



**Florida Fish
and Wildlife
Conservation
Commission**

Commissioners

Rodney Barreto

Chairman

Miami

Richard A. Corbett

Vice Chairman

Tampa

Kathy Barco

Jacksonville

Ronald M. Bergeron

Fort Lauderdale

Dwight Stephenson

Delray Beach

Kenneth W. Wright

Winter Park

Brian S. Yablonski

Tallahassee

Executive Staff

Nick Wiley

Executive Director

Greg Holder

Assistant Executive Director

Karen Ventimiglia

Deputy Chief of Staff

Office of the

Executive Director

Nick Wiley

Executive Director

(850) 487-3796

(850) 921-5786 FAX

*Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.*

620 South Meridian Street

Tallahassee, Florida

32399-1600

Voice: (850) 488-4676

Hearing/speech impaired:

(800) 955-8771 (T)

(800) 955-8770 (V)

January 2, 2013

DEPARTMENT OF
ENVIRONMENTAL PROTECTION

JAN 8 2013

SITING COORDINATION

Ms. Ann Seiler, Environmental Specialist
Florida Department of Environmental Protection
Siting Coordination Office
3900 Commonwealth blvd. MS 48
Tallahassee, FL 32399
Ann.seiler@dep.state.fl.us

Re: Site Certification Application, Tampa Electric Polk 2-5 Combined Cycle
Conversion Project, Polk County, Agency Report, Transmission Line Portion

Dear Ms. Seiler:

Florida Fish and Wildlife Conservation Commission (FWC) staff has reviewed the
Site Certification Application (Transmission Line Portion) for the Tampa Electric
Polk 2-5 Combined Cycle Conversion Project and provides the attached Agency
Report and Recommendations for Conditions to be included in the Transmission
Line Corridor Certification in accordance with 403.526 (2)(a)4, Florida Statutes.

Tampa Electric will need to comply with the State of Florida's listed species
requirements found in Chapter 68-27A, Florida Administrative Code (F.A.C.) prior
to construction of the Transmission Line Facilities. This also includes requirements
specified in the Bald Eagle Management Plan and in the revised Gopher Tortoise
Management Plan.

We recommend approval of the Tampa Electric Polk 2-5 Combined Cycle Conversion
Project Transmission Line Portion with the inclusion of recommended conditions
related to listed species and their habitat; biological survey and monitoring (pre- and
post- construction); and mitigation for impacts.

We appreciate the opportunity to review this site certification application. If you
need further assistance, please do not hesitate to contact Jane Chabre either by
phone at (850) 410-5367 or at FWCConservationPlanningServices@MyFWC.com. If
you have specific questions regarding the content of this letter, please contact Tim
King at (863) 648-3829 or by email at Timothy.King@MyFWC.com.

Sincerely,

Bonita Gorham

Land Use Planning Program Administrator
Office of Conservation Planning Services

bg/jdg/tk

TECO Polk Power Station 2-5 Combined Cycle Conversion_16820_010213

ENV 2-11-3/3

cc: Bobby Bull, FDEP, Robert.Bull@dep.state.fl.us

David Lukcic, Tampa Electric Company, dmlukcic@tecoenergy.com

Agency Report and Recommendations for Conditions to be Included in the State Certification

Project Description

Tampa Electric proposes to build and operate the Polk 2-5 Combined Cycle Conversion Project (Project) at the existing Polk Power Station (PPS). The Project will convert the existing Polk Units 2-5 combustion turbine generators to a 1,160-megawatt (MW) combined cycle electric generating unit, increasing the nominal net generating capacity to 1,420 MW. The project involves two associated linear facilities located in offsite corridors. The associated linear facilities include approximately 27 miles of 230-kilovolt (kv) new transmission lines from PPS to Tampa Electric's Mine and Fishhawk substation and approximately 5.5 miles of upgrades to existing 230-kv transmission lines from Polk to Pebbledale substation.

Affected Resources

Effects on State-Listed Species

The proposed linear facilities will likely impact federally and state-listed species as described by the application in Tables 3.3.6-2 and 9.3.7-3. There are a number of listed species either observed within the associated linear facilities corridor or with a moderate to high likelihood of occurring along the corridor. These species include, but may not be limited to the eastern indigo snake, Florida pine snake, short-tailed snake, gopher tortoise, Southeastern American kestrel, bald eagle, sandhill crane, woodstork and several listed wading bird species. A listing of all state- and federally designated species potentially impacted by the proposal and their listing status is included in the proposed conditions.

Portions of the transmission line corridor fall within the U.S. Fish and Wildlife Service's designated consultation areas for the Florida grasshopper sparrow [*Ammodramus savannarum floridanus*, federally endangered (FE)], the Audubon's crested caracara [*Polyborus plancus audubonii*, federally threatened (FT)] and the scrub-jay [*Aphelacoma coerulesens* (FT)]. In addition, portions of the transmission line corridor lie within the Core Foraging Area of the wood stork [*Mycteria americana* (FE)] and there are five known woodstork colonies within the vicinity of the proposed corridors: 615105, Lake John, 616117, 616114 and NE Mulberry.

Gopher tortoise habitat is also found within the corridor. Tortoises, their burrows and burrow commensals (e.g., eastern indigo snake) will need to be avoided or permitted in accordance with the FWC Gopher Tortoise Management Plan.

Either a relocation or incidental take permit may be required for each impacted species on a case-by-case basis. If there is evidence that any of these species are present, then the applicant must report their findings to the FWC. The applicant must also contact the FWC before taking any action that might result in an impact to those species if such impacts cannot be avoided.

Recommended Conditions

The FWC recommends the following conditions be included in the special conditions as part of the certification process to address specific wildlife species, biological survey and monitoring, and mitigation.

**TAMPA ELECTRIC POLK 2 – 5 COMBINED CYCLE CONVERSION
PROJECT ASSOCIATED LINEAR FACILITIES
PRELIMINARY CONDITIONS OF CERTIFICATION**

**FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
TRANSMISSION LINE CORRIDOR SPECIFIC CONDITIONS**

A. Listed-Species Conditions

The following table contains state and federally listed species that occur in the State of Florida and are likely to occur within the transmission line corridor and associated facilities. The table contains species that are potentially impacted by the activities proposed within the corridor. Therefore, these conditions of certification apply to the species listed in this table that are found within the certified area.

**Listed Species Occurring or Potentially Occurring in the Project Area as of
December 2012†**

<u>Common Name</u>	<u>Scientific Name</u>	<u>Fl- status</u>	<u>Fed status</u>
Bald eagle	<i>Haliaeetus leucocephalus</i>	*	*
Burrowing owl	<i>Athene cunicularia</i>	SSC	
Eastern indigo snake	<i>Drymarchon couperi</i>	T	T
Florida mouse	<i>Peromyscus floridanus</i>	SSC	
Florida pine snake	<i>Pituophis melanoleucus mugitus</i>	SSC	
Florida sandhill crane	<i>Grus canadensis pratensis</i>	T	
Florida scrub jay	<i>Aphelocoma coerulescens</i>	T	T
Gopher frog	<i>Lithobates capito</i>	SSC	
Gopher tortoise	<i>Gopherus polyphemus</i>	T	
Little blue heron	<i>Egretta caerulea</i>	SSC	
Limpkin	<i>Aramus guarana</i>	SSC	
Roseate spoonbill	<i>Platalea ajaja</i>	SSC	
Sherman's fox squirrel	<i>Sciurus niger shermani</i>	SSC	
Short-tailed snake	<i>Stilosoma extenuatum</i>	ST	
Everglades snail kite	<i>Rostrhamus sociabilis plumbeus</i>	E	E
Snowy egret	<i>Egretta thula</i>	SSC	
Southeastern American kestrel	<i>Falco sparverius paulus</i>	T	
Tricolored heron	<i>Egretta tricolor</i>	SSC	
White ibis	<i>Eudocimus albus</i>	SSC	
Wood stork	<i>Mycteria americana</i>	E	E

SSC = Species of Special Concern; E = Endangered; T = Threatened

†Species' legal statuses are subject to change. Recent changes to 68A-27, Florida Administrative Code (F.A.C.) make it likely that statuses of species listed may change before the Licensee commences work. The Licensee shall refer to the law in effect at the time it begins an activity subject to being affected by listed species regulations.

* While the bald eagle has been both state and federally delisted, it is still governed by the state bald eagle management plan and the federal Bald and Golden Eagle Protection Act.

[Chapter 68A-27, Florida Administrative Code (F.A.C.).]

B. General Listed Species Survey

1. The Licensee shall coordinate with the Florida Fish and Wildlife Conservation Commission (FWC) to obtain and follow the current survey protocols for all listed species that may occur within the transmission line rights-of-way, and accessible appropriate buffers as defined by the listed species' survey protocols, prior to conducting detailed surveys.
2. Surveys shall be conducted prior to clearing and construction in accordance with the survey protocols. The results of those detailed surveys shall be provided to FWC in a report, and coordination shall occur with the FWC on appropriate impact mitigation methodologies.

[Article IV, Sec. 9, Fla. Constitution; Section 379.2291, Florida Statutes (F.S.), Sections 403.507 and 403.5113(2), F.S., and Chapter 68A-27, Florida Administrative Code (F.A.C.).]

C. Specific Listed Species Surveys

Before land clearing and construction activities within a transmission line right-of-way occur, the Licensee shall conduct an assessment for listed species which shall note all habitat, occurrence or evidence of listed species. Listed species to be included in this survey shall include the bald eagle and those species listed as endangered, threatened, or of special concern by the FWC or those listed as endangered or threatened by U.S. Fish and Wildlife Service (USFWS). Wildlife surveys shall be conducted in the reproductive or "active" season for each species that falls before the projected clearing activity schedule unless otherwise approved by the FWC or USFWS. For species that are difficult to detect, the Licensee may make the assumption that the species is present and plan appropriate avoidance/mitigation measures after consultation and approval from the FWC.

1. This survey shall be conducted in accordance with USFWS/FWC guidelines and methodologies by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for each potentially occurring listed species.

2. This survey shall identify any wading bird colonies within the project that may be affected.
3. This survey shall identify locations of breeding sites, nests, and burrows for listed wildlife species. Nests and burrows may be recorded with GPS coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, the FWC prefers that any applicable protection radii surrounding groups of nest sites and burrows be included, rather than around individual nests and burrows, and be physically marked so that clearing and construction shall avoid impacting them.
4. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community (Florida Land Use, Cover and Forms Classification System, or FLUCFCS, at the third degree of detail) including a wildlife-based habitat classification scheme such as the Comprehensive Wildlife Conservation Strategy (FWC 2005), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (FNAI 1990) of each community that is contained within the transmission line right-of-way prior to land clearing and construction activities using GIS.

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

D. Listed Species Locations

Where any suitable habitat or evidence is found of the presence of listed species within the right-of-way, the Licensee shall report those locations to, and confer with, the appropriate regulatory agencies for possible additional pre-clearing surveys, including those specified in E-I below, and to identify potential mitigation, or avoidance recommendations. If pre-clearing surveys are required, they shall be timed to be reasonably compatible with the construction schedule, considering the anticipated date for the start of construction within a certified transmission corridor. The Licensee shall not construct in areas where evidence of listed species was identified during the initial survey until the particular listed species issues have been resolved as follows:

1. *Listed Wildlife Species:* If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the appropriate DEP District Office(s), the FWC, the appropriate WMD, the appropriate local government(s), the USFWS, and the National Park Service as appropriate.
2. *Species Management Plan:* If avoidance of state-listed wildlife species is not feasible, the Licensee shall consult with the FWC to determine the steps appropriate for the species involved to avoid, minimize, mitigate, or otherwise appropriately address potential impacts. For wildlife species,

these steps shall be memorialized in a Wildlife Management Plan and submitted to the FWC.

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

E. Gopher Tortoise

1. The Licensee shall conduct surveys for gopher tortoises (*Gopherus polyphemus*), in accordance with the FWC-approved Gopher Tortoise Management Plan (revised and adopted September 15, 2008) and the FWC-approved Gopher Tortoise Permitting Guidelines, or subsequent FWC-approved versions of the Plan or Guidelines. A burrow survey covering a minimum of 15% of the potential gopher tortoise habitat to be impacted by development is required in order to apply for a relocation permit. Immediately prior to capturing tortoises for relocation, a 100% survey is required to effectively locate and mark all potentially occupied tortoise burrows and to subsequently remove the tortoises. Burrow survey methods are outlined in Appendix 4 of the Gopher Tortoise Permitting Guidelines, "Methods for Locating Gopher Tortoise Burrows on Sites Slated for Development". Surveys must be conducted within 90 days prior to a post-certification submittal of the online gopher tortoise relocation permit application (Temporary Exclusion Permit) to the FWC, as described in E.3 below. All surveys completed by authorized agents or other licensees are subject to field verification by the FWC. The results of the gopher tortoise surveys shall be provided to the appropriate land management state agency for portions of the transmission lines that cross state-owned lands, if applicable, for informational purposes.
2. FWC is not required to provide a monitoring compliance assessment for activities that occur more than 25 feet from a gopher tortoise burrow entrance, provided that such activities do not harm gopher tortoises or violate rules protecting gopher tortoises. Examples of such violations noted in the past by the FWC include, but are not limited to, killing or injuring a tortoise more than 25 feet away from its burrow; harassing a tortoise by blocking access to its burrow, and altering gopher tortoise habitat to such an extent that resident tortoises are taken.
3. The Licensee shall coordinate with and provide the FWC detailed gopher tortoise relocation permit application (as required by a Temporary Exclusion Permit) in accordance with the FWC-approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal. This permit application shall provide details on the location for on-site recipient areas and any off-site FWC-approved temporary contiguous habitat, as well as appropriate mitigation

contributions per tortoise, as outlined in the Gopher Tortoise Permitting Guidelines.

4. Any commensal species observed during the burrow excavations that are listed by the FWC shall be relocated in accordance with the applicable guidelines for that species.
5. To the maximum extent practicable or feasible, all staging and storage areas shall be sited to avoid impacts to gopher tortoise burrows and habitat.

[Article IV, Sec. 9, Fla. Const.; Section 403.526, F.S., and Rule 62-17.660, F.A.C.; Section 379.2291, F.S.; Chapter 68A-27, F.A.C.]

F. Avian Protection Plan

The Licensee shall coordinate with the FWC in the development of an Avian Protection Plan that delineates a program designed to reduce the operational and avian risks that result from avian interactions with transmission lines associated with the project with the goal of reducing avian mortality. Guidelines for the Avian Protection Plan can be found on the USFWS website.

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/APP/AVIAN%20PROTECTION%20PLAN%20FINAL%204%2019%2005.pdf>

[Article IV, Sec. 9, Fla. Const.; Section 403.526 and F.S., Rule 62-17.660, F.A.C.; Section 379.2291, F.S.; Chapter 68A-27, F.A.C., and Rule 68A-16.001, F.A.C.]

G. Wood Stork/ Wading Bird Colonies

1. An aerial survey shall be conducted via fixed wing or rotary wing aircraft, between the months of December and May, once it is confirmed by FWC or USFWS that wading birds are breeding in the area of the transmission line right-of-way. The surveys should employ a series of two transects, along each side of the right-of-way. To minimize disturbance, the flight should be conducted at altitudes no less than 300 feet.
2. These surveys shall identify any wading bird colonies that may be affected within one-half mile of the project ROW.
3. Center locations of all wood stork and wading bird colonies should be delimited with a Wide Area Augmentation System (WAAS) enabled Global Positioning System (GPS) unit.
4. Ground inspection of all wood stork and wading bird colonies needs to be made as aerial identification of intermediate-sized and dark-plumaged

wading birds (little blue heron, tricolored heron, glossy ibis) is difficult at best and because they tend to nest below the vegetational canopy making species identification all but impossible. Identification of species should be made using binoculars to avoid flushing nesting birds. To avoid flushing birds from their nests surveys should follow the protocols in Rodgers and Smith (1995).

Rodgers, J. A., and H. T. Smith. 1995. Set-back distances to protect nesting bird colonies from human disturbance in Florida. *Conservation Biology* 9:89-99.

5. In the event that surveys determine that the project has the potential to impact wood stork or wading bird colonies, the following measures shall be used to minimize and mitigate for these impacts.
 - Tampa Electric and FWC will meet to discuss the specific issues and mitigation alternatives.
 - Tampa Electric will then provide a detailed mitigation plan to address the specific impacts, which must be reviewed and approved by FWC, and be consistent with all other COC's or federal permit conditions.
 - Tampa Electric will provide a monitoring report after a designated period to document effectiveness of the mitigation plan.
 - Corrective action alternatives will be determined and implemented if necessary.

[Article IV, Sec. 9, Fla. Const.; Section 403.526 and F.S., Rule 62-17.660, F.A.C.; Section 379.2291, F.S.; Chapter 68A-27, F.A.C., and Rule 68A-16.001, F.A.C.]

H. Bald Eagle

1. The Licensee shall avoid impacts to bald eagle (*Haliaeetus leucocephalus*) nests where possible. If construction activities cannot be avoided within a 660-foot nest buffer zone, construction activities shall be conducted consistent with the FWC Eagle Management Guidelines, outlined in the FWC-approved Bald Eagle Management Plan, dated April 9, 2008, or any subsequent FWC-approved versions. In areas where bald eagle nests are present, efforts shall be made to avoid construction activities during the nesting season (October 1 - May 15, or when eagles are present before October 1 or after May 15).
2. In accordance with the FWC Eagle Management Guidelines, for construction areas that fall within 330 feet of an active or alternate bald eagle nest, construction activities shall be conducted only during the non-nesting season (May 16 - September 30). Any construction activities that

fall within 660 feet of the nest during the nesting season shall be conducted following USFWS-approved Bald Eagle Monitoring Guidelines, dated 2007, or subsequent USFWS-approved versions.

3. In areas where adverse impacts to nests cannot be avoided, resulting in nest disturbance, the information required for an FWC Eagle Permit shall be obtained from the FWC, as authorized by Section 372.072, F.S., and Rule 68A-16.002, F.A.C, and minimization, and conservation measures outlined in the FWC Bald Eagle Management Plan shall be followed, as applicable.

[Article IV, Sec. 9, Fla. Const.; Section 403.526, F.S., and Rule 62-17.191, F.A.C.; Chapter 68A-27, F.A.C., and Rule 68A-16.002, F.A.C.]

I. Southeastern American Kestrels

The Licensee shall coordinate with the FWC prior to conducting surveys for Southeastern American kestrels (*Falco sparverius paulus*) to ensure that surveys are in accordance with the FWC-approved protocol.

1. The Licensee shall provide the FWC with the Southeastern American kestrel survey results and identify where impacts to kestrels cannot be avoided.
2. The Licensee shall mitigate loss of kestrel nest trees by placing approved nest boxes in appropriate habitat along the transmission line right-of-way where feasible, practical, and where landowner consent can be obtained, and shall follow the FWC-approved protocol for construction and installation of nest boxes.
3. The Licensee shall coordinate all nest box installation with the FWC.

[Article IV, Sec. 9, Fla. Const., Section 403.526, F.S., Rule 62-17.660, F.A.C., Section 379.2291, F.S., and Chapter 68A-27 F.A.C.]