

August 5, 2010

Chief Leonard Harjo
Seminole Nation of Oklahoma
P.O. Box 1498
Wewoka, OK 74884

SUBJECT: SECTION 106 CONSULTATION AND NOTIFICATION OF THE ISSUANCE OF
THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED
LEVY NUCLEAR PLANT UNITS 1 AND 2 COMBINED LICENSES
APPLICATION REVIEW

Dear Chief Harjo:

The U.S. Nuclear Regulatory Commission (NRC) is reviewing an application submitted by Progress Energy Florida, Inc., for combined licenses (COL) for construction and operation of two new nuclear power units at its proposed Levy Nuclear Plant site near Inglis, Florida. The U.S. Army Corps of Engineers (USACE), Jacksonville District, is a cooperating agency on the review of the proposed action that is being conducted under the requirements of the National Environmental Policy Act of 1969, as amended (NEPA). As part of the review of the proposed actions, the NRC and USACE review team has prepared the enclosed draft environmental impact statement (DEIS). The DEIS, NUREG-1941, includes analyses of relevant environmental issues, including potential impacts to historic properties, and documents the review team's determination regarding the environmental impacts at the proposed site from the construction and operation of two new nuclear units.

In a May 27, 2010 letter, the NRC staff notified you that it will comply with its obligations under Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), using the process set forth in Title 36 of the *Code of Federal Regulations* (36 CFR) Part 800, Section 8(c) in lieu of the procedures set forth in 36 CFR 800.3 through 36 CFR 800.6. Pursuant to 36 CFR 800.8(c), the NRC staff is using the preparation of the DEIS required by NEPA to comply with its obligations under Section 106 of the NHPA.

The review team conducted an environmental audit at the site and has reviewed historic and archaeological records. In the context of NEPA, under which the DEIS was prepared, the review team has determined that the Area of Potential Effect (APE) for the COL review is the area at the power plant site and the immediate environs that may be directly or indirectly impacted by the project. The APE is influenced by the limitation of the scale and nature of the NRC undertaking which does not include most of the ground disturbing activities which constitute "preconstruction" activities. Many of the activities required to build a nuclear power plant do not fall within NRC's regulatory authority and, therefore, are not "construction" as defined by the NRC in 10 CFR 51.4. Such activities are referred to as "preconstruction" activities in 10 CFR 51.45(c).

The preliminary determination in the DEIS is that the impacts from NRC-authorized construction, preconstruction, and operation on historical and archeological resources would be small and mitigation may be warranted in the event of an unanticipated discovery. The review team's determination of cumulative impact on historical and archeological resources from the building and preconstruction activities in addition to other past, present, and reasonably foreseeable actions would be small. For the purposes of Section 106 of the NHPA consultation pursuant to 36 CFR 800.8(c), the review team concludes with a finding of no historic properties affected.

Pursuant to 10 CFR 51.28 and 36 CFR 800.2(c), the NRC wishes to ensure that Indian Tribes that might have an interest in any potential historic properties in the area of potential effect are afforded the opportunity to identify their concerns, provide advice on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, and, if necessary, participate in the resolution of any adverse effects to such properties.

The NRC staff is forwarding the DEIS for your review and comment. Pursuant to 36 CFR 800.8(c), the NRC staff is requesting your comments on the DEIS, and specifically on the preliminary conclusions regarding historic properties. The NRC staff will address your comments in the final environmental impact statement and upon resolving comments the NRC would complete consultation under Section 106 of the NHPA with the Seminole Nation of Oklahoma regarding the Levy County COL application. Please provide any information or comments you may have on the DEIS during the comment period, which ends on October 27, 2010. Comments should be submitted either by mail to the Chief, Rulemaking and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or via e-mail to Levy.COLEIS@nrc.gov.

The NRC and USACE plan to hold two public meetings to present the analyses and results in the DEIS and to receive stakeholders comments on Thursday, September 23, 2010, at the Plantation Inn, 9301 West Fort Island Trail, Crystal River, Florida. The first meeting will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second meeting will convene at 7:00 p.m., with a repeat of the overview portions of the first meeting, and will continue until 10:00 p.m., as necessary. The meetings will be transcribed and will include: (1) a presentation of the contents of the DEIS; and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC and USACE staff will host informal discussions one hour before the start of each meeting during which members of the public may meet and talk with NRC and USACE staff members on an informal basis. You and your staff are invited to attend.

Chief L. Harjo

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If you have any questions concerning the environmental review of this COL application, please contact Mr. Douglas Bruner, Environmental Project Manager, at 301-415-2730, or via e-mail to Douglas.Bruner@nrc.gov.

Sincerely,

/RA/

Robert G. Schaaf, Chief
Environmental Projects Branch 3
Division of Site and Environmental Reviews
Office of New Reactors

Docket Nos.: 52-029 and 52-030

Enclosures:
As stated

cc: See Next Page

Chief L. Harjo

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Sincerely,

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Environmental Projects Branch 3
Division of Site and Environmental Reviews
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As stated

cc: See Next Page

DISTRIBUTION:

PUBLIC	RidsRgn2MailCenter	DMcFarland, PNNL (douglas.mcfarland@pnl.gov)
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RHanna, RII		

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OFFICE	NRO/DSER/RAP3:PM	NRO/DSER/RAP3:LA	OGC	NRO/DSER/RAP3:BC
NAME	DBruner	MBrown	JMartin	RSchaaf
DATE	7 / 21 /2010	7 / 22 /2010	7/30/2010	8 / 5 /2010

OFFICIAL RECORD COPY

Levy County Mailing List
cc:

Ms. Pamela Albert
5630 N. Andri Dr.
Crystal River, FL 34428

Mr. Hugh P. Arnold
14031 SE 82nd Ct.
Inglis, FL 34449

Chief Bobby Johns Bearheart
Perdido Bay Tribe
Southeastern Lower
Muscogee Creek Indians
12533 Polonious Pkwy.
Pensacola, FL 32506

Ms. Betty Berger
P.O. Box 83
Inglis, FL 34449

Ms. Carol Bergmann
122 No. Pompeo Ave.
Crystal River, FL 34429

Mr. David Bernhart
Assistant Regional Administrator
for Protected Resources
National Marine Fisheries Service
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

Mr. Troy Burrell, Jr.
12005 N. Florida Ave.
Dunnellon, FL 34434

Renate Cannon
7451 NW 35th St.
Chiefland, FL 32626-7317

Mr. Ken Cheek
12005 N. Florida Ave.
Dunnellon, FL 34434

Ms. Linda Cohan
AF Knotts Public Library
11 56th St.
Yankeetown, FL 34498

Ms. Betsy Cox
5213 Relay Way
Raleigh, NC 27605

Avis M. Craig
10995 N. Citrus Ave.
Crystal River, FL 34428

The Honorable Mitchell Cypress
Chairman
Seminole Tribe of Florida
6300 Stirling Rd.
Hollywood, FL 33024

Mr. Darryl A. Diamond
20165 SE 115th Ave.
Inglis, FL 34449

Ms. Amanda Douglas
P.O. Box 1112
Bronson, FL 32621

Mimi Drew
FDEP Deputy Secretary
3900 Commonwealth Blvd., MS 15
Tallahassee, FL 32399

Lesla Ehlers
Coastal Region Library
Citrus County
8619 W. Crystal St.
Crystal River, FL 34426

Mr. Thomas Eppes
6900 Ulmerton Rd.
Largo, FL 33771

Mr. Hal C. Flowers
2919 Wallerford Ave.
Tampa, FL 33611

Ms. Patricia Foreman
323 E. Hill St.
Inverness, FL 34452

Levy County Mailing List
cc:

Mr. John M. Fowler
Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
Old Post Office Building
1100 Pennsylvania Ave., NW, Ste. 803
Washington, DC 20004

Mr. Ken Frink
1281 N. Lombardi Ave.
Lecanto, FL 34461
Carol & John Froelich
9521 N. Alder Ave.
Crystal River, FL 34428

CDR Paul S. Gagliano
U.S. EPA, Region 4
61 Forsyth St.
Atlanta, GA 30303

Mr. Rolando Garcia
Regional Director
Florida Fish and Wildlife Conservation
Commission
North Central Region
3377 E. U.S. Highway 90
Lake City, FL 32055-8795

Mr. Frederick P. Gaske
Director
Division of Historical Resources
State Historic Preservation Officer
Office of Cultural and Historical Programs
500 So. Bronough St.
Tallahassee, FL 3299-0250

Mr. James Golden
Lead Planner
South Florida Water Management District
Intergovernmental Policy & Planning
Division
West Palm Beach, FL 33416-4680

Mr. Don Hambrick
Department of the Army
Jacksonville District - Corps of Engineers
Panama City Regulatory Office
1002 West 23rd St., Suite 350
Panama City, FL 32405-3648

Chief Leonard Harjo
Seminole Nation of Oklahoma
P.O. Box 1498
Wewoka, OK 74884

Mr. Mac Harris
2795 W. Sunrise St.
Lecanto, FL 34461

Mr. Michael A. Hernandez
3663 S.W. 8th St., Suite 200
Miami, FL 33135

Mr. Alan Hodges
P.O. Box 110240
Gainesville, FL 32611

Mr. Norman Hopkins
1030 N. Crescent Dr.
Crystal River, FL 34429

Mr. Art Jones
560 NW 14th Place
Crystal River, FL 34428

Mr. David Keys
SERO NEPA Coordinator
NOAA Fisheries Service
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

Mr. Mark P. Klutho
14496 120th Ave. North
Largo, FL 33774

Ms. Karen Koceimba
Dunnellon Branch Library
20351 Robinson Rd.
Dunnellon, FL 34431

Mr. Al Latimer
800 N. Magnolia Ave., Suite 1100
Orlando, FL 32803

Mr. Barry Lenz
5426 Bay Center Dr., Suite 400
Tampa, FL 33609

Levy County Mailing List
cc:

Maloni R. Lewis
786 NE 6th Terr.
Crystal River, FL 34428

Mr. Gary Maidhof
3600 W. Sovereign Path, Suite 109
Lecanto, FL 34461

Mr. Paul Marraffino
19544 SW 82nd Place Rd.
Dunnellon, FL 34432

Ms. Katrice McCray-Holly
P.O. Box 551
Crystal River, FL 34423

Mr. Walton McJordan
P.O. Box 688
Cedar Key, FL 32625

Mr. Brian Moore
5559 Cactus Circle
Spring Hill, FL 34606

Sandy Moseley
Bronson Public Library
Levy County
600 Gilbert St.
Bronson, FL 32621

Mr. Matt Mucci
4300 W. Cypress St., Suite 250
Tampa, FL 33607

Mr. Heinz Mueller
U.S. EPA
Region 4
61 Forsyth St.
Atlanta, GA 30303

Ms. Cindy Mulkey
Engineering Specialist
Dept. of Environmental Protection
Siting Coordination Office
3900 Commonwealth Blvd, MS 48
Tallahassee, FL 32399

Mr. Joe Murphy
34413 Orchid Pkwy.
Ridge Manor, FL 33523

Mr. Michael Peters
P.O. Box 7
Inglis, FL 34449

Mr. Guy Rabens
1417 SW 15th Ave.
Ocala, FL 34471

E. E. Renfro
6588 W. Cannondale Dr.
Crystal River, FL 34429

Mr. John Russell
17810 Hyland Ln.
Dade City, FL 33523

Mr. Noah Silverman
Natural Resource Specialist
NOAA Fisheries Service
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

Ms. Laura Slaback
P.O. Box 1086
Branson, FL 32621

Mr. Paul Snead
4701 Fox Rd.
Raleigh, NC 27616

Ms. Anita Stewart
18809 4th St. SE
Lutz, FL 33549

Mr. Alan Summerville
ICF International
9300 Lee Highway
Fairfax, VA 22031-1207

Mr. Steve Terry
Miccosukee Tribe
NAGPRA & Section 106 Representatives
Tamiami Station
P.O. Box 440021
Miami, FL 331144-0021

Levy County Mailing List
cc:

The Honorable Anne D. Tucker
Chairwoman
Muscogee Nation of Florida
P.O. Box 3028
Bruce, FL 32455

Mr. James Tulenko
202 Nuclear Science Center
Gainesville, FL 32611

Mr. Mark Vianello
1614 SE Ft. King St.
Ocala, FL 34471

A. Vlikmir
1498 N. Endicott Pt.
Crystal River, FL 34429

Ms. Theresa Waldron
P.O. Box 438
Lecanto, FL 34460

Ms. Linda Walker
Deputy Field Supervisor
U.S. Fish and Wildlife Service
Jacksonville Field Office
7915 Bay Meadows Way
Jacksonville, FL 32256-7515

Mr. John York
210 Estado Way NE
St. Petersburg, FL 33704

Levy County Mailing List

cc:

Email:

ecasey21@hotmail.com (Emily Casey)
jcd1968@gmail.com (Chris Dougherty)
edisonj@levy.k12.fl.us (Jeff Edison)
gagliano.paul@epa.gov (Cdr. Paul S. Gagliano)
robert.hoffman@noaa.gov (Robert Hoffman)
skirk@tampabay.rr.com (Susan Kirk)
lawterv@cf.edu (Vernon Lawter)
Littleton.brian@epa.gov (Brian Littleton)
john.marmish@unitedway.org (John Marmish)
miedema.ron@epa.gov (Ron Miedema)
mueller.heinz@epa.gov (Heinz Mueller)
porro@optonline.net (Joe Porrovecchio)
reyes.juan@epa.gov (Juan Reyes)
routree.marthea@epa.gov (Marthea Rountree)
Paul.Snead@pgnmail.com (Paul Snead)
greencat9@juno.com (Jennifer Sullivan)
Rinck.todd@epa.gov (Rinck Todd)

COL - Progress Energy - Levy County Mailing List
cc:

(Revised 06/23/2010)

Ms. Michele Boyd
Legislative Director
Energy Program
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Ms. Georgia Cranmore
Assistant Regional Administrator
NOAA Fisheries Southeast Regional Office
9721 Executive Center Drive North
Saint Petersburg, FL 33702

Mr. John Elnitsky
Vice President
Nuclear Plant Development
Progress Energy Florida, Inc.
P.O. Box 14042
Saint Petersburg, FL 33733

COL - Progress Energy - Levy County Mailing List

Email

APH@NEI.org (Adrian Heymer)
awc@nei.org (Anne W. Cottingham)
Bill.Jacobs@gdsassociates.com (Bill Jacobs)
billn@fcan.org (Bill Newton)
brian.mccabe@pgnmail.com (Brian McCabe)
BrinkmCB@westinghouse.com (Charles Brinkman)
chris.burton@pgnmail.com (Chris Burton)
chris.maslak@ge.com (Chris Maslak)
CumminWE@Westinghouse.com (Edward W. Cummins)
cwaltman@roe.com (C. Waltman)
david.lewis@pillsburylaw.com (David Lewis)
david.waters@pgnmail.com (Dave Waters)
Derlinda.Bailey@chguernsey.com (Derinda Bailey)
ed.burns@earthlink.net (Ed Burns)
gzinke@entergy.com (George Alan Zinke)
jgutierrez@morganlewis.com (Jay M. Gutierrez)
jim.riccio@wdc.greenpeace.org (James Riccio)
joe.w.donahue@pgnmail.com (Joe Donahue)
john.elnitsky@pgnmail.com (John Elnitsky)
Joseph_Hegner@dom.com (Joseph Hegner)
KSutton@morganlewis.com (Kathryn M. Sutton)
kwaugh@impact-net.org (Kenneth O. Waugh)
lchandler@morganlewis.com (Lawrence J. Chandler)
levynuke@ecologyparty.org (Cara Campbell)
Marc.Brooks@dhs.gov (Marc Brooks)
maria.webb@pillsburylaw.com (Maria Webb)
mark.beaumont@wsms.com (Mark Beaumont)
Mark.Crisp@chguernsey.com (Mark Crisp)
maryo@nirs.org (Mary Olson)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
media@nei.org (Scott Peterson)
Mike.Halpin@dep.state.fl.us (Mike Halpin)
MSF@nei.org (Marvin Fertel)
nirsnet@nirs.org (Michael Mariotte)
Nuclaw@mindspring.com (Robert Temple)
patriciaL.campbell@ge.com (Patricia L. Campbell)
Paul@beyondnuclear.org (Paul Gunter)
pshastings@duke-energy.com (Peter Hastings)
RJB@NEI.org (Russell Bell)
robert.kitchen@pgnmail.com (Robert H. Kitchen)
ronald_m_bright@bellsouth.net (Ronald Bright)
sabinski@suddenlink.net (Steve A. Bennett)
sandra.sloan@areva.com (Sandra Sloan)
sfrantz@morganlewis.com (Stephen P. Frantz)

COL - Progress Energy - Levy County Mailing List

stephan.moen@ge.com (Stephan Moen)
Tansel.Selekler@nuclear.energy.gov (Tansel Selekle)
twinkletoesdms@aol.com (Robert and Deborah Smith)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
william.maher@fpl.com (William Maher)