DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

REPLY TO
ATTENTION OF

JAN 31 1994

Honorable Robert Perciasepe
Assistant Administrator for Water
U.S. Environmental Protection Agency
Washington, D. C. 20460

Dear Mr. Perciasepe:

This is in response to your letter of December 30, 1993, in which you requested a higher level review of issues related to a Department of the Army permit being considered by the Army Corps of Engineers Jacksonville District. The permit would allow the Florida Power Corporation (FPC) to construct a 44-mile 500 kilovolt transmission line near Tampa, Florida, by authorizing the discharge of dredged or fill material into approximately 0.07 acre of wetlands. The project would also result in the select cutting by hand of vegetation in approximately 241 acres of forested wetland within the transmission line right-of-way.

Your request for elevation was made pursuant to Part IV of the 1992 Section 404(q) Memorandum of Agreement (MOA) between the Department of the Army and the Environmental Protection Agency (EPA). EPA's concerns were primarily associated with the indirect impacts to 241 acres of forested wetlands and the potential availability of other practicable alternatives. Part IV of the MOA establishes procedures for elevation of specific permit cases. To satisfy the explicit requirements for elevation, the permit case must pass two tests: 1) the proposed project would occur on aquatic resources of national importance (ARNI's); and 2) the project would result in substantial and unacceptable adverse impacts to ARNI's.

We have carefully reviewed the concerns raised in your letter, the Jacksonville District's decision documents and draft permit, numerous comments from concerned citizens, and information from FPC. Our review included an on-site inspection and meetings with EPA field staff, FPC, and representatives from concerned citizens groups. Based on our evaluation, we agree with EPA that most of the wetland areas associated with the Hillsborough River system and other larger wetland systems within the proposed corridor qualify as ARNI's. This includes the wetlands in the alternative corridor suggested by EPA.

While we agree that the proposed transmission line corridor contains ARNI's, we do not agree that the proposed project will result in substantial and unacceptable adverse impacts to these resources. Our conclusion is based on the fact that the direct wetland

impacts are minimal and FPC has agreed to unparalleled methods of minimizing indirect impacts. The direct impacts associated with the project requiring authorization from the Corps involve the discharge of 0.07 acre of fill material. The indirect impacts involve the select hand cutting of vegetation and its subsequent removal by helicopter. This method avoids the significant disturbance of vegetation and the substrate associated with the typical "clear-cut swath" utility line corridor. We agree that even the selective cutting of vegetation will result in minor short-term impacts. We do not believe, however, that this project will degrade the wetlands in the long-term. It is important to note that of the total 241 acres of right-of-way indirect impacts, 72 acres consist of buffer areas. Approximately 130 acres involve only the select hand clearing of trees with an expected mature height of greater than 20 feet. All remaining low-growing and herbaceous vegetation in this area will be left undisturbed. Approximately 30 acres will be completely cleared by hand to allow for the construction of the transmission line tower pilings. Access through the wetland to the construction site will be on temporary matting. In this completely cleared area, only 0.07 acre of fill will be placed and the wetland hydrology will not be permanently altered. The root mat and muck soils will be left intact. These areas will quickly recolonize with wetland grasses and sedges. The impacts to water quality and flood protection will be essentially undetectable.

Your letter states that "the transmission line corridor, as proposed will result in adverse impacts to 241 acres of wildlife habitat within the right-of-way." In particular, habitat fragmentation and isolation were noted as concerns. The wildlife impacts have been thoroughly evaluated by the Corps, the U.S. Fish and Wildlife Service (FWS) and the Florida Game and Fresh Water Fish Commission. As a result of this review, which considered the type of right-of-way proposed (i.e., uncleared), the Corps concluded that the construction and maintenance of the proposed right-of-way within forested wetlands may cause certain changes to the successional structure of the wetlands in the right-of-way, but do not result in fragmentation or other long-term impacts to the overall integrity of the system. An extensive review of the literature provided by FPC supports this conclusion. Further, regarding impacts to endangered species, the FWS stated in an October 19, 1992, letter that: "Since the proposed project is for a relatively minor 0.07 acre of wetland fill, the project will not significantly affect the hydrology of the wetlands and therefore the wood stork will not be adversely impacted. Likewise, the small amount of wetland fill will not negatively impact the Eastern indigo snake. Therefore, we concur with the Corps determination of no effect to the wood stork and Eastern indigo snake." The wood stork is often used as an indicator species when assessing the health of Florida's wetlands.

In addition to its efforts to minimize impacts, FPC has proposed to compensate for remaining impacts through acquisition of 350 acres of forested wetlands and the enhancement of 137 acres of uplands in the Cypress Creek area. In your letter you expressed concern that the acquisition and enhancement proposal will not adequately compensate for wetland impacts, particularly since these areas have been identified as an important natural resource with a high priority for acquisition by State and local authorities. We agree fully with EPA that preservation should be used as compensatory mitigation only in limited circumstances. We believe, however, that in light of the minor impacts involved with this project, the acquisition by FPC and transfer of these areas to the Southwest Florida Water Management District for inclusion in its natural resource lands program is environmentally beneficial. By allowing the FPC to purchase these areas, limited public funds that would have been necessary to acquire these areas can be used to secure additional high value sites within the region.

Regarding the suitability of other transmission line corridors, your letter stated "that the existing Higgins-Fort Meade (HFM) deactivated transmission corridor may provide a less environmentally damaging practicable alternative" and should be more completely evaluated. The applicant conducted an extensive alternatives analysis, which the Corps carefully and completely evaluated. The analysis considered 17 alternative routes based on evaluation criteria such as: wetlands; species of concern; stream and river crossings; existing development; park, recreation, and natural resource areas; collocation of the line with other linear corridors; and cost. The FPC's proposed alternative ranked number one based on these factors. It is important to note that the FPC's proposed alternative utilizes the HFM corridor for approximately 15 miles and is collocated for an additional 16 miles with other linear projects. This includes a five mile section at the Hillsborough River crossing which follows an existing Tampa Electric Company transmission line right-of-way. Further, unlike the HFM river crossing, the FPC's proposed alternative crosses the Hillsborough River at a narrow part of the river.

The alternatives analysis indicates that exclusive use of the HFM corridor is neither practicable nor less environmentally damaging. In addition, the impacts to populated areas are much greater with this alternative. The exclusive use of the HFM corridor would increase the length of the transmission line by approximately six miles, increase the overall environmental impacts and increase the costs of the project by approximately $14,000,000. Further, the use of the HFM corridor would require the clearing of vegetation that has grown since deactivation of the transmission line. Available information indicates that while the total wetland acreage to be cleared may be reduced

through use of the HFM corridor, the impacts to natural resource areas, sensitive wetlands, and uplands would increase, as would the number of stream crossings. When the alternatives analysis was weighted for forested wetlands, in contrast to wetlands in general, the HFM alternative ranked no better than fifth. Finally, the HFM corridor is located within the Hillsborough County Wilderness Park where the elevation of support structures required because of the narrow right-of-way would be more noticeable throughout the area.

In light of the findings summarized above, additional review pursuant to the MOA is not required. I will advise the Corps to proceed with the final permit decision in accordance with the MOA.

Although in this particular case we disagree with EPA on a few issues, we fully share your desire to protect the Nation's aquatic resources and the public interest. The efforts of you and your staff in raising this case to our attention are appreciated. Should you have any questions or comments concerning our decision in this case, do not hesitate to contact me or Mr. Michael Davis, Assistant for Regulatory Affairs, at (703) 695-1376.

Sincerely,

G. Edward Dickey
Acting Assistant Secretary of the Army
(Civil Works)