



### RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

2003-0189

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RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Paul Gunter

DATE

MAY 06 2003

#### PART I. - INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- |                        |
|------------------------|
| APPENDICES<br><b>A</b> |
|------------------------|

 Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- |                                |
|--------------------------------|
| APPENDICES<br><b>B &amp; C</b> |
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 Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- |                                |
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| APPENDICES<br><b>B &amp; C</b> |
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 Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

#### PART I.A -- FEES

- |          |   |   |
|----------|---|---|
| AMOUNT * | <input type="checkbox"/> You will be billed by NRC for the amount listed. | <input type="checkbox"/> None. Minimum fee threshold not met. |
| \$       | <input type="checkbox"/> You will receive a refund for the amount listed. | <input checked="" type="checkbox"/> Fees waived.              |
- \* See comments for details

#### PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

#### PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

2003-0189

MAY 06 2003

**PART II.A -- APPLICABLE EXEMPTIONS**

APPENDICES  
**C & D**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
  - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
  - 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
  - The information is considered to be confidential business (proprietary) information.
  - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
  - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
  - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
  - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
  - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
  - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
  - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
  - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
  - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
  - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

**PART II.B -- DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Luis A. Reyes	Regional Administrator, Region II	Appendix C	✓		
Samuel J. Collins	Director, Office of Nuclear Reactor Regulation	Appendix D	✓		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A  
RECORDS ALREADY PUBLICLY AVAILABLE**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION (PAGE COUNT)</u>
1.	02/22/99	ML993370289	Letter from W. C. Gleaves to J. A. Stall, subject: Discussion regarding proposed study of turtle entrapment at St. Lucie plant intake canal. (2 pages)
2.	07/15/99	9907190124	Letter from L. Wiens, NRR to J.Cowan, Florida Power Corp. on Crystal River - Section 7 Biological Consultation, Biological Opinion.(31 pages)
3.	11/30/99	ML993370283	Letter from W. C. Gleaves to R. Hoffman regarding request for formal Section 7 Consultation under the Endangered Species Act. (3 pages)
4.	03/22/00	ML003696902	Ltr R. Kundalkar, FP&L, to NRC (DCD), Re: Sea Turtle Entrapment Study (187 pages)
5.	05/09/00	ML003713360	Ltr K. Jabbour, NRC, to R. Hoffman, NMFS, Re: Sea Turtle Entrapment Study (357 pages)
6.	05/24/00	ML021620044	Letter from J. Powers, Dept. of Commerce to S. Collins, NRR clarifying the consultation responsibilities for NRC and COE under section 7 of the Endangered Species Act. (3 pages)
7.	12/05/00	ML003776521	Environmental Protection Plan - St. Lucie Units 1 and 2 - Sea Turtle Mortality 30 day Written Report. (3 pages)
8.	02/01/01	ML021430472	Florida Power & Light Co. St. Lucie Power Plant & Transmission Line & Threatened & Endangered Species. (36 pages)
9.	04/01/01	ML021430397	Survey of Aquatic Environments Potentially Affected by Operation of St. Lucie Power Plant. (47 pages)
10.	04/02/01	NRC Web Site	Event Notification Report Number 37875, Re: Dead Green Sea Turtle (1 page)
11.	04/09/01	NRC Web Site	Event Notification Report Number 37899, Re: Loggerhead Turtle in Intake (1 page)

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|----------------|---------------------|------------------------|---|
| 12.            | 04/14/01            | ML011130173            | Ltr R. Kundalkar, FP&L, to NRC (DCD) Re: 2000 Annual Environmental Operating Report (49 pages)  |
| 13.            | 05/03/01            | NRC Web Site           | Event Notification Report Number 37959, Re: Injured Loggerhead Turtle in Intake (1 page)  |
| <del>14.</del> | <del>05/04/01</del> | <del>ML011410260</del> | <del>Ltr J. Powers, NMFS, to K. Jabbour, NRC, Re: Biological Opinion (60 pages) included in A-16</del>  |
| 15.            | 05/07/01            | NRC Web Site           | Event Notification Report Number 37967, Re: Emaciated Loggerhead Turtle in Intake (1 page)  |
| 16.            | 05/18/01            | ML011430173            | Ltr B. Moroney, NRR, to T. Plunkett, FP&L, Re: Biological Opinion, St. Lucie Plant, Units 1 and 2 (61 pages)  |
| 17.            | 06/08/01            | ML011590621            | Ltr B. Moroney, NRR, to R. Hoffman, NMFS, Re: Biological Opinion, St. Lucie Plant, Units 1 and 2 (4 pages)  |
| 18.            | 10/08/01            | ML013020208            | Ltr G. Cranmore, NMFS, to B. Moroney, NRR, Re: Clarifications to Biological Opinion (3 pages)   |
| 19.            | 10/11/01            | ML013040225            | Letter from H. Berkow, NRR to J. Powers, National Marine Fisheries Services on Supplement 1 to the Crystal River Energy Complex Biological Assessment of Impact to Endangered Sea Turtles. (29 pages) |
| 20.            | 11/06/01            | ML013110188            | Ltr B. Moroney, NRR, to J. Stall, FP&L, Re: Clarification of Biological Opinion (3 pages)   |
| 21.            | 11/07/01            | NRC Web Site           | Event Notification Report Number 38475, Re: Dead Green Sea Turtle (1 page)  |
| 22.            | 11/15/01            | NRC Web Site           | Event Notification Report Number 38503, Re: Injured Loggerhead Turtle in Intake (1 page)  |
| 23.            | 11/29/01            | ML013400292            | Part 1, St. Lucie Units 1 & 2 Application for Renewed Operating Licenses. (204 pages)   |
| 24.            | 11/29/01            | ML013400221            | Part 1, St. Lucie, Units 1 & 2 Applicant's Environmental Report Operating License Renewal Stage. (207 pages)  |
| 25.            | 11/29/01            | ML013400290            | Part 2, St. Lucie, Units 1 & 2, Applicant's Environmental Report Operating License Renewal Stage. (207 pages)   |

26. 12/06/01 ML013460261 Ltr D. Jernigan, FP&L, to NRC (DCD) Re: Non-Routine Environmental Report-Sea Turtle Mortality Events 11/07/01 and 11/08/01 (3 pages)
27. 12/12/01 ML021430407 Letter from S. M. Foster to L. Gregg regarding letter to Lisa Gregg, Florida Fish & Wildlife Conservation Commission with application for renewal. (36 pages)
28. 12/21/01 ML013620054 St. Lucie, Units 1 & 2, non-routine environmental report re sea turtle mortality even. (2 pages)
29. 01/18/02 NRC Web Site Event Notification Report Number 38634, Re: Green Sea Turtle in Intake (1 page)
30. 01/25/02 ML020290224 Ltr D. Jernigan, FP&L, to NRC (DCD) Re: Proposed License Amendment, Environmental Protection Plan Revision (30 pages)
31. 03/15/02 ML020880223 Letter from L. Ferrell, response to request for list of protected Species within the area under evaluation for St. Lucie. (12 page)
32. 04/30/02 ML021220236 St. Lucie Units 1 & 2 - 2001 Annual Environmental Operating Report. (59 pages)
33. 06/03/02 ML021570345 Ltr P-T Kuo, NRR, to J. Powers, NMFS, Re: Environmental Review of FP&L Application for 20-year Renewal of Operating Licenses for St. Lucie, Units 1 and 2 (7 pages)
34. 06/21/02 ML021770235 Ltr D. Jernigan, FP&L, to NRC (DCD) Re: Non-Routine Environmental Report-Sea Turtle Mortality Events 05/27/02 and 06/02/02 (3 pages)
35. 07/22/02 ML021980172 Ltr B. Moroney, NRR, to J. Stall, FP&L Re: Environmental Assessment and Finding of No Significant Impact Related to the Environmental Protection Plans (6 pages)
36. 07/24/02 ML022060232 Ltr P. Kuo, NRR, to J. Slack, Re: Biological Assessment for License Renewal at St. Lucie & Request for Additional Info (ML022060232 and ML022060295) (18 pages)
37. 07/24/02 ML022110598 Letter from H. Sumner to NRC on Hatch License Renewal and Maintenance Dredging Permit Modification Response to National Marine Fisheries Service. (5 pages)

38. 07/30/02 ~~ML022150399~~  
ML022130425  
ML021620044  
ML003746456 Letter from P.Kuo, NRR to J.Powers, National Marine Fisheries Services responding to his letter of May 24, 2002, concerning License Renewal of Hatch. (28 pages).
39. 07/30/02 ML022200253 Ltr J. Powers, NMFS, to P. Kuo, NRR, Re: Response to 06/03/02 letter (2 pages)
40. 08/08/02 ML022460361 Letter from J. Powers, National Marine Fisheries Services to H. Berkow, NRR submitting their biological opinion on reinitiation of Endangered Species Act. (35 pages)
41. 08/23/02 ML022350292 Ltr B. Moroney, NRR, to J. Powers, NMFS, Re: Request for Consultation Under Section 7 of the Endangered Species Act for the St. Lucie Plant (3 pages)
42. 08/23/02 ~~ML022650329~~  
ML022350329 Ltr B. Moroney, NRR, to J. Stall, FP&L, Re: Reinitiation of Consultation Under Section 7 of the Endangered Species Act for the St. Lucie Plant (3 pages)
43. 08/28/02 ML021700257 Ltr B. Moroney, NRR, to J. Stall, FP&L Re: Issue of Amendments Regarding Revisions to the Environmental Protection Plans (13 pages)
44. 09/20/02 ML022680524 Ltr D. Jernigan, FP&L, to NRC (DCD) Re: Request For Information Reinitiation of ESA Section 7 Consultation (16 pages)
45. 10/02 NRC Web Site NUREG-1437, Supp. 11, Draft Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Re St. Lucie (<http://www.nrc.gov/reading-rm.html>)
- 46.
47. 12/27/02 ML030070232 Biological Assessment of Impact to Sea Turtles at Florida Power Corporation's Crystal River Energy Complex. (25 pages)
48. 01/09/03 ML030270297 Letter from D. E. Jernigan providing comment on Draft Supplemental Environmental Impact Statement for License Renewal. (9 pages)
49. 02/10/03 ML030420130 Letter from P. T. Kuo to R. Crabtree regarding Informal Section 7 Consultation for St. Lucie Plant. (6 pages)
50. 03/17/03 NRC Web Site Event Notification Report Number 38513, Re: Turtle Incidental Takes Between 11/23/01 and 03/16/03 (3 pages)

51. 03/17/03 NRC Web Site Event Notification Report Number 39361, Re:  
Expired Green Sea Turtle (1 page)

**APPENDIX B  
RECORDS BEING RELEASED IN ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION (PAGE COUNT)</u>
1.	Undated	Daily Operations Log (1 page)
2.	11/10/99	Sea Turtle meeting information. (19 pages)
3.	08/02/00	E-mail K. Leigh, NRR, to K. Jabbour, NRR, Re: St. Lucie Permit (1 page)
4.	01/02/01	E-mail K. Leigh, NRR, to J. Wilson and K. Jabbour, NRR, Re: St. Lucie Permit (1 page)
5.	01/26/01	Daily Operations Log (1 page)
6.	02/13/01	Daily Operations Log (1 page)
7.	03/09/01	Daily Operations Log (1 page)
8.	03/30/01	Daily Operations Log (1 page)
9.	04/03/01	Daily Operations Log (1 page)
10.	04/04/01	Daily Status Report (1 page)
11.	04/03/01	Daily Status Report (1 page)
12.	05/01/01	Daily Status Report (1 page)
13.	05/02/01	Daily Status Report (1 page)
14.	05/02/01	Daily Operations Log (1 page)
15.	05/02/01	Event Status Report (1 page)
16.	05/05/01	Event Status Report (1 page)
17.	06/13/01	E-mail B. Moroney, NRR, to K. Leigh, M. Masnik and J. Wilson, NRR, Re: St. Lucie Biological Opinion (1 page)

18. 06/13/01 E-mail G. Madden, FP&L, to B. Moroney, NRR, Re: Biological Opinion, St. Lucie Units 1&2 - NRC Interpretations w/handwritten notes from telecon between B. Moroney and G. Madden on same date.(2 pages)
19. 06/25/01 Daily Status Report (1 page)
20. 06/25/01 Daily Status Report (1 page)
21. 06/25/01 Event Status Report (1 page)
22. 07/01/01 Event Status Report (1 page)
23. 08/12/01 Daily Operations Log (1 page)
24. 08/13/01 Event Status Report (1 page)
25. 09/01/01 Operations Dept. Chronologic Log. (1 page)
26. 09/01/01 Event Status Report (1 page)
27. 11/07/01 Event Status Report (1 page)
28. 11/07/01 Operations Department Chronological Log. 1 page
29. 11/08/01 Daily Operations Log (1 page)
30. 11/08/01 Event Status Report (1 page)
31. 11/09/01 Operations Department Chronological Log. (1 page)
32. 11/09/01 Weekly Branch Chief Report (1 page)
33. 11/14/01 Event Status Report (1 page)
34. 11/23/01 Event Status Report (2 pages)
35. 11/23/01 Daily Operations Log (1 page)
36. 01/11/02 Weekly Branch Chief Report (1 page)
37. 01/17/02 Daily Operations Log (1 page)
38. 01/17/02 Event Status Report (1 page)

39. 01/28/02 Daily Operations Log (1 page)
40. 01/30/02 E-mail M. Masnik, NRR, to R. Hoffman, NOAA, Re: St. Lucie License Renewal (1 page) Exemption 5
41. 02/08/02 Weekly Branch Chief Report (1 page)
42. 02/18/02 E-mail G. Madden, FP&L, to B. Moroney, NRR, Re: January 2002 Turtle Captures (1 page)
43. 03/10/02 Daily Operations Log (1 page)
44. 04/04/02 Daily Operations Log (1 page)
45. 05/28/02 Daily Operations Log. 1 page
46. 05/29/02 Daily Status Report. (1 page)
47. 06/02/02 Daily Status Report. (1 page)
48. 06/17/02 Memo J. Tappert, NRR, to K. Jabbour, NRR, Re: Safety Evaluation for Proposed Technical Specification Changes..(6 pages)
49. 08/01/02 E-mail K. Frehafer, FP&L, to B. Moroney, NRR, Re: St. Lucie letter from NMFS (1 page)
50. 08/01/02 E-mail J. Wilson, NRR, to T. Abbatiello, FP&L, Re: St. Lucie Letter from NMFS (1 page) Exemption 5
51. 09/19/02 Daily Status Report (1 page)
52. 10/04/02 Ltr L. Ferrell, U.S. Dept. of Interior, to P. Kuo, NRR, Re: Review of 07/24/02 St Lucie application (9 pages)
53. 10/20/02 Daily Status Report (1 page)
54. 10/22/02 Daily Status Report (1 page)
55. 11/12/02 E-mail G. Madden, FP&L, to E. Brown, NRR, Re: October 2002 Turtle Captures (7 pages)
56. 11/22/02 Daily Status Report (1 page)
57. 12/17/02 Daily Status Report (1 page)

- 58. 01/02/03 Daily Status Report (1 page)
- 59. 01/07/03 E-mail G. Madden, FP&L, to E. Brown, NRR, Re: 2002 Turtle Captures (6 pages)
- 60. 01/23/03 Daily Status Report (1 page)
- 61. 02/03/03 Daily Status Report (1 page)
- 62. 02/12/03 Daily Status Report (1 page)
- 63. 03/03/03 E-mail G. Madden, FP&L, to E. Brown, NRR, Re: NRC letter to NMFS (1 page)
- 64. No date Endangered Species Meeting with NMFS./ (2 pages)

**APPENDIX C  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	01/25/01	Daily Status Report (1 page) <b>Outside scope and EX. 4</b>
2.	02/07/01	Daily Status Report (1 page) <b>Outside scope and EX. 4</b>
3.	02/13/01	Daily Status Report (1 page) <b>Outside scope and EX. 4</b>
4.	03/30/01	Daily Status Report (1 page) <b>Outside scope and EX. 4</b>
5.	05/08/01	Daily Status Report (1 page) <b>Outside scope and EX. 4</b>

**APPENDIX D  
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	03/29/00	E-mail J. Wilson, NRR to B. Gleaves, NRR, Re: FPL Sea Turtle Study (1 page) Exemption 5
2.	03/29/00	E-mail J. Wilson, NRR to B. Gleaves, NRR, Re: FPL Sea Turtle Study (1 page) Exemption 5
3.	03/08/01	E-mail B. Moroney, NRR, to R. Correia, NRR, Re: Sea Turtles (1 page) Exemption 5
4.	05/21/01	E-mail B. Moroney, NRR, to K. Leigh, NRR, Re: St. Lucie (1 page) Exemption 5
5.	06/01/01	E-mail K. Leigh, NRR, to J. Wilson and B. Moroney, NRR, Re: Turtles (1 page) Exemption 5
6.	05/20/02	E-mail M. Masnik, NRR, to B. Moroney, NRR, et al. Re: Results of visit with NMFS (1 page) Exemption 5
7.	08/02/02	E-mail B. Moroney, NRR, to H. Berkow, NRR, et al., Re: St. Lucie Turtles (1 page) Exemption 5
8.	08/13/02	E-mail M. Masnik, NRR, to A. Hodgdon, OGC, et al. Re: St. Lucie Turtles (1 page) Exemption 5
9.	08/13/02	E-mail B. Moroney, NRR, to H. Berkow and K. Jabbour, NRR, Re: St. Lucie Turtles (1 page) Exemption 5