UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 24, 2001

NOTE TO: Document Control Desk

FROM: Brendan T. Moroney, Project Manager, Section 2
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Brendan T. Moroney

SUBJECT: LETTER FROM NATIONAL MARINE FISHERIES SERVICE (NMFS) TO THE NUCLEAR REGULATORY COMMISSION (TAC NOS. MA6374 AND MA6375)

Please docket the attached letter from Georgia Cranmore, NMFS, to Brendan Moroney, NRC, dated October 8, 2001.

Docket Nos. 50-335
50-389

Attachment: As stated

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, FL 33702
(727) 570-5312; FAX 570-5517
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F/SER3:BH:mdh

Mr. Brendan T. Moroney
Project Manager, Section 2
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation
Nuclear Regulatory Commission
Washington, DC 20555-0001

50-335
50-389

Dear Mr. Moroney:

This is in reference to your letter dated June 8, 2001, regarding clarifications to the terms and conditions of the incidental take statement (ITS) issued with the National Marine Fisheries Service's (NMFS) biological opinion dated May 4, 2001, for the St. Lucie Power Plant located in St. Lucie County, Florida. Following are the issues requiring clarification and the NMFS response.

Clarification requested: The new ITS limits are effective as of the date of the Opinion; however, St. Lucie may continue to account on a calendar year basis?

NMFS response: St. Lucie Power Plant can continue to account for the incidental take of sea turtles on a calender year basis.

Clarification requested: The ITS limits on killed or injured turtles only apply to death or injury resulting from plant operation? Death or injury which can be attributed to other causes are not counted against these limits?

NMFS response: Death or injury resulting from other than plant operations will not be counted against the ITS.

Clarification requested: Injuries are counted against the ITS only if there is sufficient trauma to require treatment or rehabilitation? Minor injuries such as nicked or scratched shells, which would not prevent the turtle from being released are not counted against the ITS?

NMFS response: Injuries caused by plant operations severe enough to prevent the immediate release of the turtle or that require treatment or rehabilitation will be the only ones counted against the numbers in the ITS for injured or dead turtles.

Clarification requested: The need to reinitiate consultation for green and loggerhead turtles will be determined at the end of the year when the annual incidental take numbers are finalized. It is not required for excursions above the limit during the year?

NMFS response: The ITS limits for injured and dead loggerhead and green turtles are based on a percentage (1%) of the total loggerhead and green turtles taken in one year; therefore, reinitiation would have to take place if the number of loggerhead and green turtles injured or killed as a result of plant operations were greater than 1% of the total number of loggerhead and green turtles taken by the end of said year.

Clarification requested: The limit on leatherback and hawksbill turtles will require reinitiation of consultation any time one is injured or killed due to plant operations?

NMFS response: NMFS anticipated no more than one leatherback or hawksbill turtle would be killed or injured as a result of plant operations every two years; therefore, the injury or death, due to plant operations, of one of these species during any year would require reinitiating section 7 consultation.

Clarification requested: The St. Lucie Plant's current measures and procedures for determining whether injury or death of a sea turtle is from plant operation or from factors not related to plant operation are considered acceptable to NMFS?

NMFS response: NMFS considers St. Lucie Plant's current procedures for determining whether an injury or death of a sea turtle was caused by plant operations acceptable because they include consultation with Florida Sea Turtle Stranding and Salvage Network personnel. If this changes we would have to revisit this issue.

Clarification requested: Can reasonable deviations be made from activities that are required by the terms and conditions due to human safety considerations (i.e., severe weather)?

NMFS response: When implementing all terms and conditions, reasonable deviations can be made to ensure human safety.

If you have any questions, please contact Mr. Robert Hoffman, fishery biologist, at the number listed above.

Sincerely yours,

Georgia Cranmore
Assistant Regional Administrator
for Protected Resources

cc: F/PR3
F/SER4

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