



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

LAN 04-06

October 15, 2009

Mr. Michael P. Halpin, P.E.
Administrator, Siting Coordination Office
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 48
Tallahassee, FL 32399-3000

Mike
Dear ~~Mr. Halpin~~:

**Subject: FPL Turkey Point Units 6 & 7, PA03-45A3
Site Certification Application
Associated Electrical Transmission Line Corridors
Third Completeness Review**

South Florida Water Management District (SFWMD) staff has completed its review of the Florida Power and Light (FPL) responses for the electrical transmission line corridors associated with the above subject application.

In addition to the specific completeness items listed below, the following comments apply to two themes recurring throughout FPL's completeness responses: first, that a SFWMD request is outside the scope of a completeness request for additional information and FPL has not been able to identify a regulatory standard requiring the information, and second, that the SFWMD request is premature and seeks information that will not be available or necessary until the post-certification review process.

In regard to the first item, Section 403.507(2)(a)2., F.S., directs the water management districts to prepare a report as to matters within its jurisdiction, including but not limited to, the impact on water resources, regional water supply planning and SFWMD-owned lands and works. The SFWMD has broad responsibilities under Chapter 373, F.S., in regard to water resources, and all the information requested is necessary for preparation of an adequate agency report. Legal citations for proposed conditions will be provided in the agency report as required by Section 403.507(3), F.S.

In regard to the second item, the SFWMD needs information of sufficient comprehensiveness and quality in order to prepare the agency report and propose meaningful conditions of certification. While certain details typically remain for post-

certification submittals, the information requested by the SFWMD is necessary for review of matters that should be included in the agency report.

With respect to the above, the following items need to be addressed in order for the SFWMD to complete its evaluation of the proposed electrical transmission line corridors and prepare its Agency Report:

- 1) In the response to SFWMD(2)-01, FPL states that they “are not requesting authorization to use L-31N or L-30 right-of-way through the site certification process” and “issues regarding FPL’s proposed use of the same should not be raised through the site certification process.” However, FPL’s West Preferred Corridor clearly includes SFWMD right-of-way along the east side of L-31N/L-30. Therefore, the SFWMD cannot assume that FPL will submit detailed design and construction plans during the post-certification review process that exclude proposed use and/or occupancy of SFWMD right-of-way east of the replacement corridor authorized under the Cooperation Agreement. If it is FPL’s intent not to use additional right-of-way within L-31N or L-30, FPL should support this statement by agreeing to narrow the width of the West Preferred Corridor in this area to coincide with the replacement corridor authorized under the Cooperation Agreement. Is there a specific reason(s) why FPL will not agree to narrow the West Preferred Corridor to coincide with the replacement corridor? If so, please specify.

In this response, FPL also states that they “will work with SFWMD to develop a condition of certification to provide SFWMD with a post-certification submittal consisting of information regarding the size and weight of equipment to be used on SFWMD right-of-way and the anticipated frequency of such use for any areas not covered by the Cooperation Agreement.” This statement implies that FPL is seeking use of additional SFWMD right-of-way not currently authorized under the Cooperation Agreement within those portions of the L-30/L-31N rights-of-way east of the replacement corridor or additional use of the L-29 right-of-way above and beyond what was approved under the Cooperation Agreement. Please clarify.

- 2) In the response to SFWMD(2)-02, FPL states “This request is outside the scope of a completeness request for additional information, in accordance with Sections 403.5066 and 403.507, F.S., and the Florida Department of Environmental Protection (FDEP) Application Guide, because SFWMD has not identified, and FPL has not been able to identify, an applicable regulatory standard requiring this information.” Please be advised that the SFWMD’s request is consistent with the intent of SFWMD Rules 40E-6.011(1) and (2) and 40E-6.221(2), F.A.C., as EMF from FPL transmission line facilities could interfere with the SFWMD’s operation

of key water control structures that provide flood protection to significant portions of Miami-Dade County. Regarding the specific tower location/height information requested by FPL, including shape files, this information was conveyed to FPL's attorneys in a September 29, 2009, e-mail from Ruth Holmes to Virginia Dailey. In consideration of the above, please provide the information previously requested under item 2 in the SFWMD's September 9, 2009, completeness letter.

- 3) In response to SFWMD(2)-05, FPL states that it intends to exchange its fee-owned right of way (West Secondary Corridor) for lands along the L-31N and L-30 levees. However, this land exchange has not yet been executed and FPL is continuing to maintain the West Secondary Corridor as an optional transmission line corridor. FPL also states that the SFWMD's jurisdiction in this area is limited and that specific impacts cannot be documented until the corridor is certified and FPL identifies a right-of-way and designs its proposed facilities.

Considering SFWMD, State, and Federal restoration efforts in the Everglades Protection Area (EPA), as directed by both State and Federal law, pursuant to the Everglades Forever Act, and the proposed corridor's location within the EPA, some of which is located on lands owned by the SFWMD in fee or for which it has an underlying easement, the SFWMD strongly disagrees with FPL that the SFWMD's jurisdiction in this area is limited.

As stated in our previous completeness question, certain information is required regarding the proposed corridor in order for the SFWMD to complete its Agency Report, including Recommended Conditions of Certification. Wood Storks, which reside in the vicinity of West Secondary Corridor, are an endangered species. Restoration of the Wood Stork population, along with other Everglades wading bird populations, is a primary Comprehensive Everglades Restoration Plan target. Identifying potential impacts on these populations and the habitat they use, including tree islands and adjacent wetlands, is critical for the SFWMD's assessment. Therefore, it is not acceptable to delay the provision of this information until the post certification review process since it could impact the location of the final right-of-way within the corridor or the acceptability of portions of the corridor as currently proposed.

The submitted FPL Avian Protection Plan (Plan) provides incomplete information pertaining to our original request concerning potential impacts of the West Secondary Corridor construction and operation on Wood Storks. The Plan (page 42 and Table 10-1) acknowledges that Wood Storks are among the species with highest risk of mortality from electrocution and collision. The Plan (page 44) also acknowledges that risk to these birds compounds with proximity of nesting to

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electrical transmission lines. Consequently, electrical transmission lines adjacent to Wood Stork rookeries, as proposed with the West Secondary Corridor, presents the highest possible risk situation. The Plan provides no documentation concerning protection of Wood Storks in this situation. The Plan also describes the existence of a risk assessment methodology, but no risk assessment of Wood Storks is described. Please provide a risk assessment specifically for Wood Storks in the West Secondary Corridor and describe specific measures that will be taken such that risk to the local population of this endangered species will be insignificant.

In addition, please identify the location of any potential roads and provide specific information on construction techniques/measures to be taken to avoid or minimize impacts (e.g., narrowing of the final right-of-way, designing the transmission line facilities to avoid tree islands/other sensitive habitat, etc.).

If you have any questions concerning the above, please do not hesitate to contact me at (561) 682-6862.

Sincerely,



James J. Golden, AICP
Lead Planner
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South Florida Water Management District

/jjg

c: See Attached Distribution List

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