(12)

✓ taken with 6/13 M. Madden

From: <George_Madden@fpl.com>
To: <BTM3@nrc.gov>
Date: 6/13/01 11:23AM
Subject: Biological Opinion, St. Lucie Units 1 and 2 - NRC Interpretations

FPL generally agrees that with the clarifications and Interpretations expressed in the NRC June 8, 2001 letter to NMFS, the conditions on the incidental take statement (ITS) are acceptable.

BT expecting formal reply

Does the NRC expect a reply form the NMFS. FPL would like NMFS concurrence with the NRC interpretations and clarifications in a reply to your letter?

Additional clarification is needed in the following areas:

In the last paragraph of Section VII of the BO at the end of the subsection Term and Conditions, the BO states "If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measure provided. NRC must immediately request initiation of formal consultation, provide the causes of the taking , and review with NMFS the need for possible modification of the reasonable and prudent measures."

will review & clarify if needed

However in the Section X of the BO, Reinitiation of Consultation, condition (1) is "... the amount or extent of the taking specified in the incidental take statement is met or exceeded, ..."

The question is when does consultation have to be reinitiated when the terms of the ITS limits are met or exceeded? The BO & ITS seem to be ambiguous on this point.

my letter provides guidance. NMFS letter is to be a limit

This impacts clarification #6 of your June 8, 2001 letter. Since the ITS says one leatherback or hawksbill killed or injured within 2 years is expected or okay but Item #6 of your letter says reinitiate if one of either is killed or injured.

will investigate

2. In addition, FPL would like the severe weather condition exception of ITS condition 4 to also apply to ITS Condition 6 for the intake well inspection.

3. Is the 1,000 turtles per year of incidental capture a limit of the ITS or is it just a stated value for the basis of the 1% limit?.

limit

my letter provides guidance

4. The wording of the BO & ITS is confusing because the limits are not stated specifically as limits as they were in the previous BO dated February 7, 1997.

In the NRC letter to us please specify the limits similar to the February 7, 1997 ITS. If so stated the NRC, NMFS, FFWC, FPL and the public will clearly know the limits to be applied. FPL would also expect that the NRC letter to FPL transmitting the limits would include your clarifications and interpretations.

George thinks a final summary letter to them providing guidance for TS rev is appropriate, or perhaps over a meeting BB 6/18

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