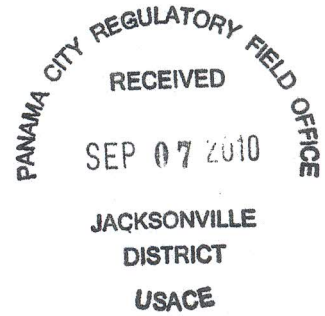


SUBMISSION BY
CHARLES J. SMITH
AND
ELLEN AVERY-SMITH

ROBINSON ESTATES, INC
Post Office Box 489
11383 North Williams Street
Dunnellon, FL 34430
Telephone (352) 489-0847



September 1, 2010

EXHIBITS

- Exhibit 1 ----- Comments on Progress Energy Florida's Proposed Levy Nuclear Plant
("LNP")/ U.S. Army Corps of Engineers Permit Application No. 00490(IP-GAH)
- Exhibit 2 ----- Letter from Rogers Tower to Mr. Michael P. Palpin, P.E dated June 10. 2010
- Exhibit 3 ----- Original Wetland Mitigation Plan Dated January 13, 2009
- Exhibit 4 ----- Revised Wetland Mitigation Plan Dated April 23, 2010

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September 1, 2010

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

Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration
U.S. Nuclear Regulatory Commission
Mail Stop: TWB-05-BO1M
Washington, DC 20555-0001

**Re: Comments on Progress Energy Florida's Proposed Levy Nuclear Plant
("LNP")/ U.S. Army Corps of Engineers Permit Application No.
SAJ-2008-00490(IP-GAH)**

Gentlemen:

We are writing to advise you of our concerns and objections regarding the Draft Environmental Impact Statement (the "Draft EIS") for Combined Licenses for Levy Nuclear Plant Units 1 and 2 dated August 2010.

More than two years ago, our family was contacted by an officer of Progress Energy expressing the company's interest in purchasing our property as a route for a proposed rail line and as a site for wetland mitigation associated with wetland impacts from the plant construction. We own the 5,700-acre parcel lying immediately to the east of the proposed LNP site. This land is referred to as the Robinson Property in the Wetland Mitigation Plan for Progress Energy dated January 13, 2009 (the "Original Wetland Mitigation Plan").

In the intervening time period, we conducted bi-weekly telephone calls with representatives of Progress Energy regarding the company's continued interest in purchasing our property. In fact,

we agreed to allow Progress Energy to list our property as a component of the Original Wetland Mitigation Plan. We, therefore, had no reason to comment on the Original Wetland Mitigation Plan or the related State of Florida Site Certification process undertaken in summer 2009 by the Governor and Cabinet, sitting as the Electrical Power Plant and Transmission Line Siting Board.

On May 18, 2010, almost a year after any avenue of appeal of the State of Florida Site Certification approval closed, Progress Energy officials informed us that the company would have no need to purchase the Robinson Property because they were now planning to use the LNP site and the Goethe State Forest for wetland mitigation purposes.

We received a copy of the Draft EIS in mid-August. According to the document's Compensatory Mitigation section, the review team's evaluation for this report is based on the revised Wetland Mitigation Plan dated April 23, 2010 (the "Revised Mitigation Plan"). However, the State of Florida's Final Order Approving Certification dated August 26, 2009 was based upon the Original Wetland Mitigation Plan, which included the Robinson Property. There are a number of discrepancies between the Original Wetland Mitigation Plan and the Revised Mitigation Plan, as noted below.

Progress Energy stated the following concerning the Robinson Property in the Original Wetland Mitigation Plan, on Page 9, Paragraph 3.3:

"This is a 5,722 acre parcel lying immediately east of the LNP site which could possibly be acquired by PEF to help fulfill its mitigation needs. For planning purposes, the tract was separated into five zones by BRA (Exhibit 3-4) to facilitate the determination of potentially available mitigation. Functional lift may be derived from preservation, thinning of pines, hydrologic restoration, targeted plantings and prescribed fire activities. GSF abuts the Robinson property along the northern boundary, simplifying the use of prescribed fire and increasing the zone of potential hydrologic restoration in this part of the property."

"The implementation of restoration activities on the Robinson Tract will have the added benefit of establishing a continuous, manageable and preserved corridor that connects the GSF with the Withlacoochee River floodplain. Restoration activities on this property will provide functional lift and better opportunities for implementing management of adjacent tracts, especially prescribed fire (emphasis added)."

Page 34, paragraph 7.4 of the Original Wetland Mitigation Plan further states the following with regard to the Progress Energy property, which the company now proposes as its main source of wetland mitigation:

"Because much of the LNP site is proposed for development, infrastructure transmission corridors, security buffers and potential future development, there are few areas available for mitigation. The area available for enhancement or other mitigation opportunities are graphically depicted on Exhibit 1-1 (emphasis added)."

Our family's concern is that the State of Florida's Final Order Approving Certification included the Original Wetland Mitigation Plan, which stated that our property would be utilized for wetland mitigation because Progress Energy felt its own property would not be suitable for that purpose. While we understand that Progress Energy has the right to amend its wetland mitigation plan, it should be required by law to provide equal mitigation to offset its proposed wetland

impacts. It cannot simply curtail its wetland mitigation obligations in order to save money on such mitigation.

We are curious about the reduction in proposed mitigation in relation to the planned wetland impacts. In the Original Wetland Mitigation Plan, Progress Energy was proposing 764 acres of wetland impacts, with a resulting functional loss, as calculated under the Uniform Mitigation Assessment Method ("UMAM"), of 411 units. The Revised Mitigation Plan states that Progress Energy will impact 721.9 acres of wetlands, but the resulting UMAM functional loss is only 289.3 units. Somehow, the elimination of 42.1 acres of planned wetland impacts has yielded a reduction in the proposed mitigation of 121.7 functional loss units. In percentages, a 5.5 percent reduction in the number of proposed wetland acres impacted has yielded an almost 30 percent reduction in the proposed mitigation.

Additionally, we question the value of some of the proposed mitigation sites. Since the Goethe State Forest is already preserved, the restoration or enhancement of that land should not be provided as much mitigation credit as the preservation, restoration or enhancement of privately-owned property.

To our knowledge, Progress Energy has not provided any study that analyzes the adverse effects the plant development will have on our property, either hydrologically or ecologically. We are seeking assurances from Progress Energy, the Corps of Engineers and the Nuclear Regulatory Commission ("NRC") that construction of the plant and its related facilities will not adversely affect the wetlands, soils or hydrology of our property. We are also concerned that the Original Wetland Mitigation Plan, which has now been abandoned, called for the additional benefit of establishing, through our property, a continuous and preserved wildlife corridor that would connect the Goethe State Forest and the Withlacoochee floodplain and would enhance wildlife habitat value and movement between the Forest and the Withlacoochee River. The Corps, NRC and Progress Energy cannot usurp our property for mitigation or other purposes by assuming that it will remain undeveloped.

In addition to the broader questions set forth above regarding the adequacy of Progress Energy's wetland mitigation plan and assessment of the LNP's potential adverse impacts on our property, we have specific questions about the revisions to the Original Wetland Mitigation Plan and resulting Revised Mitigation Plan. The Original Wetland Mitigation Plan, at page 3, states the following:

"Finally, the great majority of the proposed impacts (by acreage and relative functional loss of impact) are located at or very near the power plant property in the Waccasassa and Withlacoochee Watersheds. The mitigation is located in close proximity to these impacts, which will achieve greater offset from a regional watershed perspective and provides much more long term ecosystem benefit over the on-site alternative. This plan clearly addresses the state's requirements for assuring long term viability and provisions of greater ecological value than would a conventional on-site mitigation proposal".

Our additional questions are as follows:

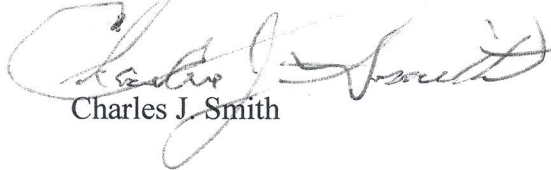
- (1) What has changed, since the Original Wetland Mitigation Plan, that make the Corps and NRC believe that Progress Energy can now achieve the same long-term benefits to the ecosystem required by law by using on-site mitigation in lieu of the alternative sites selected in the Original Wetland Mitigation Plan?

- (2) How does the Revised Mitigation Plan connect the Goethe State Forest to the Withlacoochee River floodplain and associated public conservation lands?
- (3) If the Revised Mitigation Plan provides for this connection or corridor, would this connection or corridor be as beneficial to the state and public as the planned connection and corridor outlined in the Original Wetland Mitigation Plan?
- (4) If yes, how would the benefits be consistent with the Original Wetland Mitigation Plan?
- (5) The Revised Mitigation Plan calls for a majority of the wetland mitigation to be located within the southwestern portion of the LPN site. Will the use of this on-site location be as beneficial to supporting wildlife movement between the Goethe State Forest and the Withlacoochee River basin as that outlined in the Original Wetland Mitigation Plan?
- (6) The Robinson Property consists of more than 5,700 acres and is currently being used for hunting and target practice, among other activities. Similarly, the Goethe State Forest has hunting permits issued to a large number of people for use of that publicly owned property. Will Progress Energy or the state or federal governments attempt to put any restrictions on the use of these properties for hunting and target practice or for any other purpose once the Progress Energy plant comes to fruition?
- (7) Progress Energy is proposing to enhance and restore portions of the Goethe State Forest to obtain mitigation credits for those activities. What is the estimated cost of those enhancement and restoration activities?
- (8) What safety measures will be put in place to prevent stray bullets from the use of high powered rifles on both of these tracts from damaging the plant or the workers on the LNP site?
- (9) Will hunting in the Goethe State Forest property be prohibited on the lands designated for mitigation?
- (10) What security will be in place to prevent the public or others from using the Goethe State Forest to gain access to the LNP site?
- (11) Progress Energy will be using wells to provide fresh water for the facilities operated on LNP site. What effect will the use of these wells have on the wetlands associated with the Robinson Property?
- (12) A certain amount of surface water flows naturally from the Robinson Property to the LNP Site. How will this flow of water be affected by the wetland impacts proposed by Progress Energy on the LNP site?
- (13) Progress Energy plans to build a heavy haul road adjacent to a 28-acre parcel also owned by my family. Currently, there is an access road extending south from Highway 40 to the barge canal. Will this road remain in place to allow the public continued access to the spillway and barge canal? How can my family be assured that Progress

Energy's use of the heavy haul road will not restrict the uses or damage the value of our adjacent property?

In closing, our family objects to the wetland mitigation plan proposed by Progress Energy, as detailed in the Draft EIS. We also believe that the Corps of Engineers and the NRC have failed to require Progress Energy to address drainage, wildlife, security and other issues related to the proposed nuclear power plant. We would like to speak with you, either by telephone or in person, to discuss our objections in more detail. I will call you in the next few days to set up such a conference.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles J. Smith", written in a cursive style. The signature is positioned above the printed name "Charles J. Smith".

Charles J. Smith

cc: Ellen Avery-Smith, Esq.



ATTORNEYS AT LAW

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June 10, 2010

VIA ELECTRONIC AND U.S. MAIL

Mr. Michael P. Halpin, P.E.
Administrator
Siting Coordination Office
Florida Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

**Re: Notice of Objection and Request for Written Notice of Future Action
Progress Energy Florida Levy Nuclear Plant
DEP Case Number PA08-51B
OGC Case Number 09-4277**

Dear Mr. Halpin:

I am writing to you on behalf of Charles J. Smith, the owner of land commonly known as the Robinson Property in Levy County, Florida. For the reasons stated below, Mr. Smith and his family are opposed to certain proposed modifications to the Wetland Mitigation Plan for the above-referenced Progress Energy plant and would like for their comments to be considered by the Florida Department of Environmental Protection prior to its final decision on the Plan.

Approximately two years ago, Progress Energy contacted Mr. Smith, as representative of the Robinson estate, requesting to list a 5,700-acre parcel owned by the family adjacent to the proposed power plant site as mitigation for wetland impacts associated with the facility's construction. Mr. Smith agreed to allow Progress Energy to list his property as a component of the original wetland mitigation plan. The land is referred to as the "Robinson Property" in the Wetland Mitigation Plan for the Progress Energy Levy Nuclear Plant and Associated Transmission Lines by Biological Research Associates dated January 13, 2009 (the "Original Wetland Mitigation Plan"). A graphic from the Original Wetland Mitigation Plan depicting the Robinson Property is enclosed for your information. It is our understanding that the Governor and Cabinet, sitting as the Electrical Power Plant and Transmission Line Siting Board, approved the Original Wetland Mitigation Plan as part of its approval for the Progress Energy Florida Levy Nuclear Plant.

In the intervening time, Mr. Smith and his representative, Michael Seymour, have conducted bi-weekly calls with Progress Energy staff regarding the company's interest in the future purchase of the Robinson Property for wetland mitigation. Because Progress Energy led

Mr. Michael P. Halpin, P.E.
June 10, 2010
Page 2

Mr. Smith to believe that it would purchase the property, Mr. Smith had no reason to comment on the proposed Wetland Mitigation Plan or any proposed modifications thereto since he did not believe he would own the Robinson Property in the near future, Progress Energy would.

On May 18, 2010, Progress Energy informed Mr. Smith that it would not purchase the Robinson Property as part of its wetland mitigation for the proposed plant. Subsequently, Mr. Smith discovered that Progress Energy had, on April 23, 2010, filed a revised Wetland Mitigation Plan that deleted the Robinson Property from its scope. Mr. Smith has never received any notice of the proposed modification to the Wetland Mitigation Plan, or any other aspect of the Department's review of permits for the plant, haul routes or transmission lines, from your agency or Progress Energy.

The Smith/Robinson family is concerned about the environmental impact the construction of the plant, haul routes and transmission lines will have on the Robinson Property and objects to the removal of its property from the Wetland Mitigation Plan. Our firm is in the process of obtaining public records from the Department for review by the Smith/Robinson family and its representatives so that we can collectively provide a more thorough basis for this objection.

In the meantime, we respectfully request that the Department add the following parties to the list of people required to be notified in the above-captioned matter:

Charles J. Smith, P.O. Box 489, Dunnellon, Florida 34430

Michael Seymour, 5154 North Honeycreek Terrace, Crystal River, Florida 34428

Ellen Avery-Smith, Esq., 7 Waldo Street, St. Augustine, Florida 32084

Please note that the Robinson Property and the tracts with Levy County Property Tax Identification Nos. 05171703965000000, 1716170386600000 and 2016170387000000 are owned by the Robinson family, not Rayonier Woodlands, so they should receive any notices regarding those properties.

We will send you further correspondence related to the family's objection to the proposed changes to the Wetland Mitigation Plan once we have more information.

Sincerely yours,


Ellen Avery-Smith

Mr. Michael P. Halpin, P.E.
June 10, 2010
Page 3

cc: Charles J. Smith
Michael Seymour
Toni Sturtevant, Esq.
Jim Maher