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FPL PROPOSED RULE **PR 2,20+50** November 16, 2001
(66FR 46230)

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USNRC

November 20, 2001 (11:36AM)

Ms. Annette Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Rulemakings and Adjudications Staff

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Subject: Florida Power & Light Company Comments
Releasing Part of a Power Reactor Site or Facility for Unrestricted Use
Before the NRC Approves the License Termination Plan
66 Fed. Reg. 46230 (Sept. 4, 2001)

Dear Ms. Vietti-Cook:

Florida Power & Light Company (FPL), the owner and operator of the St. Lucie Nuclear Plant, Units 1 and 2, and the Turkey Point Nuclear Plant, Units 3 and 4, hereby submits the following comments in support of the above-referenced notice of proposed rulemaking.

In principle, FPL supports the proposed rulemaking because it would allow licensees the option to request the release of portions of the licensed site for unrestricted use, prior to the decommissioning process. The rule will benefit licensees that may be considering more productive or efficient utilization of their currently licensed property, even if they plan to decommission an adjacent nuclear power reactor facility several years into the future. This rule can also benefit facilities where the licensee owns, leases or controls very large tracts of contiguous property some of which is not connected to receiving, possessing or using licensed material, but is currently included within the facility's current site boundary as defined in their license. FPL supports the provisions of the proposed rule that are intended to allow the release of non-impacted areas without requiring a license amendment. However, FPL does not believe there is a reason for the Commission to limit to the size or number of partial site releases and FPL does not agree with the assumption that once a License Termination Plan (LTP) has been approved there is no longer any need for a separate regulatory mechanism for partial site releases. A significant length of time may pass between approval of the LTP and license termination. Licensees should retain the opportunity to pursue a partial site release even after the LTP has been approved without the need to reopen the entire LTP to a potential hearing process.

Proposed 10CFR50.75(g) in conjunction with 10CFR50.83, utilizes site boundary to define the property that is subject to the rule and references 10CFR20 Subpart E as the radiological release criteria for a partial site release. The intent of the proposed rule would be to allow licensees to release portions of their site for unrestricted use, including the sale of such property. However, there is a conflict between the current definition of "site boundary" in 10CFR20.1003 and the intent of this proposed rule that could preclude its implementation. Since site boundary is defined based on ownership, lease or control of the property, a licensee may be required to seek a regulatory exemption to redefine the site boundary before the property could be sold.

In addition, 10CFR50.83 in conjunction with 10CFR50.75(g)(4)(i) and 10CFR50.75(g)(4)(ii) begins with the originally licensed site boundary and then considers "...any acquisition or use of property outside the originally licensed site boundary for the purpose of receiving, possessing, or using licensed materials". While this may be the intent, it is not supported by the current definition of site boundary and may add additional confusion to property boundaries that will need to be evaluated. In such cases where the licensee owns, leases or controls property that is contiguous to the facility but is not for the purpose of receiving, possessing, or using licensed materials, FPL suggests that the rule should permit the licensee to make changes to the site boundary pursuant to 10 CFR 50.59. Further, if licensees should acquire property that is contiguous to existing facility property for reasons that do not involve receiving, possessing, or using licensed material, such property should not be required to be incorporated into the site boundary.

Accordingly, FPL proposes amending the definition of site boundary in 10CFR20.1003 and elsewhere in the regulations as follows:

"Site Boundary means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or that property that has been defined as the site boundary in a license approved by the Commission.

Alternately, this could also be accomplished by the establishment of a new term and definition such as "Facility Boundary" The Facility Boundary could be defined as property that has been defined as the facility boundary in a license approved by the Commission.

The following is in regard to the finality of the Commission's approval of a site release pursuant to proposed 10CFR50.83(c)(3) and 10CFR50.83(e)(4). FPL believes that once the Commission has released the property, the Commission's jurisdiction ends. FPL recommends the following change to 10CFR20.1401(c) to incorporate the doctrine of finality.

After a site has been decommissioned and the license terminated in accordance with the criteria in this subpart, or after part of a facility or site has been released for unrestricted use in accordance with s50.83 of this chapter and in accordance with the criteria in this subpart, the Commission will not require additional cleanup.

The following comments or recommendations pertain to specific provisions within the proposed rule change to 10CFR50.

- Section 50.2: FPL recommends the following changes to the definitions being added to Section 50.2.

Historical site assessment means the identification of potential, likely, or known sources of radioactive material and radioactive contamination from licensed

activities based on existing or derived information for the purpose of classifying a facility or site, or parts thereof, as impacted or non-impacted.

Impacted areas mean the areas with some reasonable potential for residual radioactivity from licensed activities in excess of natural background or fallout levels.

Non-impacted areas mean the areas with no reasonable potential for residual radioactivity from licensed activities in excess of natural background or fallout levels.

- Section 50.75(g)(4): The language contained in this section is not consistent with existing Section 50.75(g) which states "Information the Commission considers important to decommissioning consist of—"

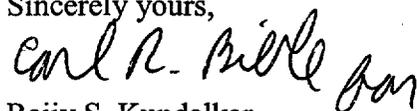
"(4) Licensees shall maintain property records containing the following information:"

FPL recommends that the words "Licensees shall maintain" should be deleted.

- Section 50.75(g)(4)(iv): The word "disposition" the first time it appears should be changed to "release and final disposition" and change "disposition" to "release" the second time it appears.
- Section 50.82(a)(9)(ii)(H): Change to "release for unrestricted use ..."
- 50.82(11)(ii): Amend as follows: The final radiation survey and associated documentation demonstrate that the facility and site, including any parts released for use before approval of the license termination plan, ~~are suitable for release in accordance with the~~ have met the applicable criteria for release for decommissioning in 10 CFR part 20, subpart E.
- Section 50.83 (a)(1)(i): Amend as follows: The dose to individual members of the public from the portion of the facility or site ~~remaining under the license that has not been released for unrestricted use~~ does not ...
- Sections 50.83(c) and 50.83(e) should include references to the satisfaction of the public meeting requirements specified in 50.83(f).

We appreciate the opportunity to comment.

Sincerely yours,



Rajiv S. Kundalkar
Vice President
Nuclear Engineering