



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
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12/19/08

Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration
Mailstop T-6D59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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RULES AND DIRECTIVES
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Subject: Scoping Process Comments (10 CFR Part 51) to support development of an Environmental Impact Statement (EIS) for the Combined License (COL) Application for the Levy Nuclear Plant (LNP), Units 1 and 2, Levy County, FL

Dear Sir:

As you know, pursuant to Section 309 of the Clean Air Act (CAA) and Section 102(2)(C) of the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency (EPA) Region 4 will be reviewing the U.S. Nuclear Regulatory Commission's (NRC) Environmental Impact Statement (EIS) associated with the application on July 28, 2008 by Progress Energy Florida, Inc. (PEF) for a limited work authorization (LWA) and a combined license (COL) to build Units 1 and 2 at its Levy Nuclear Plant (LNP) site, located in Levy County, Florida. It is our understanding that the NRC is currently providing the public with an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29. We further understand that the U.S. Army Corps of Engineers, Jacksonville District, will be participating with the NRC in the preparation of the EIS as a cooperating agency. The NRC reports that a "notice of acceptance" for docketing of the application for the COL was published in the Federal Register on October 14, 2008 (73 FR 60726), and that a "notice of hearing and opportunity to petition for leave to intervene" will be published at a later date.

EPA Region 4 appreciates the recent opportunity conveyed by the NRC to have EPA Health Physicist Rick Button attend the NRC Site Audit, held on 12/2/2008 held at the proposed LNP site near Inglis, Florida, as well as the opportunity for EPA NEPA Project Lead Reviewer Paul Gagliano, P.E., to attend the NRC Government-to-Government meeting, Open House, and Public Scoping Meeting, all held on 12/4/2008 at the Florida National Guard Armory in Crystal River, Florida. The NRC provided information at the 12/4/2008 meeting that, "as outlined in 36 CFR 800.8(c), coordination with the National Environmental Policy Act," the NRC staff "plans to coordinate compliance with Section 106 of the National Historic Preservation Act (NHPA) with steps taken to meet the requirements NEPA." Pursuant to 36 CFR 800.8(c), the NRC also reported that its staff intends to use this process and documentation for the preparation of the EIS on the proposed action "to comply with section 106 of the NHPA in lieu of the procedures set forth on 36 CFR 800.3 through 800.6."

Under Section 309 of the CAA, EPA is responsible for reviewing and commenting on major federal actions significantly affecting the quality of the human

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environment. EPA fully concurs with the NRC's stated EIS-scoping goals of accomplishing the following tasks:

- Defining the proposed action that is to be the subject of the EIS;
- Determining the scope of the EIS and identifying the significant issues to be analyzed in-depth;
- Identifying and eliminating from the detailed study those issues that are peripheral or that are not significant;
- Identifying any environmental assessments and other EISs that are being or will be prepared that are related to but are not part of the scope of the EIS being considered;
- Identifying other environmental review and consultation requirements related to the proposed action;
- Identifying parties consulting with the NRC under the NHPA, as set forth in 36 CFR 800.8(c)(1)(i);
- Indicating the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule;
- Identifying any cooperating agencies and, as appropriate, allocating assignments for preparation (with completion schedules) of components of the EIS;
- Describing how the EIS will be prepared, including any contractor assistance to be utilized.

EPA offers the following scoping comments for the EIS process:

The NRC issued a public notice for the 12/4/2008 meeting that stated that it intended "to gather the information necessary" to prepare the EIS as part of the review of the LWA and COL application for the LNP site. The public notice stated that the EIS would include "alternatives to the proposed action (issuance of the LWA and COL)," such as "no action, reasonable alternative energy sources, and alternate sites." But at the public scoping meeting, NRC Environmental Project Manager Douglas Bruner stated that the EIS would be developed for only one specific site, the 3105 acre site near Inglis, FL specified in the Levy Nuclear Plant Units 1 and 2 COL Application's Environmental Report. Mr. Bruner indicated that no alternative sites are to be assessed. Also, it was stated that the NRC would only consider the one specific design submitted by PEF. Please clarify whether the EIS process will incorporate a review of reasonable alternative energy sources and/or alternate sites. To inform the reviewer, applicant's site and design alternative evaluations can be incorporated by reference.

EPA also has questions about the approval process of certain construction activities mentioned in LNP's "Limited Work Authorization (LWA) and Site Redress Plan." It is our understanding that the LWA may be approved by the NRC prior to all (or most) environmental permits being obtained. Approval of the LWA could therefore potentially authorize site development and deep/shallow foundation construction for the LNP site, to include all or some of the following tasks:

- Installing waterproofing beneath the mud mat under the nuclear islands.
- Installing rebar in the nuclear island concrete foundations.

- Erecting safety-related concrete placement forms.
- Installing Turbine Building foundation drilled shafts.
- Installing Annex Building foundation drilled shafts.
- Installing Radwaste Building foundation drilled shafts.
- Installing circulating water piping between the cooling tower basins and the entrance point to the turbine building condensers.
- Installing the raw water system intake structure and make-up line to the cooling tower basin.

It is our understanding that the NRC could grant approval of the LWA for the above work prior to approval of the following applications and permits:

- Approval of the application to the NRC for a COL;
- Approval of the application to the State of Florida for site certification;
- Approval of any required National Pollutant Discharge Elimination Permit(s) (NPDES) for water discharge;
- Approval of the Prevention of Significant Deterioration (PSD) air permit;
- Approval of a 316(b) demonstration for the proposed cooling water intake;
- Approval of the U.S. Army Corps of Engineers (USACE) Section 404 and Section 10 permits to construct structures in wetlands and regulated waterways;
- Approval of hazardous waste management and disposal plans;
- Approval of the "determination of consistency" under the requirements of the Coastal Zone Management Act to ensure the LNP is consistent with existing federal and state coastal zone management plans.

The EIS should clarify whether approval of the LWA can actually occur before most, or all, of the applications and permits mentioned above are approved. The EIS should provide information on what actions will be taken by PEF, if, in fact, the LWA work is accomplished, but all environmental clearances and permits are not obtained or if PEF decides not to continue with the project. How will the site be restored? What types of mitigation measures, if any, will be needed for affected wetlands? The EIS should fully document all actions to be taken by PEF if an LWA is granted, the work accomplished, and the project does not go forward.

Thank you, again, for the opportunity to comment on the scoping of this upcoming EIS. Please include us in any notifications of future interagency meetings. If you wish to discuss EPA's comments, please contact me at 404/562-9611 (mueller.heinz@epa.gov) or Paul Gagliano of my staff at 404/562-9373 (gagliano.paul@epa.gov)

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management