

MEMORANDUM

TO: Governing Board Members

THROUGH: Kenneth G. Ammon, P.E., Deputy Executive Director Comprehensive Everglades Restoration Program

FROM: Ruth P. Clements, Director, Land Acquisition and Land Management Department

DATE: June 14, 2007

SUBJECT: **Approve In Concept Constructing a 30 Inch Diameter Gas Transmission Line on L-8 and L-65 Rights of Way and the Conveyance of Necessary Real Property Interests to Gulfstream Natural Gas Systems, L. L. C. (Palm Beach and Martin Counties)**

Staff Recommendation:

Approve in concept constructing a 30 inch diameter gas transmission line on L-8 and L-65 rights of way and the conveyance of necessary real property interests to Gulfstream Natural Gas Systems, L. L. C. (Palm Beach and Martin Counties).

Background:

Gulfstream has contracted with Florida Power & Light Company to supply natural gas to power the West County Energy Center power plant located in western Palm Beach County. Gulfstream (a utility with Federal condemnation authority) has obtained a designated corridor through the Federal Energy Regulatory Commission which runs approximately 6.2 miles on the L-65 right of way and 16.7 miles on the L-8 right of way.

The original design proposed by Gulfstream used an alignment on the westerly rights of way that impacted the berm and design levee sections. This alignment was objectionable to both Operations and Maintenance and Comprehensive Everglades Resource Program staffs as it limited the District's flexibility in planning for possible future widening of the L-65 and L-8 borrow canals. In subsequent discussions with Gulfstream it was suggested that consideration be given to shifting the alignment to the easterly L-65 and L-8 rights of way. Preliminary investigations revealed that this is workable but will have other impacts relating to how the transmission line will be routed in the vicinity of a number of existing culverts that cross the levee right of way.

While Gulfstream had originally applied for Right of Way Occupancy Permits to authorize the transmission line encroachment, they desire perpetual easement rights for the construction operation and maintenance of the transmission line. Because the District does not own all of its canal and levee rights of way in fee simple the authorizations for the transmission line to be located on the District's rights of way will include the following considerations:

Background (Continued):

- 1) Where the District owns the R/W in fee simple (L-65 and portions of L-8), the District would convey an easement either directly or through stipulated order in condemnation.
- 2) Where the District holds an easement interest (portions of L-8), Gulfstream would acquire the consent or an easement from the underlying fee owner and the District would either develop language in an easement agreement or stipulated order in condemnation consenting to the use of the District's easement rights or would issue a Right of Way Occupancy Permit.

The rights acquired from the District would be appraised and the District would be compensated at an amount not less than the appraised value.

The final terms of the conveyance would be brought back to the Governing Board for approval.

How this helps meet the District's Mission:

There are no apparent benefits to the District in having this transmission line located on the rights of way. However, since the rights of way are already disturbed, allowing the transmission line to be constructed on the rights of way may minimize impacts on environmentally sensitive lands if another route were chosen.

This item impacts what areas of the District, both resource areas and geography:

The subject item impacts both Palm Beach (L-8) and Martin (L-65) Counties. The installation has potential impacts on the future widening of the L-8 and L-65 borrow canals which could impact future Operations & Maintenance or Comprehensive Everglades Restoration Program projects. Having the transmission line located within the easterly levee rights of way minimizes this impact.

What concerns could this item raise?

The installation of transmission lines within the District's rights of way is prohibited under the District's Right of Way Permitting Rule (40E-6) due to the permanence of such installations. However, Gulfstream's condemnation authority renders this issue moot.

Why should the Governing Board approve this item?

Under the existing set of circumstances the District has little ability to stop the construction of this transmission line. However, shifting the alignment to the easterly L-65 and L-8 rights of way lessens potential impact on future canal widening projects

Governing Board Members
June 14, 2007
Page 3

NOTE: For purposes of conflict check, the entities associated with Gulfstream Natural Gas Systems, L. L. C. are as follows:

Duke Energy Corporation
The Williams Companies, Inc.
Spectra Energy, Corporation