



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 30 1993

OFFICE OF  
WATER

Honorable G. Edward Dickey  
Acting Assistant Secretary (Civil Works)  
Department of the Army  
Washington, DC 20310-0130

Dear Dr. Dickey:

In accordance with the provisions of the 1992 Memorandum of Agreement (MOA) between the U.S. Environmental Protection Agency (EPA) and the Department of Army under Section 404(q) of the Clean Water Act (CWA), I am requesting your review of a decision by Colonel Terrence C. Salt, U.S. Army Corps of Engineers (Corps), Jacksonville District (District), to issue a Section 404 permit to Florida Power Corporation for a proposed 500 kilovolt (kV) power transmission line near Tampa, Florida. The draft permit and decision document were received by EPA on November 26, 1993. The proposed permit would authorize the discharge of fill material into waters of the United States that would result in direct and indirect adverse impacts to 241 acres of forested wetlands to construct a 44 mile transmission line corridor. After a thorough review of available information, EPA has determined that this case warrants elevation in accordance with the criteria under Part IV of the MOA, Elevation of Individual Permit Decisions.

Aquatic Resources of National Importance

This referral meets the criteria in Part IV of the 1992 EPA/Army Section 404(q) MOA. EPA finds that the proposed discharge of fill material into wetlands and associated secondary impacts from vegetation clearing would result in substantial and unacceptable adverse impacts to forested wetlands, an aquatic resource of national importance. The U.S. Fish and Wildlife Service (FWS) has documented the loss of over 3.4 million acres of forested wetlands in the conterminous United States from the mid-1970's to mid-1980's. Of all types of palustrine wetland systems, forested wetlands suffered the greatest loss during this time (Dahl and Johnson, 1991). The southwest coast of Florida is one of the fastest growing areas in the Nation and is an area that has suffered significant forested wetland losses. In Florida, FWS documented the net loss of 184,000 acres of forested wetlands (Frayer and Hefner, 1991) during the mid 1970's to mid 1980's.



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Forested wetlands and associated river/stream segments within the proposed corridor provide essential habitat for approximately 85 species of birds, 24 species of reptiles, 15 species of mammals, 15 species of fish, and 14 species of amphibians (Southwest Florida Water Management District, 1986). Of these species, four species are Federally listed as threatened or endangered including bald eagle, wood stork, scrub jay, and eastern indigo snake, and three species are under review for possible listing (i.e., gopher tortoise, American kestrel, Bachman's sparrow). Moreover, the State has designated three species of reptiles and thirteen species of birds that use wetland habitat like that within the proposed corridor as threatened, endangered, or species of special concern. Recreationally important species for hunting and trapping which occur in the project area include wild turkey, northern bobwhite, common snipe, ring-necked duck, white-tailed deer, eastern cottontail, raccoon, and gray fox. It is widely recognized that structurally complex communities with greater associated niche diversity such as forested wetland systems generally contain greater species diversity than do communities with less structurally complex habitats (e.g. grassland, scrub/shrub wetlands) (Pianka, 1978).

Recognizing the vital importance of forested wetlands in the watershed of this project, several cooperative conservation efforts by the local community and government agencies are ongoing to protect this essential watershed. A crucial element of these efforts has been the acquisition of various conservation easements. Federal funds have been appropriated by Congress for the development of an overall plan, utilizing a watershed protection approach, to acquire lands in the Hillsborough River basin for wildlife protection, recreation and river corridor protection. Widespread concern has been expressed in public comments that the proposed transmission corridor will bisect these properties targeted for acquisition and would degrade these properties prior to public acquisition and protection. Furthermore, Federal authorization of this project will be viewed in the local community as inconsistent with the goals and objectives of the comprehensive local watershed planning effort.

Finally, the Hillsborough River (including segments of the project area) is intensively used by the public for recreational activities including canoeing, hiking, swimming, fishing, and wildlife viewing. Approximately 200,000 visitors use the adjacent Hillsborough River State Park each year. Annually, approximately 100,000 people use Crystal Springs (a tributary to the Hillsborough River) for recreation and another 20,000 people canoe the upper reaches of the Hillsborough River. A 40 mile segment of the Hillsborough River, including the area that the proposed transmission corridor crosses, is listed on the 1982 National Rivers Inventory as possessing outstanding remarkable values in scenic, recreational, geologic, and fish and wildlife categories. The National Park Service (NPS) is currently engaged in a project to establish a greenways network within the Hillsborough River watershed, incorporating river protection and planning, trailways, and recreation into an overall management plan. Public comments on the proposed project have expressed strong concerns that construction of transmission line towers and clearing along the right-of-way would significantly diminish these established recreational values.

### Project Compliance with the Section 404(b)(1) Guidelines

EPA Region IV has consistently commented to the Jacksonville District that the project as proposed in FPC's application for a Clean Water Act Section 404 permit does not comply with requirements in the Section 404(b)(1) Guidelines. Specifically, EPA has expressed concern that a practicable, less environmentally damaging alternative may be available to the applicant to satisfy the project purpose, that direct and indirect impacts to 241 acres of valuable forested wetlands would result in significant degradation of waters of the United States, and lastly, that proposed compensatory mitigation would not adequately offset anticipated project impacts.

#### 1. Availability of Practicable Alternatives - Section 230.10(a)

EPA is concerned that impacts to forested wetlands associated with this project are unacceptable because compliance with the requirements of Section 230.10(a) of the Guidelines has not been clearly demonstrated. Section 230.10(a) requires that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem. Documentation in the record strongly indicates that the existing Higgins-Fort Meade (HFM) deactivated transmission corridor may provide a less environmentally damaging practicable alternative. EPA estimates that use of the existing HFM corridor would avoid the construction of approximately 15 miles of new transmission line corridor. In addition, a crossing of the Hillsborough River already exists along the HFM corridor. Use of the existing HFM corridor, with its 100 foot right-of-way, may result in slightly more direct impacts from the discharge. However, we believe that the secondary impacts from forest clearing may be substantially reduced and the potential for additional forest fragmentation would be eliminated. Therefore, we believe this alternative should be more completely evaluated.

#### 2. Adverse Environmental Impacts - Section 230.10(c)

EPA is also concerned that anticipated impacts to forested wetlands are unacceptable because compliance with the requirements of Section 230.10(c) of the Guidelines has not been clearly demonstrated. Section 230.10(c) requires that no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States. The Guidelines explicitly require evaluation of all direct, secondary, and cumulative impacts reasonably associated with the proposed discharge in determining compliance with Section 230.10(c). In determining significant degradation, the Guidelines direct consideration of effects on such functions and values as wildlife habitat, aquatic ecosystem diversity, stability, and productivity, recreation, aesthetics, and economic values. Contrary to the requirements of Section 230.10(c) of the Guidelines, the proposed permit decision does not adequately reflect consideration of direct and secondary impacts to these functions and values.

Construction of the transmission line corridor, as proposed will result in adverse impacts to 241 acres of wildlife habitat within the right-of-way. The proposed transmission corridor will bisect important natural wildlife corridors which allow the movement of wildlife between separate habitat areas, and is likely to have adverse effects to species that require large territories for their existence such as bobcat and gray fox. Habitat fragmentation and isolation have been documented to most significantly affect wide-ranging wildlife species and interior or area-sensitive wildlife species (Harris, 1988). Some examples of interior or area-sensitive wildlife species documented as using habitat within the project area include bobcat, fox, hairy woodpecker, ovenbird, red-shouldered hawk, wild turkey, barred owl, red-eyed vireo, black-and-white warbler, northern parula, yellow-throated warbler, and pine warbler.

Gosselink, et al. (1990) notes that the "edge" created by fragmentation has both positive and negative effects on biotic diversity. The increases in biotic diversity are usually the result of increased generalist species (e.g., American crow). The negative effects are the decrease in interior and rare species which may not be supported by the smaller forest fragments. Many of the generalist species not only compete with the native fauna for resources, but many are predators on the native fauna. This is especially true for birds, where there have been sharp declines in the populations of neotropical migrants. Nest predators, such as the blue jay, American crow, and common grackle, are more common along forest edges than in the interior. Wilcove (1985) noted that predation rates on migratory songbirds are higher in small woodlots than in larger tracts. Forest fragmentation is also associated with a number of changes harmful to populations of neotropical migrants. These include, in addition to nest predation, nest parasitism by brownheaded cowbirds, loss of habitat heterogeneity, and potential barriers to dispersal to other wooded areas.

Finally, the NPS has also expressed concern that the project's vegetation clearing activities may jeopardize the quality of the Hillsborough River system and associated recreation activities. At a minimum, the recreational experience and aesthetic qualities of the area would be diminished by the transmission line and corridor. In addition to damaging irreplaceable natural resources, this project may also frustrate several ongoing conservation efforts to protect the valuable Hillsborough River watershed. Objectives of these conservation efforts are to acquire lands for recreation and the protection of wildlife, the river corridor, and the watershed. The proposed corridor will bisect and degrade these lands which are targeted for acquisition. Therefore, based on the anticipated significant adverse environmental impacts to aquatic ecosystem productivity and stability, wildlife, and recreation, EPA is concerned that the proposed discharges would not comply with Section 230.10(c) of the Guidelines.

### 3. Mitigation - Section 230.10(d)

Section 230.10(d) of the Guidelines requires that no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem. Although EPA has requested details regarding the mitigation proposal, we have yet to receive a

detailed mitigation plan for review. Thus far, there has only been a proposal by FPC to preserve 350 acres of wetlands and 137 acres of uplands as mitigation for project impacts. In addition, we are concerned that merely preserving other wetlands, especially those already targeted for protection by the Southwest Florida Water Management District, will not effectively compensate for the adverse impacts resulting from the proposed discharge and will ultimately result in a net loss of forested wetland functions and values.

#### Conclusion

For the reasons elaborated above, we are concerned that the discharges that would be authorized under the proposed permit to Florida Power Corporation to construct a 500 kV transmission corridor near Tampa, Florida, have not been demonstrated to comply with requirements of the Section 404(b)(1) Guidelines. Direct and indirect impacts associated with the permitted discharge would impact 241 acres of valuable forested wetlands, an aquatic resource of national importance, and a wetland type that has historically been affected by high losses in the southeastern United States. Our concerns regarding these impacts are heightened by the possibility they could be avoided by selecting an alternative route that would use an existing transmission corridor already owned by the applicant. With this letter, EPA requests that these issues be further reviewed by the Jacksonville District based on guidance developed by Corps Headquarters.

If we can be of further assistance during your evaluation of this request, please have your staff direct their questions to Gregory E. Peck in the Wetlands Division at (202) 260-8794.

Sincerely,



Robert Perciasepe  
Assistant Administrator

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