

**STATE OF FLORIDA
DEPARTMENT
OF
ENVIRONMENTAL PROTECTION**



Conditions of Certification

**Florida Power and Light
St. Johns Pellicer-Pringle Transmission Line**

TA 05-13A

Modified XX/XX/XX

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SECTION A. GENERAL CONDITIONS

I. CERTIFICATION CONTROL SCOPE

A. Under the control of these Conditions of Certification, Pursuant to sections 403.520-5365, Florida Statutes (F.S.), the Transmission Line Siting Act (TLSA), this certification is issued to Florida Power & Light Company (FPL) as owner/operator of the St. Johns Pellicer Pringle Transmission Line and Licensee. Subject to the requirements contained in these Conditions of Certification (Conditions) 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.

~~Citation:~~ Section 403.531, F.S. (2004), 62-4.160(8), and 62-17.205(2), F.A.C.

II. APPLICABLE RULES

A. 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 or in a subsequent modification to the Conditions: 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), 62-256 (Open Burning), 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), 62-345 (Uniform Mitigation Assessment Method) and 62-814 (Electric and Magnetic Fields), Florida Administrative Code (F.A.C.).

B. No term or condition of certification shall be interpreted to preclude the postcertification exercise by any party of whatever procedural rights it may have under chapter 120, including those related to rulemaking proceedings.

III. REVISIONS TO DEPARTMENT STATUTES AND RULES

A. The Licensee shall comply with rules adopted by the department subsequent to the issuance of the certification which prescribe new or stricter criteria, to the extent that the rules are applicable to electrical power plants. Except when express variances, exceptions, exemptions, or other relief have been granted, subsequently adopted rules which prescribe new or stricter criteria shall operate as automatic modifications to certifications.

B. Upon written notification to the department, any holder of a certification issued pursuant to the PPSA, TLISA or NGPSA may choose to operate the certified electrical power plant/transmission line/natural gas pipeline in compliance with any rule subsequently adopted by the department which prescribes criteria more lenient than the criteria required by the terms and conditions in the certification which are not site-specific.

Section 403.531, F.S. ;Rules 62-4.160(8) and 62-4.160(10),F.A.C.

III-IV. 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. "Certified Facility" or "Certified Facilities" means the certified electrical power generation facilities and all on- or off-site associated structures including but not limited to: steam generating units, transformers, substations, fuel and water storage tanks, air and water pollution control equipment, storm water control ponds and facilities, cooling towers, and related structures. This term shall also mean linear and associated facilities, including but not limited to: transmission lines, natural gas pipelines, and compressor stations.

C. "DCA" shall mean the Florida Department of Community Affairs.

D. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.

- E. "DHR" shall mean the Florida Department of State, Division of Historical Resources.
- F. "DOT" shall mean the Florida Department of Transportation.
- G. "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.
- H. "Facility" or "Project" shall mean the St. Johns-Pellicer-Pringle 230-kV electrical "transmission line" as defined in Section 403.522(21), F.S.
- I. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- J. "FFWCC" shall mean the Florida Fish and Wildlife Conservation Commission.
- K. "FPL" shall mean Florida Power & Light Company, the Applicant/Licensee.
- L. "Licensee" shall mean FPL, which has obtained a certification order for the subject electrical transmission line.
- M. "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.
- N. "Post-certification submittal" shall mean a submittal made by FPL pursuant to a Condition of Certification.
- O. "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.
- P. "SJRWMD" shall mean the St. Johns River Water Management District.
- Q. "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.
- R. "Sufficient" shall mean the post-certification filing provides the data required by the relevant condition of certification.
- S. "Transmission line" shall mean the Florida Power & Light Company St. Johns-Pellicer-Pringle 230-kV transmission line.

T. "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).

V. TRANSFERABILITY OF DEFINITIONS

Definitions in other Chapters of the Department's rules may be used to clarify the meaning of terms used in these Conditions unless the terms are defined in Section 62-4.020, F.A.C., or unless transfer of such definition would defeat the purpose or alter the intended effect of the provisions of these Conditions.

Rule 62-4.021, F.A.C.

VI. 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).

VII. 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.

VIII. EMERGENCY REPORTING-REPLACEMENT FOR RESTORATION OF SYSTEM INTEGRITY

A. Replacement of ROW access roads or transmission lines constructed under this certification necessitated by an emergency as defined by section 252.34(6), (7) or (9), F.S. and requiring deviation from any condition of certification conditions shall not be considered a modification pursuant to Section 403.5315, F.S. (2004). An oral verbal report of the emergency replacement for restoration of system integrity 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.

B. The Department will use its enforcement discretion when evaluating violations that result from operating this facility under emergency conditions.. During and after the emergency conditions, the Licensee must use due diligence to bring the facility back into compliance as soon as possible. In addition, the facility must use its best efforts and best management practices to minimize adverse environmental impacts. The licensee shall notify the Siting Office and the appropriate DEP district office when the emergency condition has ended. Furthermore, the Licensee must include all monitoring data, which would otherwise be required under normal operating circumstances, recorded during emergency conditions when submitting reports as required by these conditions. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to c use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

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.

X. CONSTRUCTION PRACTICES

A. Local Building Codes

Any local government has the right to charge appropriate fees or require that construction be in compliance with applicable building construction codes.

B. Particulate Matter

The Licensee shall take reasonable precautions to control emissions of unconfined particulate matter in accordance with Rule 62-296.320(4)(c)1., F.A.C. The Licensee shall take appropriate measures to stabilize those portions of the certified area that are disturbed by construction or operation of the certified facility.

Section 403.531, F.S.; Rule 62-296.320, F.A.C.

C. Flood Control Protection

The certified facilities shall be constructed in such a manner that complies with any applicable County flood protection requirements.

D. Vegetation

The Licensee, to the extent feasible, will retain existing native (non-exotic) vegetation within the certified area and practice "best management practices" with respect to vegetation management in the certified area to the extent feasible and in compliance with Section 163.3209, F.S., which incorporates by reference North American Electrical Reliability Corporation (NERC) standard FAC-003-1, American National Standards Institute (ANSI) standards A300 (Part I)-2001 and 2133.1-2000, and National Electrical Safety Code (NESC) standards adopted by the Florida Public Service Commission. The requirements of section V. D. the Upland Erosion Control, Revegetation, and Maintenance Plan from the Federal Energy Regulatory Commission (FERC) found at this web address <http://www.ferc.gov/industries/gas/enviro/uplndctl.pdf> as well as Chapter 7 of the Florida Department of Transportation *Utility Accommodation Manual* located at this web address <http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710020001/Chapter-7.pdf> shall serve as guidelines for best management practices.

Chapter 163.3209, F.S.

E. Underground Utilities

During design and prior to construction of any linear facility, Licensee shall contact Sunshine One Call and obtain a listing (design and construction tickets) of all of the known existing underground utilities within the ROW. Licensee shall provide the affected county and the Siting Office with a copy of those facilities located within the County's right-of-way. Licensee must also follow safe digging practices and the Underground Facility Damage Prevention and Safety Act, Chapter 556, Florida Statutes.

Chapter 556, F.S.

VIIXI. 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. As required by Section 403.5113(2), F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.

The Licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due-dates for information required of the Licensee are identified. A summary shall be provided as a separate document for each transmission line. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the DEP Siting Coordination Office and any affected agency or agency subunit to which the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below or equivalent.

<u>Condition Number</u>	<u>Requirement and Timeframe</u>	<u>Due Date</u>	<u>Name of Agency or Agency Subunit to whom the submittal is required to be provided</u>

Rule 62-17.191(3), F.A.C

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 Florida Coastal 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. The agency's statement disputing DEP's determination shall state with particularity the location to which the agency's dispute relates. Work in areas other than the location to which the agency's dispute relates will not be affected by the agency's dispute.

L. Post-Construction Activities

The Licensee shall comply with the requirements of section VII from the Upland Erosion Control, Revegetation, and Maintenance Plan from the Federal Energy Regulatory Commission (FERC) found at this web address
<http://www.ferc.gov/industries/gas/enviro/uplndctl.pdf>.

~~VIII Citation:~~ Section 403.531, F.S. (2004); Rules 62-17.191, 62-17.205, 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)

IXII. 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. This Section XII governs disputes concerning these Conditions of Certification in cases where (a) the parties to the dispute are parties identified in Sections 403.508(3)(a), 403.527(2)(a), and 403.9411(4)(a) F.S. and (b) the time has elapsed for filing an appeal concerning the Conditions of Certification that gave rise to the disputed issue. If such a dispute arises and mutual agreement cannot be reached between the parties, the first attempt at dispute resolution will be handled by a Florida Supreme Court Certified Mediator agreed upon by all of the parties involved in the dispute. If resolution cannot be achieved in this manner, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The 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).

XIII. 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).

XIV. 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. Abandonment of the certified facility will be considered grounds for enforcement action.

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~~ facility 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)

XIV. REVOCATION OR SUSPENSION

This certification may be suspended or revoked pursuant to Section 403.532, Florida Statutes as applicable, or for violations of any of these Conditions of Certification. This approval is valid only for the specific processes and operations identified within the Application and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the Certified facility that are the cause of such action, and other portions of the Certified facility shall remain unaffected by such action.

~~XII Citation:~~ Section 403.532, F.S. and Rule 62-4.160(2), F.A.C. (2004).

XIV. PROPERTY RIGHTS

A. 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.

B. If any portion of the certified facility is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the certified facility must comply with the applicable portions of Chapters 18-2, 18-20 and 18-21, F.A.C., and Chapters 253 and 258, F.S. If any portion of the certified facility is located on sovereign submerged lands, the Licensee must submit section G of the Joint Application for Environmental Resource Permits to the Department prior to construction. If any portion of the certified facility is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

C. If a portion of the certified facility is located on sovereign submerged lands or state-owned uplands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, then the activity requires a proprietary authorization. The activity is not exempt from the need to obtain a proprietary authorization. The Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Section 18-2.018 or 18-21.0051, F.A.C.

D. The Licensee is hereby advised that Florida law states: "No person shall commence any excavation, construction, or other activity involving the use of sovereign or other state lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use." Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

E. The terms, conditions, and provisions of the required lease or easement shall be met. Construction of this activity shall not commence on sovereign submerged lands or state owned uplands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease or easement documents have been executed to the satisfaction of the Department.

XIII Citation: Section 403.531, F.S. Chapters 253 and 258, F.S., Chapter 3.1.1. of the B.O.R.; 18-2, 18-14, 18-21, 62-343.900(1), Section G, and 62-4.160(4) and 62-340, F.A.C.; Upland Easement Application and Section G of the Environmental Resource Permit Application Form. (2004).

XIV. PROCEDURAL RIGHTS

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

XIV Citation: Chapters 120 and 403.531(5), F.S. (2004).

XVIII. POST CERTIFICATION AMENDMENTS

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

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

B. If the department concludes that the change would require a modification to the conditions of certification, the department shall provide written notification to the Licensee that the proposed change to the application requires a request for modification pursuant to 403.516, and 403.5317, F.S.

Chapters 373, 403.4211, 403.5113, 403.516, and 403.5317, F.S.; Rules 62-340 and 62-343, F.A.C.

XVIX. 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.~~

The certification shall be modified to conform to subsequent DEP-issued amendments, modifications, or renewals of any separately issued Prevention of Significant Deterioration (PSD) permit, Title V Air Operation permit, Underground Injection Control (UIC) permit, or National Pollutant Discharge Elimination System (NPDES) permit for the certified facility. In the event of a conflict, the more stringent of the conditions of such permits or of these Conditions of Certification shall be controlling.

B. Any anticipated facility expansions, production increases, or process modifications which may result in new, different or increased discharge or emission of pollutants, change in fuel, or expansion in generating capacity must be reported by submission of an appropriate application for amendment, modification, or certification

C. Requests which include alterations to the landscape regulated under Part IV of Chapter 373 (relevant to environmental resource permitting), F.S shall require modification to the Conditions of Certification. Activities meeting any one of the below criteria shall require modification to these conditions. An activity shall be considered a modification if:

1. the activity requires a new site inspection by the department in order to evaluate the request;

2. the activity necessitates a change to the Conditions of Certification;

3. the activity substantially

a. increases the authorized discharge;

b. results in different or increased impacts on wetlands and other surface waters, as delineated by the methodology ratified by section 373.4211, F.S., and codified in Chapter 62-340, F.A.C.;

c. decreases the retention/detention specified by the current application/license;

- d. decreases any flood control elevations for roads or buildings specified by the current application/license; or
e. increases the certified facility area; or
4. the activity occurs on sovereign (or state-owned) submerged lands.

For approval of activities governed by the Department's program for Environmental Resource Permits, the Licensee shall submit a completed application Form# 62-343.900(1) (as required in Rules 62-343.070(2) and 62-343.090(2)(b), F.A.C.) with its petition for modification.

D. Any anticipated facility change which results in a change to the certified area must be accompanied by a map or aerial photo showing the proposed new boundaries of the certified area. The Department may consider any such change to be a modification of the Conditions of Certification, including those changes that would otherwise be considered an amendment to the Site Certification Application. Within 60 days after completion of construction of the new project the Licensee shall provide: a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as a legal description, delineating the boundaries of the certified area; and an aerial photograph delineating the new boundaries of the certified area. The survey and aerial photograph shall be attached hereto as Attachment B.

E. The Licensee may file a petition for modification with the department, or the department may initiate the modification upon its own initiative.

F. 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.G. 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.~~

XVIX. 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 3900 Commonwealth Blvd.
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

~~XVI Citation:~~ Section 403.531, F.S. (2004).

XXI. INCORPORATION OF EXISTING STATE AND LOCAL PERMITS/LICENSES

The operation of the St. Johns Pellicer-Pringle transmission line shall be in accordance with all applicable provisions of any state or local government permit issued prior to certification. All such state and locally issued permits are intended to be incorporated herein, such that the Licensee shall comply with the substantive provisions and limitations set forth in these permits. The inadvertent omission of any state or locally issued permit from these Conditions of Certification does not relieve the Licensee from compliance with the substantive provisions and limitations set forth in those permits.

At any time following certification, should the Licensee become aware of any state or locally issued permit not included herein, the Licensee shall promptly notify the Siting Office for incorporation into these Conditions of Certification. Likewise, when the Department is made aware of any separately issued permits, the Conditions of Certification will be modified accordingly to incorporate the substantive provisions and limitations of any such permit.

Such provisions shall be fully enforceable as conditions of this certification and may only be amended or modified in accordance with the provisions herein. Any violation of such provisions shall be a violation of these Conditions of Certification.

XXII. 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. The Department will consider whether the entity is a proper applicant as defined by the TLSA in making its approval. A transfer of certification of all or part of a certified facility shall may 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. A copy of the necessary form may be obtained by contacting the Siting Coordination Office. Upon approval the Department will initiate a modification to the Conditions of Certification to reflect the change in ownership in accordance with 62-17.211, F.A.C. In the event of the dissolution of a certified licensee, the Department may transfer certification to successor entities which are determined to be competent to construct, operate and maintain the certified facility in accordance with the conditions of certification and which are proper applicants as defined by the PPSA, TLSA and/or NGPSA. Upon determination that such a successor entity complies with the above, the Department will initiate a modification to the Conditions of Certification to reflect the change in ownership in accordance with 62-17, F.A.C.

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

SECTION B. SPECIFIC CONDITIONS

XVIII. DEPARTMENT OF COMMUNITY AFFAIRS

A. ROW Location

~~A.~~ 1. To the extent feasible, FPL shall locate the transmission line ROW so as to avoid the taking of homes.

~~B.~~ 2. 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~~

XIIX. DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. Process for Review of ROW Location

~~A.~~ 1. 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.~~ 2. 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.~~ 3. 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.~~ 4. After FPL has acquired interest in the entire length of the transmission line ROW in a county, FPL shall:

1. a. 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. b. 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.~~ B. ROW Surveys

~~A.~~ 1. 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.~~ 2. 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.

~~G.~~ 3. 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.~~ 4. 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.~~ C. Activities in Wetlands

~~A.~~ 1. 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.~~ 2. Reduction and Elimination of Impacts

~~a1-~~ 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.

~~b.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.

~~c.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.

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

~~(1)a.~~ to reduce or eliminate wetland impacts from the project;
and

~~(2)b.~~ to avoid conflict with existing underground water and sewer facilities properly documented in county records.

~~e.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.

~~G.~~ **3. 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. D. Drainage and Erosion Control

~~A.~~ **1. 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.~~ 2. **Erosion/Runoff Control**

~~1.~~ a. 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.~~ b. 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.~~ c. 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.~~ E. **Construction Practices**

~~A.~~ 1. **Wetland Clearing**

~~1.~~ a. 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.~~ b. 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.~~ 2. 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.~~ 3. 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.~~ 4. 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 or waterbodies (including groundwater) for the transmission line.

~~XXIII.D. Citation:~~ Sections 403.531 and 403.414. F.S. (2004); Chapters 40C-4, 62-761.451 and 62-762.451, F.A.C.

a. Spills

Fuel and other petroleum product spills that enter stormwater drains or waterbodies, or fuel and other petroleum product spills that are in excess of 25 gallons shall be contained, cleaned up, and immediately reported to the appropriate DEP District Water Resources Office. A copy of any submittal by Licensee pursuant to this paragraph, for any spills located in the affected County, shall be provided to the affected County for informational purposes. Smaller ground surface spills shall be cleaned up as soon as practical.

Rules 62-761.451; 62-762.451 F.A.C.

b. Discharge

The Licensee shall not discharge to surface waters wastes which are acutely toxic, or present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant locally occurring wildlife or aquatic species. The Licensee shall not discharge to ground waters wastes in concentrations which, alone or in combination with other substances, or components of discharges (whether thermal or non-thermal) are carcinogenic, mutagenic, teratogenic, or toxic to human beings (unless specific criteria are established for such components in Section 62-520.420, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

Rules 62-303; 62-40; 62-520, F.A.C.

c. Reporting

The Licensee shall report all spills of materials having potential to significantly pollute surface or ground waters and which are not confined to a building or similar containment structure, by telephone immediately after discovery of such spill. The Licensee shall submit a written report within forty-eight hours, excluding weekends, from the original notification; the Siting Coordination Office shall be copied on this report. The telephone report shall be submitted by calling the DEP District Office Industrial Wastewater Compliance/Enforcement Section. After normal business hours, the Licensee shall contact the State Warning Point by calling (850) 413-9911 or (850) 413-9912. The written report shall include, but not be limited to, a detailed description of how the spill occurred, the name and chemical make-up (include any MSDS sheets) of the substance, the amount spilled, the time and date of the spill, the name and title of the person who first reported the spill, the size and extent of the spill and surface types (impervious, ground, water bodies, etc.) it impacted, the cleanup procedures used and status of completion, and include a map or aerial photograph showing the extent and paths of the material flow. Any deviation from this requirement must receive prior approval from the Department.

Chapter 376, F.S.; Rule 62-160, F.A.C.

XXIV. F. Mitigation

- DEP: A. 1. If the project complies with the following mitigation is not required by
- 1.a. 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.b. 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.c. 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.d 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.e. The proposed construction and clearing shall not adversely affect threatened and endangered species; and

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

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

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

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

5. e. acreage and wetland type of the proposed mitigation;

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

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

C. 3. 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. 4. 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. 5. 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. 6. 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.~~ 7. 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.~~ G. **Electric and Magnetic Field Effects**

~~A.~~ 1. **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.~~ 2. **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.

~~G.~~ 3. **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.~~ H. **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.~~ I. **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.

Agency: SJRWMD

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.

XXIXIV. TRANSMISSION LINE DESIGN ST. JOHNS COUNTY

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.~~

~~XXXV.~~ 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

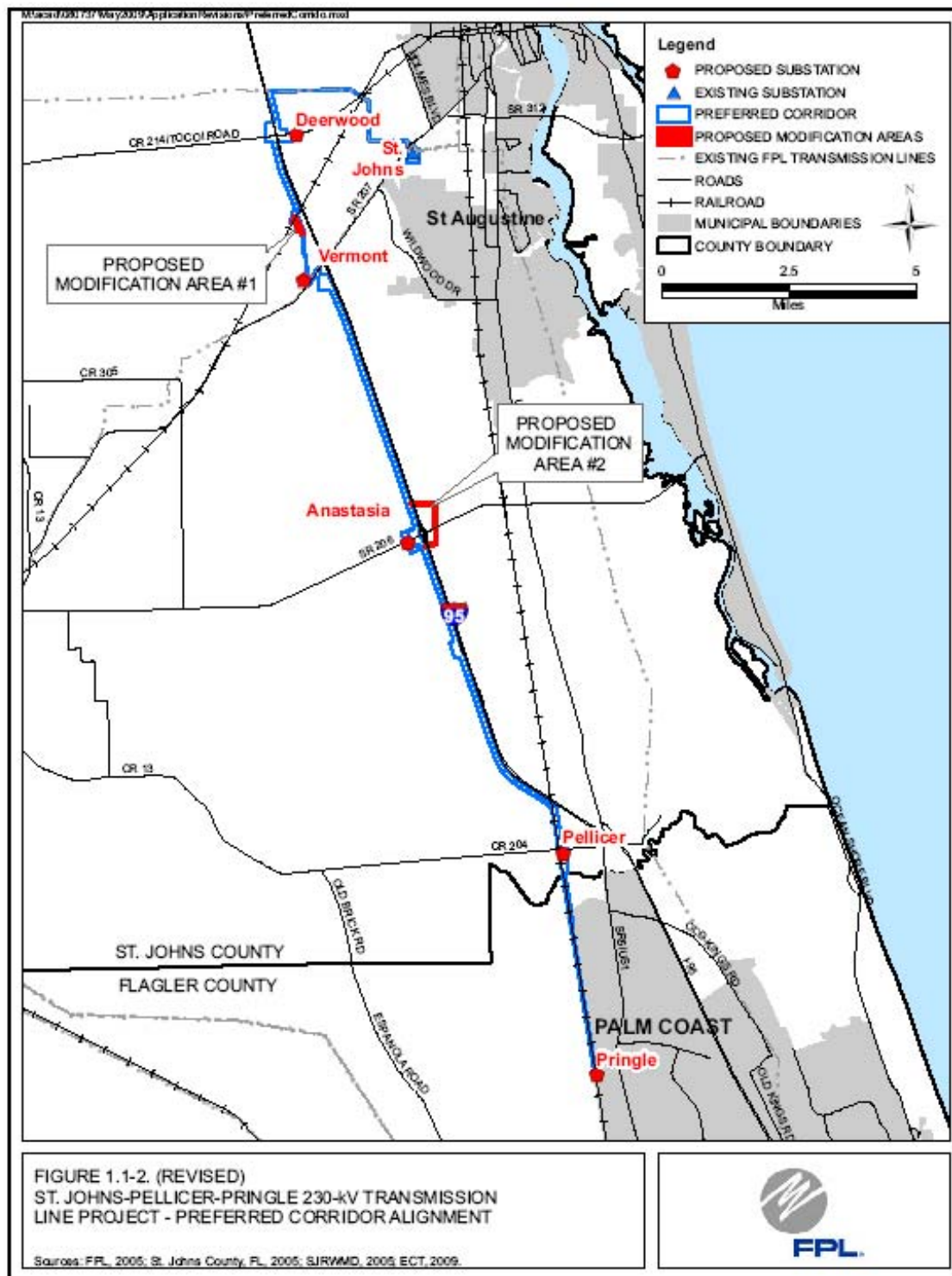
Traffic control will be maintained during project construction and maintenance in compliance with the standards contained in the Manual of Uniform Traffic Control Devices, Rule Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C.;

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.

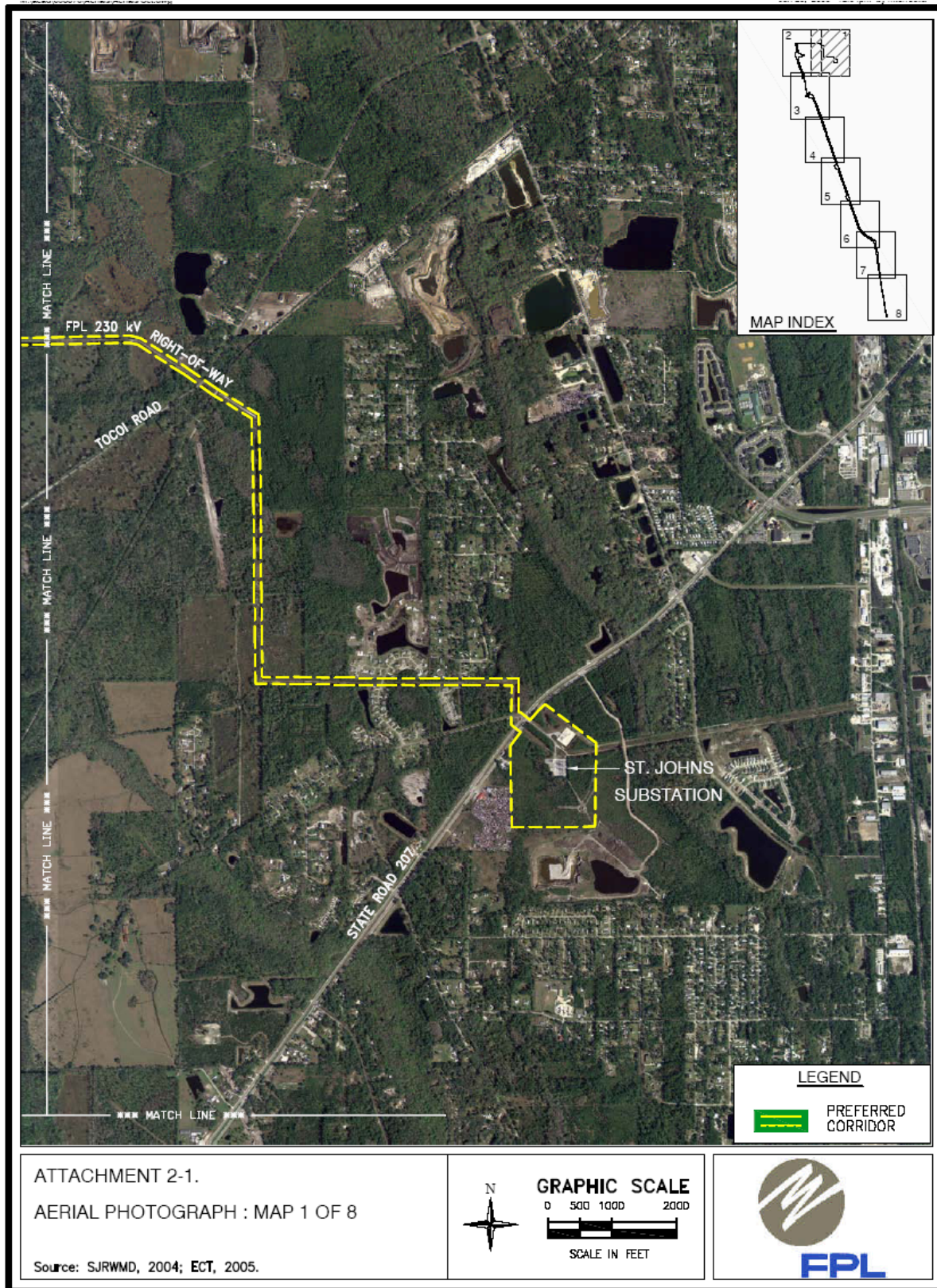
DRAFT

Attachment 1: Figure 1.1-2 Revised Corridor Alignment

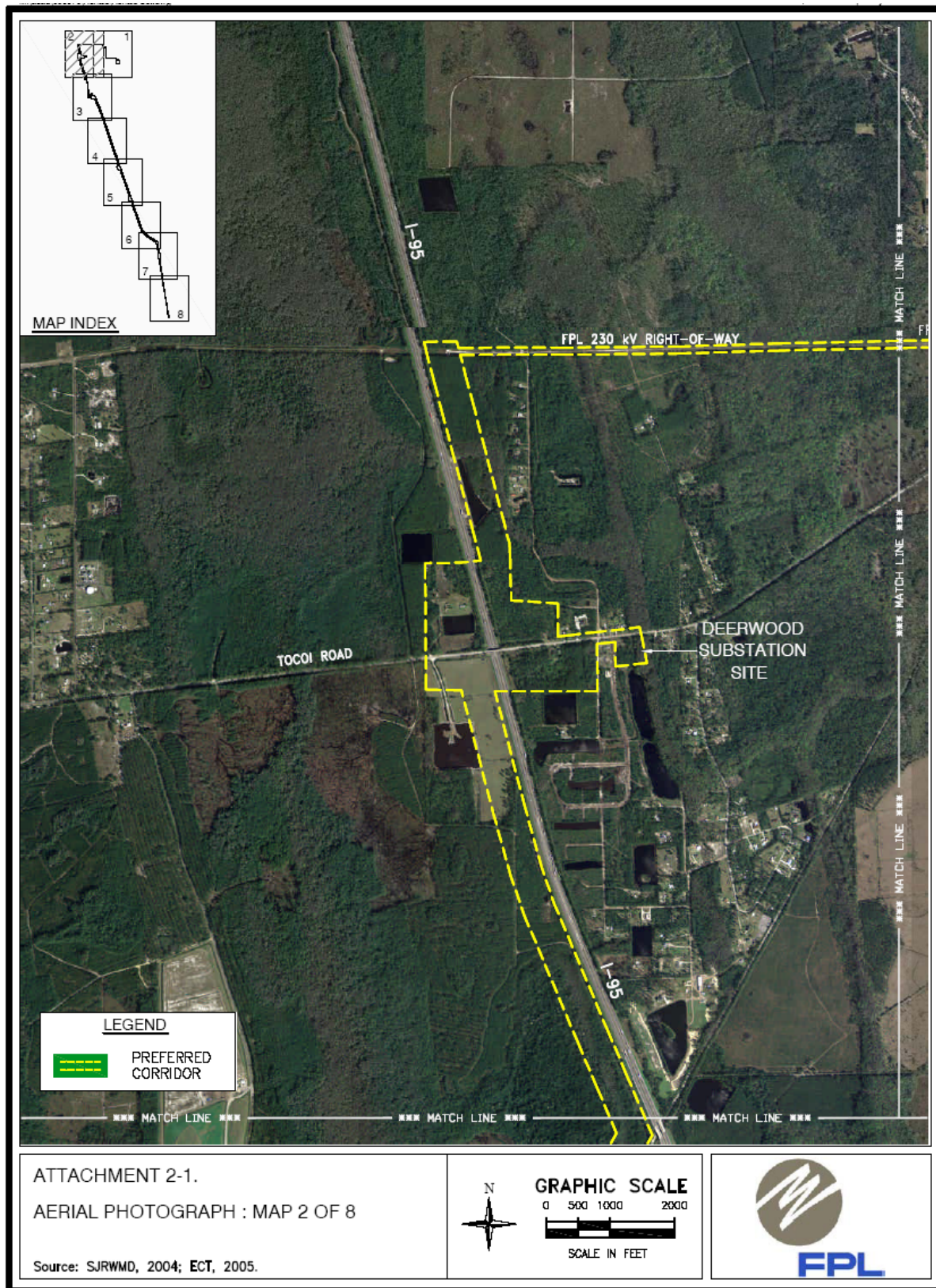


1-3 (Revised)

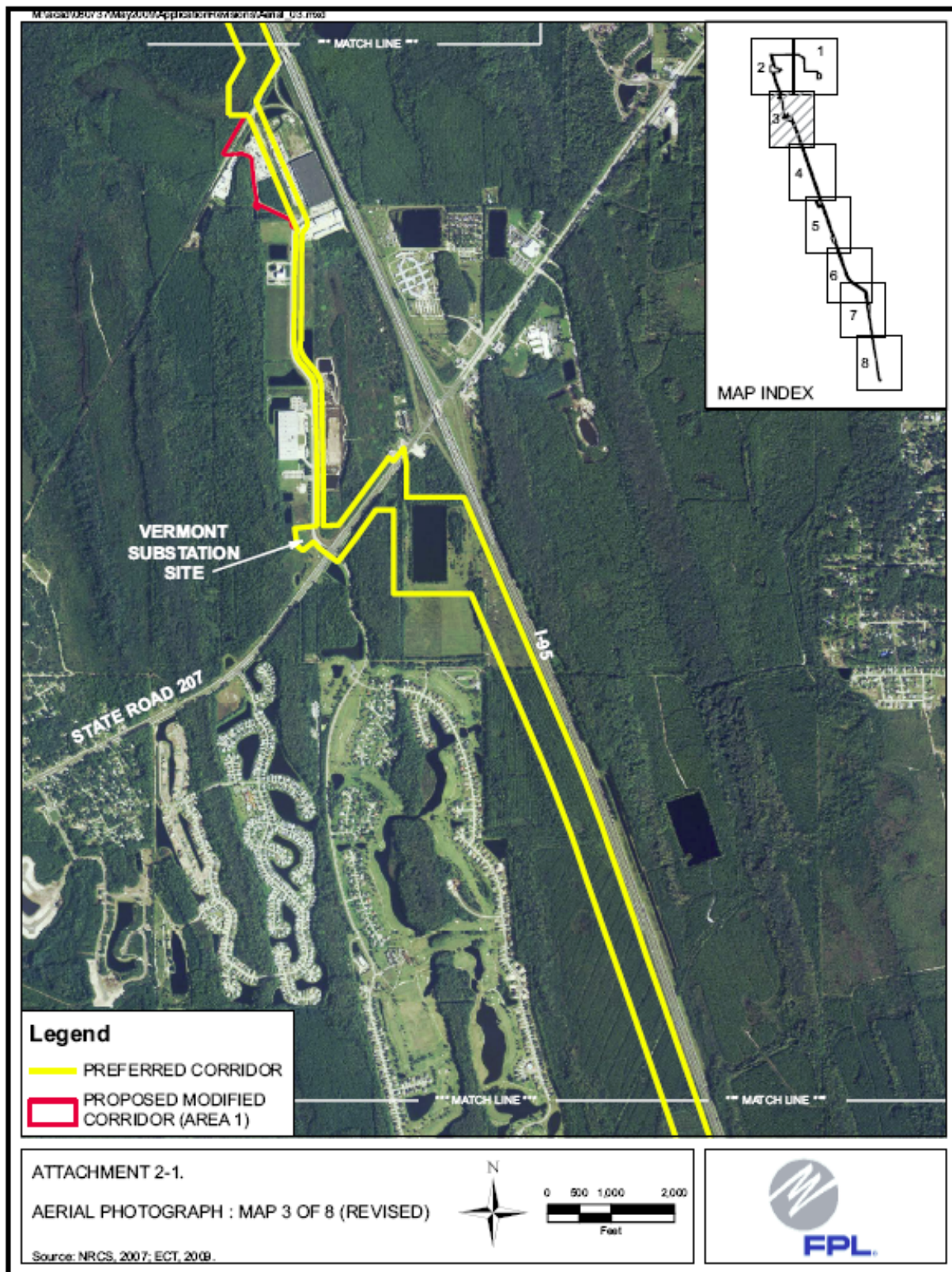
Attachment 2-1: ROW Location – St. John Substation



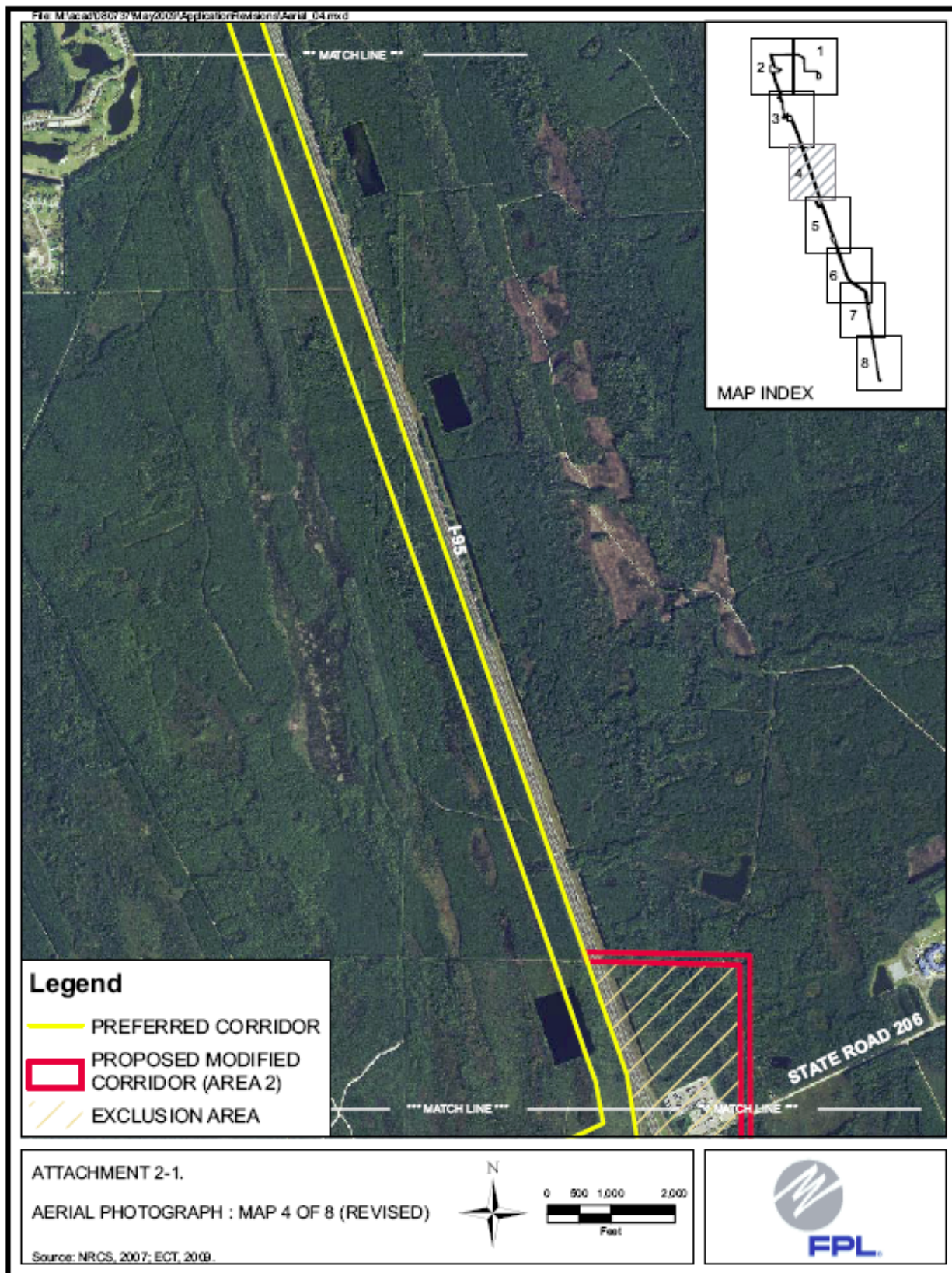
Attachment 2-2: ROW Location – Deerwood substation



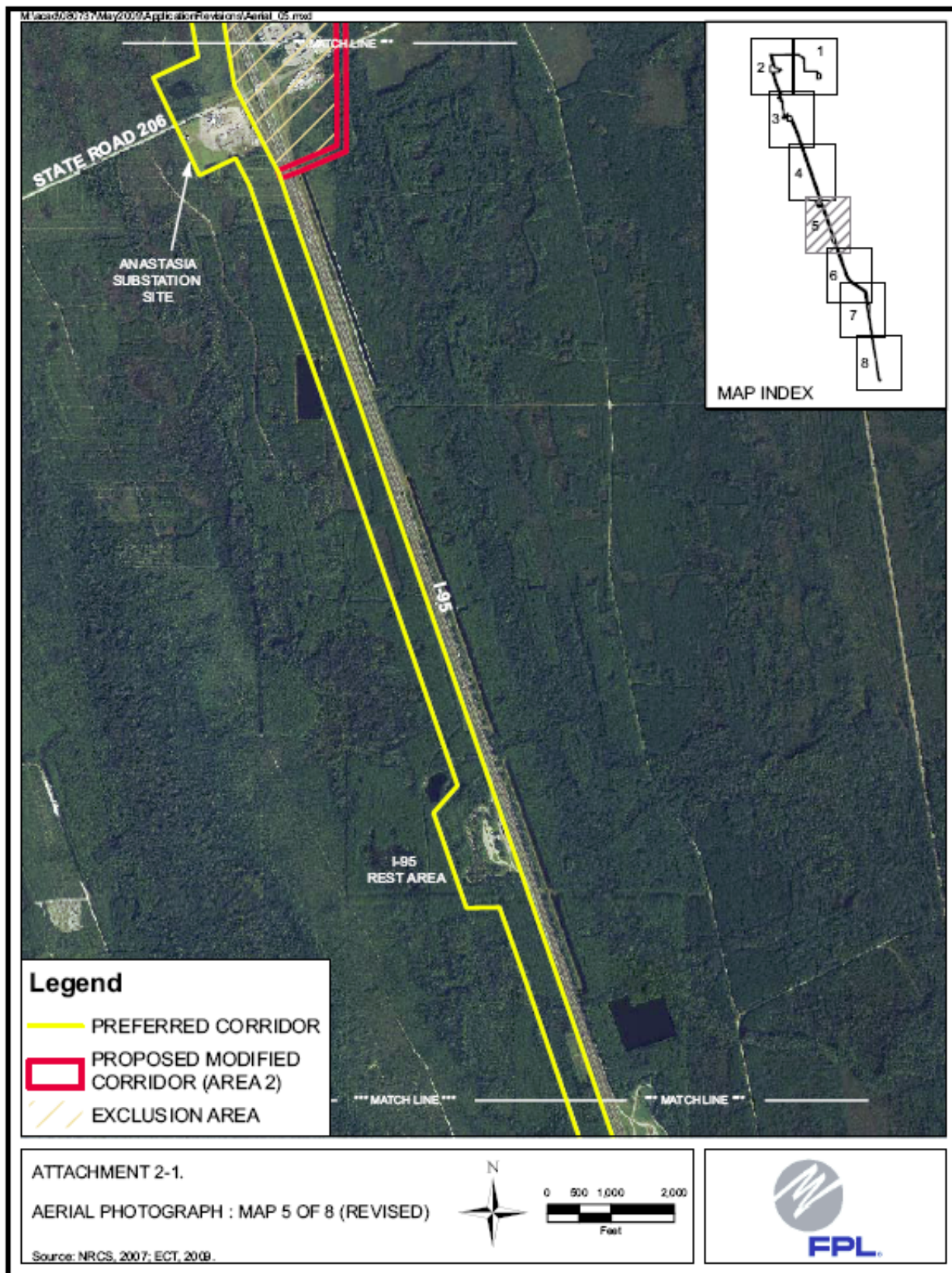
Attachment 2-3: Revised ROW Location – Vermont Substation



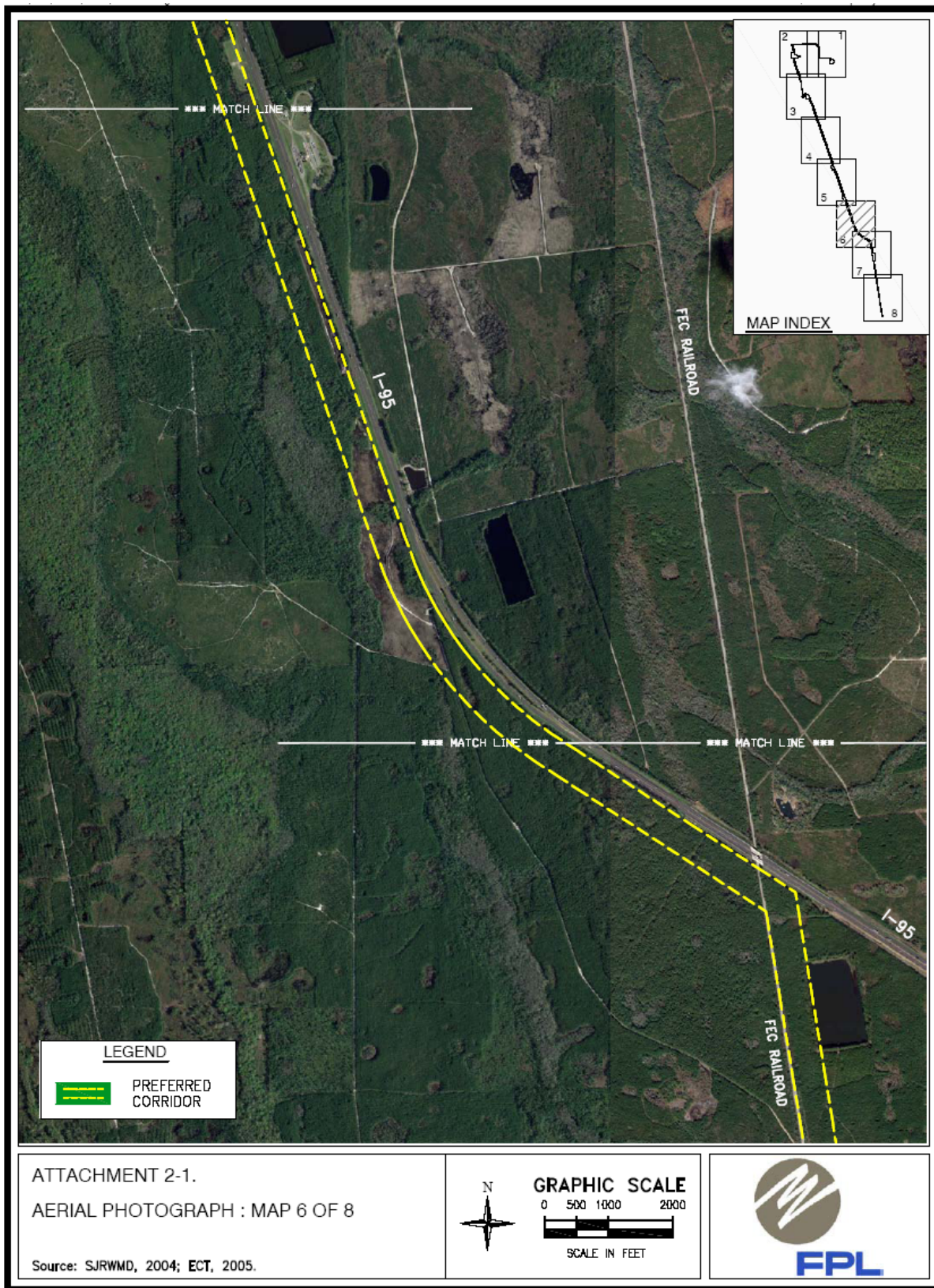
Attachment 2-4: Revised ROW Location



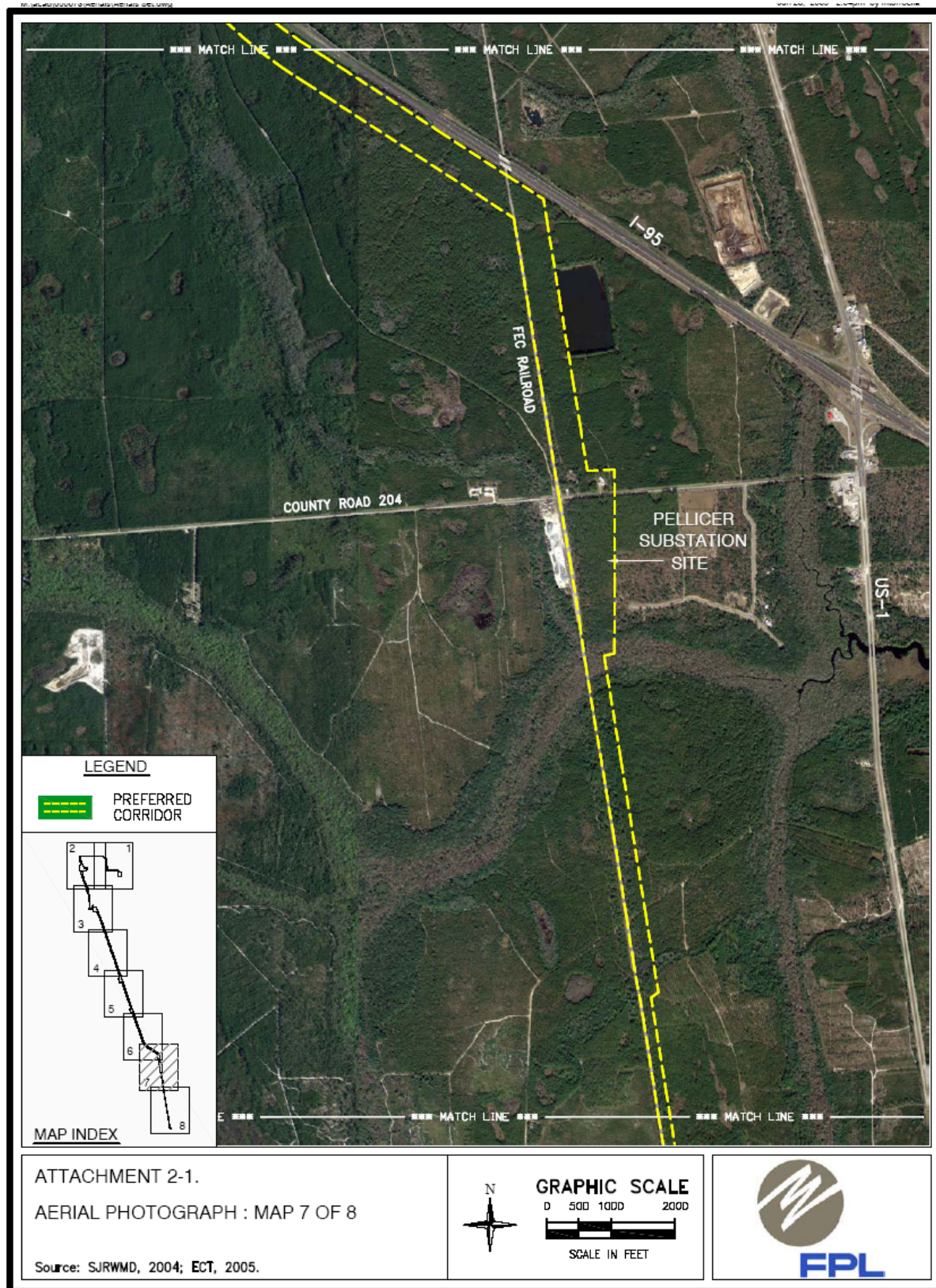
Attachment 2-5: Revised ROW Location – Anastasia Substation



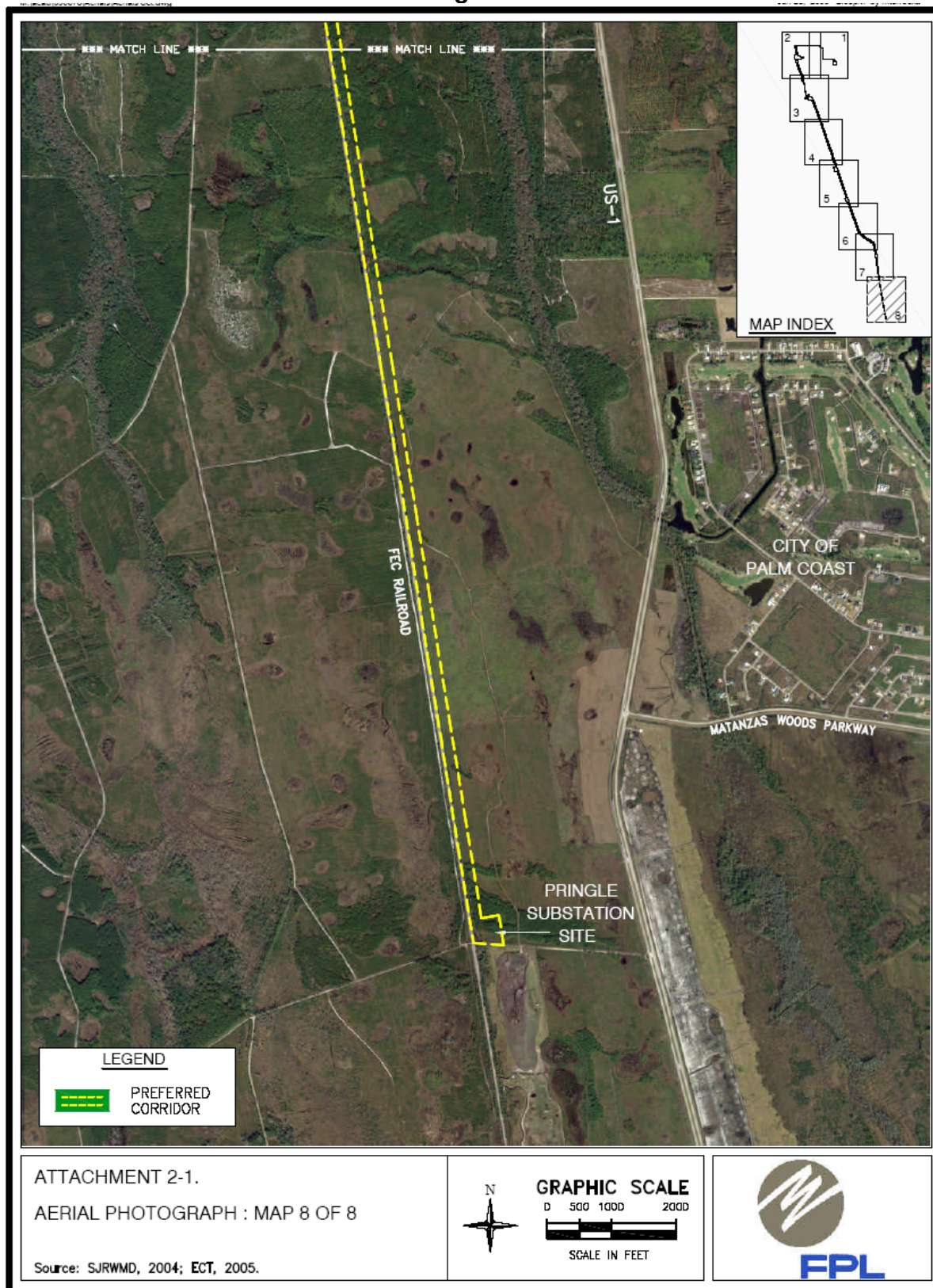
Attachment 2-6: ROW Location



Attachment 2-7: ROW Location – Pellicer Substation



Attachment 2-8: ROW Location – Pringle Substation



Attachment 3: SJRWMD Easement

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 mulch, burn, or remove all large woody debris generated during the construction of electric utility facilities.

IN **WITNESS WHEREOF**, the undersigned has signed and sealed this instrument on the ____ day of _____, 2005.

DRAFT

**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: _____