

August 5, 2010

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

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 Bearheart:

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 an August 31, 2009 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 APE 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 Perdido Bay Tribe, Southeastern Lower Muscogee Creek Indians, 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 Bearheart

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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 Bearheart

- 3 -

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Sincerely,

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As stated

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