florida Field Office.

During Construction Activities

1. During initial site clearing activities, an onsite observer may be utilized to determine whether habitat conditions suggest a reasonable probability of an Eastern indigo snake sighting (example: discovery of snake sheds, tracks, lots of refugia and cavities present in the area of clearing activities, and presence of gopher tortoises and burrows).
2. If an Eastern indigo snake is discovered during gopher tortoise relocation activities (i.e. burrow excavation), the USFWS shall be contacted within one business day to obtain further guidance which may result in further project consultation.
3. Periodically during construction activities, the applicant’s designated agent should visit the project area to observe the condition of the posters and Plan materials, and replace them as needed. Construction personnel should be reminded of the instructions (above) as to what is expected if any Eastern indigo snakes are seen.

Post Construction Activities

1. Whether or not Eastern indigo snakes are observed during construction activities, a monitoring report should be submitted to the USFWS South Florida Field Office within 60 days of project completion. The report can be sent electronically to verobeach@fws.gov

[Article IV, Sec. 9, Florida Constitution; Rule 68A-27, FA.C.]

I. Federally Listed Species

1. The Licensee shall consult with the USFWS as the site may contain suitable habitat for the federally listed species identified in Table 1 to avoid the “take” of federally listed species on the FPL Okeechobee Clean Energy Center Project Site and associated linear facilities right-of-way during construction and operation.

[Article IV, Sec. 9, Florida Constitution; Section 403.5113, F.S.; and Rules 62-17.660 and 68A-27, FA.C.]