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From: Snead, Paul [paul.snead@pgnmail.com]
Sent: Thursday, April 02, 2009 2:55 PM
To: gordon.a.hambrick@usace.army.mil; Bruner, Douglas
Subject: Proprietary Submittal of Siting Study to USACE
Attachments: NPD-MISC-2009-003.pdf

Don:

FYI,
Attached is an advance copy of the letter transmitting the proprietary reference of the Florida siting study to you per our discussion last week.

Paul Snead
Lead Environmental Specialist
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Hearing Identifier: Levy_County_COL_Public
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"gordon.a.hambrick@usace.army.mil" <gordon.a.hambrick@usace.army.mil>
Tracking Status: None
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James Scarola
Senior Vice President and Chief Nuclear Officer
Progress Energy Carolinas, Inc.

Serial: NPD-MISC-2009-003
April 2, 2009

Mr. Don Hambrick
Senior Project Manager
U.S. Army Corps of Engineers
Jacksonville District
1002 West 23rd Street, Suite 350
Panama City, Florida 32401

**Subject: Levy Nuclear Power Plant Units 1 and 2
Submittal of Site Selection Study; Declaration of Trade Secrets,
Commercial and Financial Records under 32 C.F.R. § 518.13(d) (2008)**

Reference: Application No: SAJ-2008-490

Dear Mr. Hambrick:

Progress Energy Corporation, Inc. ("Progress Energy") submitted a joint state of Florida Environmental Resource Permit and US Department of the Army Section 404 application on June 2, 2008, and an application dated July 28, 2008, for a combined license for two AP1000 passive pressurized water reactors to be located at a site in Levy County, Florida. The purpose of this letter is to submit the attached Site Selection Study document styled Evaluation of Florida Sites ("document" and attached hereto as Enclosure 1).

Progress Energy declares that the document, inclusive of all information contained therein, is proprietary, trade secrets or commercial and financial information subject to exemption from disclosure under 5 U.S.C. § 552(b)(4) (2000) and 32 C.F.R. § 518.13(d) (2008). Progress Energy further declares that the disclosure of the document, or any portion of the document, would likely cause substantial harm to the competitive position of Progress Energy, as well as impair the Government's ability to obtain necessary information in the future, or impair other legitimate Government interests.

Since this document contains information held to be proprietary by Progress Energy, it is requested that this document and all portions thereof be withheld from public disclosure in accordance with 32 C.F.R. §§ 518.13(d) & .12. An affidavit in support of this request is submitted with this letter (attached hereto as Attachment 1). It is Progress Energy's

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understanding that pursuant to 32 C.F.R. § 518.13(d) once the document is determined to meet the "exemption 4 information" criteria, "there is no discretion in its release," and should there be any consideration of releasing information from the document, Progress Energy is entitled to pre-disclosure notification pursuant to Executive Order 12600 (June 23, 1987), 52 Fed. Reg. 23781, 3 C.F.R., 1987 Comp., p. 235.

Consequently, Progress Energy requests that the U.S. Army Corps of Engineers ("Corps") immediately provide written confirmation to Progress Energy confirming that the attached document qualifies as an exempt confidential commercial information record under 5 U.S.C. § 552(b)(4) and 32 C.F.R. § 518.13(d). Progress Energy requests that this confirmation be transmitted to Progress Energy no later than ten (10) days from receipt of this letter. Moreover, Progress Energy further requests that if the Corps for any reason chooses to not certify the document or any portion therein as protected from public disclosure under 5 U.S.C. § 552(b)(4) and 32 C.F.R. § 518.13(d), then the document will be immediately returned to Progress Energy and that any and all copies produced by the Corps, whether electronic or print, will be destroyed immediately. Finally, Progress Energy requests that since the document is exempt from public disclosure, the Corps should refrain from identifying specific parcel locations or descriptions contained in the document for any purpose, including but not limited to, preparing any permit decision memoranda, without receiving explicit authorization from Progress Energy.

Progress Energy has submitted a substantially similar confidentiality determination to the Nuclear Regulatory Commission under the purview of 10 C.F.R. § 2.390 (2008).

If you have any questions or need additional information, please contact Bob Kitchen at (919) 546-6992.

Sincerely,

A handwritten signature in black ink that reads "James Farola". The signature is written in a cursive style with a large, sweeping initial "J".

Attachment/Enclosure

cc:(w/o Attachment and Enclosure):

John Kasbar, Office of Counsel Jacksonville District Office
Osvaldo Collazo, Jacksonville District Office
Mr. Brian Anderson, U.S. NRC Project Manager
Mr. Douglas Bruner, U. S. NRC Environmental Project Manager