

August 5, 2010

Mr. Frederick P. Gaske, Director  
Division of Historical Resources  
State Historic Preservation Officer  
Office of Cultural and Historical Programs  
500 S. Bronough Street  
Tallahassee, FL 32399-0250

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

Dear Mr. Gaske:

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 (LNP) 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 nuclear units.

By letter dated November 5, 2008, 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. The NRC staff also contacted Five Native American Tribes identified as having potential interest in the proposed undertaking; the Muscogee Nation of Florida, the Perdido Bay Tribe of Lower Muscogee Creeks, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, and the Seminole Nation of Oklahoma. The Miccosukee Tribe of Indians of Florida responded that it had, "No direct knowledge of any cultural resources located in the area of the proposed nuclear power units; and recommended that a cultural resources survey be conducted."

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). According to 10 CFR 50.10 (a)(2)(vii), transmission lines are not included in the definition of construction for the purposes of obtaining an NRC license. NRC would not have regulatory authority over any transmission lines associated with the LNP site. Consequently, the NRC considers transmission lines to be outside the NRC's APE and therefore not part of the NRC's consultation under NHPA.

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 archaeological resources from the construction 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.

In accordance with our November 5, 2008 letter, the NRC staff is forwarding the DEIS to you, in your position of State Historic Preservation Officer, for your review and comment and will address your comments in the final environmental impact statement, thus completing consultation with the State of Florida under Section 106 of the NHPA, regarding the Levy COL application. Pursuant to 36 CFR 800.8(c), we are requesting your comments on the DEIS and on our preliminary conclusions regarding historic and cultural resources. Please provide any information, comments, or concerns 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, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop TWB-05-B01M, Washington, DC 20555-0001, or via e-mail to [Levy.COIEIS@nrc.gov](mailto:Levy.COIEIS@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 staffs will host informal discussions one hour before the start of each meeting during which members of the public may meet and talk with the NRC and USACE staff members on an informal basis. You and your staff are invited to attend.

F. Gaske

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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](mailto: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

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Sincerely,

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Office of New Reactors

Docket Nos.: 52-029 and 52-030

Enclosures:  
As stated

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