February 14, 2011

Mr. Gregory Hogue
Regional Environmental Officer
U.S. Department of the Interior
Office of Environmental Policy and Compliance
Richard B. Russell Federal Building
75 Spring Street, S.W.
Atlanta, GA 30303

SUBJECT: RESPONSE TO COMMENTS RECEIVED ON THE BIOLOGICAL ASSESSMENT FOR PROPOSED LEVY NUCLEAR PLANT UNITS 1 AND 2

Dear Mr. Hogue:

The U.S. Nuclear Regulatory Commission (NRC) received your letter, dated October 26, 2010, (NRC Agencywide Documents Access and Management System [ADAMS] Accession Number ML102990091), providing the U.S. Fish and Wildlife Service (FWS) comments and recommendations in response to the biological assessment (BA) included as Appendix F to the draft environmental impact statement (DEIS) for the construction and operation of the proposed Levy Nuclear Plant (LNP) Units 1 and 2 in Levy County, Florida. As cooperating agencies, the NRC and the U.S. Army Corps of Engineers (USACE) are conducting a joint consultation with the FWS in association with reviews of the application submitted by Progress Energy Florida (PEF) for combined licenses from the NRC and a Department of the Army permit from USACE. The joint consultation was initiated pursuant to the Endangered Species Act of 1973, as amended (ESA), and the Fish and Wildlife Coordination Act of 1934, as amended (FWCA). This letter acknowledges the October 26, 2010, letter from the FWS and summarizes an approach to complete the consultation as discussed in an NRC and USACE meeting held in Jacksonville, Florida with the FWS on January 4, 2011. A representative from the National Marine Fisheries Service also attended the meeting. Representatives from the Florida Department of Environmental Protection (FDEP) and Florida Fish and Wildlife Conservation Commission participated by telephone.

In the BA, the NRC and USACE identified potential effects of the project on 28 species and provided determinations of effect for each of the species such as “no effect”, “not likely to adversely affect”, and “likely to adversely affect.” The FWS review of the BA indicated that the FWS could not concur with the “not likely to adversely affect” findings for 12 Federally protected species because “no targeted surveys for Federally listed species were completed on the LNP site and no on-the-ground surveys for threatened or endangered species were conducted in the associated offsite corridors (including transmission line corridors).” FWS recommended in their October 26, 2010, letter that “the action agencies should conduct appropriate surveys for federally listed species, including plants, to support their effects determination prior to consultation with the Department.”

The NRC and USACE found the January 4, 2011, meeting to discuss targeted surveys and consultation with the FWS informative and productive. As a result, a programmatic approach was identified whereby the NRC and USACE will use current information provided by the applicant to reevaluate the potential for occurrence of protected species within the areas potentially affected by the proposed facility, including transmission lines. The reevaluation will utilize additional habitat assessements, targeted surveys if necessary, and include discussions with FWS personnel. An updated assessment of impact can then be provided for species potentially affected by the proposed action.

The October 26, 2010, FWS letter also provides species-specific comments, one of which is a request for the applicant's "Manatee Protection Plan" approved by the FDEP for the Crystal River Energy Complex. The Manatee Protection Plan (Accession Number ML103610254) is included as an enclosure to this letter. All other species-specific comments will be addressed through additional consultation and in future correspondence from the NRC and USACE with the FWS.

If you have any questions concerning the approach for completing targeted surveys for threatened and endangered species or consultation, please contact Mr. Douglas Bruner of my staff at 301-415-2730, or via e-mail to Douglas.Bruner@nrc.gov.

Sincerely,

/RA/ RKaras for

Scott C. Flanders, Director
Division of Site and Environmental Reviews
Office of New Reactors

Docket Nos.: 52-029 and 52-030

Enclosure:
As stated

cc: See next page

G. Hogue

The NRC and USACE found the January 4, 2011, meeting to discuss targeted surveys and consultation with the FWS informative and productive. As a result, a programmatic approach was identified whereby the NRC and USACE will use more current information provided by the applicant, to reevaluate the potential for occurrence of protected species within the areas potentially affected by the proposed facility, including transmission lines. The reevaluation will utilize additional habitat assessements, targeted surveys if necessary, and include discussions with FWS personnel. An updated assessment of impact can then be provided for species potentially affected by the proposed action.

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Letter to Mr. Gregory Hogue from Scott C. Flanders dated January XX, 2011

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