June 17, 2002

MEMORANDUM TO: Kahtan N. Jabbour, Acting Section Chief
Project Directorate-II
Division of Licensing and Project Management
Office of Nuclear Reactor Regulation

FROM: John R. Tappert, Section Chief */RA by D. Wheeler for/*
Environmental Section
License Renewal and Environmental Impacts Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

SUBJECT: SAFETY EVALUATION FOR PROPOSED TECHNICAL SPECIFICATION CHANGES FOR ST. LUCIE UNITS 1 AND 2 (TAC NOS. MB3913 AND MB3914)

The License Renewal and Environmental Impacts (RLEP) Program has completed its evaluation of the proposed technical specification changes for St. Lucie Units 1 and 2. The evaluation is attached to this memorandum. This evaluation is based on the information included in Florida Power and Light (FPL) Company's amendment request dated January 25, 2002.

Based on the staff review, RLEP has concluded that (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public. Therefore, the staff finds the proposed changes to the technical specifications acceptable.

Attachment: As stated

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SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO THE AMENDMENT NO. ### TO THE FACILITY OPERATING

LICENSE NO. DPR-67 AND AMENDMENT NO. ### TO THE FACILITY OPERATING LICENSE

NO. NPF-16 FLORIDA POWER AND LIGHT COMPANY, ET AL.,

ST. LUCIE PLANT, UNIT NOS. 1 AND 2

DOCKET NOS. 50-335 AND 50-389.

1.0 INTRODUCTION

By letter dated January 25, 2002, Florida Power and Light Company (FPL or the licensee) submitted a request to revise the Unit 1 and Unit 2 Environmental Protection Plans (EPP) which is part of the Technical Specifications for the Facility Operating License for St. Lucie Units 1 and 2. The requested changes to the EPP would incorporate by reference the revised terms and conditions of the Incidental Take Statement included in the Biological Opinion issued by the National Marine Fisheries Service (NMFS) on May 4, 2001 as clarified by NMFS letter dated October 8, 2001. The licensee also requested that the applicable sections of the EPP be changed to reflect the change in nomenclature for their wastewater permits consistent with a 1995 change in the permitting authority.

2.0 BACKGROUND

In 1999, the St. Lucie plant exceeded the NFMS' anticipated annual incidental intake of green turtles as established in the National Marine Fisheries Service's Incidental Intake Statement (ITS) of the 1997 Biological Opinion. As a consequence, on November 30, 1999, the NRC requested reinitiation of formal consultation between the NRC and the NMFS. On March 22, 2000, FPL submitted to the NRC a document entitled "Physical and Ecological Factors Influencing Sea Turtle Entrainment Levels at the St. Lucie Nuclear Power Plant: 1976 - 1998". This document contained new information about sea turtles' interactions with the plant and was forwarded to the NMFS on May 9, 2000. Based on the historical data related to the annual incidental intake limit and the new information in the aforementioned licensee document, NMFS revised the 1997 Biological Opinion and transmitted a new biological opinion (Opinion) to the NRC by letter dated May 4, 2001.

The May 4, 2001 Opinion analyzed the plant's circulating seawater system and its effect on loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempii*) , green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles in accordance with section 7 of the Endangered Species Act of 1973 as amended. It stated NMFS' belief that the continued operation of the circulating seawater cooling system at the St. Lucie Nuclear Power Plant is not likely to jeopardize the continued existence of the five species

of sea turtle. However, NMFS issued, as part of the Opinion, a new ITS which contained reasonable and prudent measure with implementing terms and conditions to help minimize the incidental take of the various species of sea turtle.

On May 31, 2001 the NRC staff had a telephone conversation with NMFS to clarify certain provisions of the incidental take statement contained in the May 4, 2001 Opinion. The telephone conversation was followed up by letter dated June 8, 2001 which memorialized the discussions during the May 31, 2001 conference call. On October 8, 2001 NMFS responded to the NRC letter of June 8, 2001 providing clarification on a number of issues related to the terms and conditions and the ITS.

This amendment to the St. Lucie Operating License incorporates the terms and conditions and the ITS contained in the May 4, 2001 Opinion revised or clarified by the letters of June 8, 2001 and October 8, 2001 into the Environmental Protection Plan, section 4.2, which is part of the St. Lucie Technical Specifications.

Also included in this amendment request are administrative changes to various sections of the Environmental Protection Plan that conform to the changes made in the National Pollutant Discharge Elimination System (NDPES) permitting authority. On May 1, 1995, the Florida Department of Environmental Protection (FDEP) was granted authority by the U.S. Environmental Protection Agency (EPA) to administer the NPDES permitting program. Pursuant to the Florida Administration Code (FAC) 62-620.105(10), the NPDES Permit No. FL0002208 and the State-issued wastewater permit No. IO56-194945 were to be combined into one document, Wastewater Permit No. FL0002208. The licensee, in their January 25, 2002 amendment request, proposed changes to the EPP to reflect the consolidation of the EPA issued NPDES permit with the state issued wastewater permit into a single wastewater permit for the facility. The permit would no longer be referred to as an NPDES permit but rather as a wastewater permit. This change requires a revision to the Environmental Protection Plans(EPP), Appendix B, Sections 1, 2, and 3 of the St. Lucie Units 1 and 2 operating license. The proposed change to the EPP incorporates the administrative changes necessary to change references to the NPDES permit to the consolidated wastewater permit.

3.0 EVALUATION

This safety evaluation discusses the proposed changes in the revision to St. Lucie Technical Specifications, Appendix B, "Environmental Protection Plan (EPP) (Non-Radiological)," for Units 1 and 2.

The proposed change to Section 1.0 reflects the transfer of NPDES permitting authority from the U.S. Environmental Protection Agency (EPA) to the Florida Department of Environmental Protection. The term "NPDES" is changed to "Wastewater". This change does not change any of the requirements of the wastewater permit. The change is administrative in nature and simply reflects a change in nomenclature. The staff finds the change acceptable.

The proposed change for Section 2 consists of adding the following paragraph to the end of Section 2.1 of the Unit 1 EPP and to the end of Section 2.0 of the Unit 2 EPP.

> "On May 1, 1995, the FDEP was granted authority by the U.S. Environmental Protection Agency (EPA) to administer the NPDES permitting programs. Pursuant to the Florida Administrative Code (FAC) 62-620.105(10), the EPA-issued NPDES permit and the State-issued wastewater permit for each facility were to be combined into one document. A copy of the FAC 62-620 was submitted to the NRC by FPL letter, L-95-150, on May 16, 1995. The resulting single document, Wastewater Permit No. FL 0002208 combines the NPDES Permit FL0002208 and the State Wastewater Permit IO56-194945."

This change describes the present situation with respect to the issuance of watewater permits in the State of Florida. It is administrative in nature and simply provides clarification of the permitting authority. The staff finds the change acceptable.

The proposed change to Section 3.2 reflects the transfer of NPDES permitting authority from the U.S. Environmental Protection Agency (EPA) to the Florida Department of Environmental Protection. FPL proposes that "NPDES" be changed to "Wastewater" throughout Section 3.2. This change is administrative in nature and reflects a change in nomenclature. The staff finds the change acceptable.

The licensee proposes removing the entire text of Section 4.2 in the EPP for Units 1 and 2 and replacing it with the following:

Section 4.2 Terrestrial/Aquatic Issues

> "The certifications and permits required under the Clean Water Act provide mechanisms for protecting water quality and indirectly, aquatic biota. The NRC will rely on the decisions made by the State of Florida under the authority of the Clean Water Act and, in the case of sea turtles, decisions made by the NMFS under the authority of the Endangered Species Act, for any requirements pertaining to terrestrial and aquatic monitoring.
>
> In accordance with Section 7(a) of the Endangered Species Act, on May 4, 2001, the NMFS issued a revised Biological Opinion that revised the ITS and modified some of the terms and conditions of the previous Opinion. After discussions among the NRC, NMFS, and FPL and in response to an NRC letter dated June 8, 2001, the NMFS issued a clarification of issues in the new Biological Opinion and the ITS on October 8, 2001. The revised Biological Opinion concludes that continued operation of the St. Lucie Plant circulating seawater cooling system is not likely to jeopardize the continued existence of the listed species. No critical habitat has been designated for the specified species in the action area; therefore none will be affected.

FPL shall adhere to the specific requirements within the ITS in the Biological Opinion as clarified by the NMFS and NRC. Changes to the ITS or the terms and conditions must be preceded by consultation between the NRC, as the authorizing agency, and NMFS."

Currently Section 4.2 contains the terms and conditions and ITS of the 1999 Opinion issued by NMFS. The section is very prescriptive detailing the various requirements contained in the 1999 Opinion. These terms and conditions and the ITS have been superceded by the May 4, 2001 Opinion issued by the NMFS. The licensee proposes incorporating the revised terms and conditions and ITS contained in the 2001 Opinion as clarified by the October 8, 2001 letter from NMFS to the NRC into the St. Lucie EPP by reference. A detailed description and explanation of requirements would not be contained in the EPP but rather the requirements in the Opinion as revised would be incorporated into the EPP by reference. The licensee is prohibited from making changes to the terms and conditions or ITS without NRC approval after consultation between the NRC and NMFS. The staff finds the changes acceptable.

4.0 STATE CONSULTATION

By letter dated March 8, 1991, Mary E. Clark of the State of Florida, Department of Health and Rehabilitative Services, informed Deborah A. Miller, Licensing Assistant, NRC, that the State of Florida does not desire notification of issuance of license amendments.

5.0 ENVIRONMENTAL CONSIDERATION

These amendments involve changes in recordkeeping, reporting or administrative procedures or requirements. Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(10). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

6.0 CONCLUSION

The Commisson has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: Gregory F. Suber

Date: June 17, 2002