PMLevyCOLPEm Resource

From: Mulkey, Cindy [Cindy.Mulkey@dep.state.fl.us]
Sent: Wednesday, January 26, 2011 10:20 AM
To: Bruner, Douglas
Subject: RE: FPSC - Levy
Attachments: PEF LNP Mod C FO.pdf

Doug,

In a letter dated December 22, 2010 from Scott Flanders to Miles Croom, Assistant Regional Adm. For Habitat Conservation Division, National Marine Fisheries Service, a reference is made on page 3 to a petition to modify the State's Site Certification Application for the Levy Nuclear Project. I have attached the Final Order for this modification (issued 1/25) for your information. The now current version of the Conditions of Certification can be found at the following website: http://www.dep.state.fl.us/siting/certification.htm

Let me know if you have any questions.

Cindy Mulkey
Engineering Specialist
Department of Environmental Protection
Siting Coordination Office
Mail Station 48
3900 Commonwealth Blvd.
Tallahassee, Florida 32399
Phone: 850-245-2175
FAX: 850-245-2020

From: Bruner, Douglas [mailto:Douglas.Bruner@nrc.gov]
Sent: Wednesday, January 26, 2011 8:45 AM
To: Mulkey, Cindy
Subject: RE: FPSC - Levy

Thank you.

From: Mulkey, Cindy [mailto:Cindy.Mulkey@dep.state.fl.us]
Sent: Tuesday, January 25, 2011 11:36 AM
To: Bruner, Douglas
Cc: LevyCOL Resource
Subject: RE: FPSC - Levy

Doug,

Much of the FPSC's documents are on the web, but I would contact

Tom Ballinger
Public Service Commission
Gerald Gunter Building
2450 Shumard Oak Blvd
Tallahassee, FL 32399-0850
tballing@psc.state.fl.us
(850) 413-6680

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The Department of Environmental Protection values your feedback as a customer. DEP Secretary Herschel T. Vinyard, Jr. is committed to continuously assessing and improving the level and quality of services provided to you. Please take a few minutes to comment on the quality of service you received. Simply click on this link to the DEP Customer Survey. Thank you in advance for completing the survey.

From: Bruner, Douglas [mailto:Douglas.Bruner@nrc.gov]
Sent: Monday, January 24, 2011 2:22 PM
To: Mulkey, Cindy
Cc: LevyCOL Resource
Subject: FW: FPSC - Levy

Hi Cindy,

The NRC staff would like to ensure that it has the most recent information from the FPSC as we begin finalizing the Levy DEIS. Do you have a contact with the FPSC for the Levy project?

Thanks,

Doug

Hearing Identifier: Levy_County_COL_Public
Email Number: 758

Mail Envelope Properties (5D19509F672F954E82A2BC3FAAD4DAA770375FB8)

Subject: RE: FPSC - Levy
Sent Date: 1/26/2011 10:19:46 AM
Received Date: 1/26/2011 10:22:25 AM
From: Mulkey, Cindy

Created By: Cindy.Mulkey@dep.state.fl.us

Recipients:
"Bruner, Douglas" <Douglas.Bruner@nrc.gov>
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Recipients Received:

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Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard, Jr.
Secretary

January 25, 2011

Mr. John Hunter
Lead Environmental Specialist
Progress Energy Florida, Inc.
299 First Avenue North
Mail Code: PEF-903
St. Petersburg, FL 33701

RE: Progress Energy Florida Levy Nuclear Project Units 1 and 2
Modification to Conditions of Certification
Alteration of Pipeline and Haul Road Corridors
DEP Case Number PA08-51C
OGC Case Number 10-1554

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Hunter:

The Governor and Cabinet (Siting Board) issued the Site Certification for the Progress Energy Florida, Inc.'s (PEF's) Levy Nuclear Plant (LNP) on August 26, 2009. This certification authorized the construction and operation of an electric generating facility consisting of two 1,100 megawatt nuclear powered units (Units 1 and 2) and associated facilities. The Department of Environmental Protection (Department) has modified the Conditions of Certification by Final Order on two other occasions.

On April 30, 2010 the Department received a request from PEF to modify the Certification for the LNP. The petition requested the expansion of the certified corridor for the cooling water makeup pipelines, the wastewater/blowdown pipelines and the heavy haul road and modification of certain conditions of certification.

On August 11, 2010 the Florida Fish and Wildlife Conservation Commission (FWC) submitted a request to modify the Conditions of Certification as a result of discussions between PEF and FWC. The proposed changes include: 1) the revision and refinement of determination of the time periods for pre-operational seasonal/climatological biological and water quality condition surveys; 2) a requirement for FWC's final approval or disapproval of surveying and monitoring plans subsequent to a complete submittal; 3) revisions to provisions concerning the submittal of summary reports prior to PEF's National Pollutant Discharge Elimination System permit renewal application; 4) specification for a calendar date deadline for postoperational annual reports; and 5) various editorial corrections.

Additionally, the Department initiated a modification in accordance with Section 403.516(1)(c), Florida Statute (F.S.), to incorporate a uniform set of General Conditions consistent with recent Site

Certifications as stated in the January 8, 2010 Notice of Intent to Modify Conditions of Certification for the LNP (Modification B).

The Department reviewed the modification requests and on December 10, 2010, issued its Notice of Intent to Modify Conditions of Certification. On or before December 10, 2010, all parties to the certification proceeding were provided with notice by certified mail of the Department's intent to modify the Certification for this facility, along with a copy of the proposed Order Modifying Conditions of Certification. On December 17, 2010, notice of the Department's intent to modify the Conditions of Certification for this facility was published in the Florida Administrative Weekly (FAW).

Section 403.516, F.S., and Rule 62-17.211, Florida Administrative Code (F.A.C.), provide that all parties to the certification proceeding have 45 days from the issuance of notice by mail to such party's last address of record in which to file a written objection to the proposed modification; that any person who was not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification had 30 days from the date of publication of the public notice in the FAW to object in writing; that failure to act within the time frame constitutes a waiver of the right to object to the proposed modification; and that the Department will issue an Order Modifying the Conditions of Certification for this facility if no written objections are received by the Department.

No objections to the Department's Notice of Intent were received. The Petition for Modification is approved and the Conditions of Certification for the Levy Nuclear Project are hereby modified as follows (words ~~stricken~~ are deletions; words underlined are additions):

Modifications Related to PEF's Corridor Alteration: *The following language was added to Section A, General Conditions.*

XXVI. ENVIRONMENTAL RESOURCES

A. General

1. Submittals for Construction Activities

Prior to the commencement of construction of any portion of the Certified Facility that does not qualify for an exemption from environmental resource permitting under 62-343, the Licensee shall provide to either the DEP Southwest or Northeast District's Environmental Resource Permitting Section, as appropriate, all information necessary for a complete *Joint Application for Environmental* Resource *Permit (ERP)*, DEP Forms 62-343.900(1) for that portion of the Certified Facility. Information may be submitted for discrete portions of the Certified Facility. "Construction" in this context shall include, land clearing, excavation, the placement of fill materials, and related activities. For facilities, or portions of the facilities contemplated and approved by the original August 26, 2009 LNP site certification, the Licensee shall submit the above information for that portion of the facility at least 90 days prior to construction. Alteration of this deadline may be approved by the Department upon demonstration of good cause by the Licensee.

Modifications Requested by FWC: *The following changes were made to Section C, Plant Specific Conditions, Condition III. Florida Fish and Wildlife Conservation Commission.*

SECTION ~~B~~C. Plant Specific Conditions

~~XXIX~~III. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. Listed-Species Conditions

Listed Species Occurring or Potentially Occurring in the Project Area

Common Name	Scientific Name	FL Status	Federal Status
Gopher frog	*Rana capito*	SSC	
Eastern indigo snake	*Drymarchon couperi*	T	T
Florida pine snake	*Pituophis melanoleucus mugitus*	SSC	
Short-tailed snake	*Stilosoma extenuatum*	T	
Gopher tortoise	*Gopherus polyphemus*	T	
Florida scrub jay	*Aphelocoma coerulescens*	T	T
Little blue heron	*Egretta caerulea*	SSC	
White ibis	*Eudocimus albus*	SSC	
Southeastern American kestrel	*Falco sparverius paulus*	T	
Florida sandhill crane	*Grus canadensis pratensis*	T	
Bald Eagle	*Haliaeetus leucocephalus*	**	**
Red-cockaded woodpecker	*Picoides borealis*	SSC	E
Florida mouse	*Podomys. floridanus*	SSC	
Sherman's fox squirrel	*Sciurus niger shermani*	SSC	
Florida black bear	*Ursus americanus floridanus*	T	
Florida manatee	*Trichechus manatus latirostris*	E	E

*SSC = Species of Special Concern; T= Threatened; E= Endangered;
**While the bald eagle has been both state and federally delisted, it is still governed by the state bald eagle management plan and federal Bald and Golden Eagle Protection Act.

1. General Listed-Species Surveys

a. The Licensee will coordinate with the FWC to obtain and follow the current survey protocols for all listed species that may occur within the Certified Facilities, with appropriate buffers as defined by the survey protocols, prior to conducting detailed surveys.

b. Surveys will be conducted prior to clearing and construction in accordance with the survey protocols. The results of those detailed surveys will be provided to the FWC and coordination will occur with the FWC on appropriate impact mitigation methodologies.

[Article IV, Sec. 9, Fla. Constitution; Section 379.2291, Florida Statutes (F.S.), Sections 403.507and 403.5113(2), F.S., and Rule 68A-27, Florida Administrative Code (F.A.C.).]

2. Gopher Tortoise

Information on the gopher tortoise and permitting can be found on FWC's website.

a. The Licensee will conduct surveys for gopher tortoises (Gopherus polyphemus), in accordance with the FWC-approved Gopher Tortoise Management Plan (adopted in 2007) and current FWC-approved Gopher Tortoise Permitting Guidelines or FWC-approved subsequent versions of the Plan or Guidelines. A burrow survey covering a minimum of 15% of the potential gopher tortoise habitat to be impacted by development is required in order to apply for a

relocation permit. Immediately prior to capturing tortoises for relocation, a 100% survey is required to effectively locate and mark all potentially occupied tortoise burrows and to subsequently remove the tortoises. Burrow survey methods are outlined in Appendix 4, Methods for Burrow Surveys on Development (Donor) and Recipient Sites. Surveys must be conducted within 90 days of when an application is submitted to the FWC; however, surveys shall not be conducted within 30 days of any ground disturbance or clearing activities on the donor site. All surveys completed by authorized agents or other permittees are subject to field verification by the FWC. The gopher tortoise surveys should be conducted during the months of April through October.

b. A permit is not required for activities that occur more than 25 feet from a gopher tortoise burrow entrance, provided that such activities do not harm gopher tortoises or violate rules protecting gopher tortoises. Examples of such violations noted in the past by the FWC include, but are not limited to, killing or injuring a tortoise more than 25 feet away from its burrow; harassing a tortoise by blocking access to its burrow, and altering gopher tortoise habitat to such an extent that resident tortoises are taken.

c. The Licensee will coordinate with and provide the FWC a completed gopher tortoise relocation permit(s) application in accordance with the FWC-approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal. This permit application will provide information on the location for on-site recipient areas and any off-site FWC approved recipient site, as well as, appropriate mitigation contributions.

d. Any commensal species observed during the burrow excavations that are listed by the U.S. Fish and Wildlife Service (USFWS) or FWC will be relocated in accordance with the applicable guidelines for that species.

e. To the maximum extent practicable or feasible, all staging and storage areas should be sited to avoid impacts to gopher tortoise burrows and habitat.

[Article IV, Sec. 9, Fla. Const.; Sections 403.507 and 403.5113(2), F.S., Section 379.2291, F.S.; and Rule 68A-27.004, F.A.C.]

3. Bald Eagle

a. The Licensee will avoid impacts to bald eagle (*Haliaeetus leucocephalus*) nests where possible. If impacts cannot be avoided within the 660-foot nest buffer zone, construction activities will be conducted consistent with the FWC Eagle Management Guidelines, outlined in the FWC Bald Eagle Management Plan, dated April 9, 2008, or any subsequent FWC-approved versions. In areas where bald eagle nests are present, efforts will be made to avoid construction activities during the nesting season (October 1 – May 15) or when eagles are present before October 1 or after May 15.

b. In accordance with the FWC Eagle Management Guidelines, for construction areas that fall within 330 feet of an active or alternate bald eagle nest, construction activities will be conducted only during the non-nesting season (May 16 – September 30). Any construction activities that fall within 660 feet of the nest during the nesting season will be conducted following USFWS-approved Bald Eagle Monitoring Guidelines, dated 2007, or USFWS-approved subsequent versions.

c. In areas where adverse impacts to nests cannot be avoided, resulting in nest disturbance, the information required for an FWC Eagle Permit will be obtained from the FWC, as authorized by Section 379.2291 F.S., and Rule 68A-16.002, F.A.C., and minimization and

conservation measures outlined in the FWC Bald Eagle Management Plan will be followed, as applicable.

[Article IV, Sec. 9, Fla. Const., Section 403.507, F.S., Section 403.5113(2), F.S., Rule 62-1 7.191, F.A.C., Section 379.2291, F.S., 68A-27 F.A.C. and Rule 68A-16.002, F.A.C.]

4. Florida Scrub-Jay

a. The Licensee will coordinate with the FWC prior to clearing and construction of the Certified Facilities to insure that surveys for Florida scrub-jays (Aphelocoma coerulescens) are in accordance with FWC- and USFWS-approved protocols (Fitzpatrick et al. 1991)*.

b. The Licensee will conduct the surveys and provide the FWC with the Florida scrub-jay survey results and identify where impacts to Florida scrub-jays cannot be avoided.

c. The Licensee will coordinate with the FWC to determine mitigative measures for areas where impacts to Florida scrub-jays cannot be avoided.

[Article IV, Sec. 9, Fla. Const., Section 403.507, F.S., Section 403.5113(2), F.S., Rule 62-1 7.191, F.A.C., Section 379.2291, F.S., 68A-27 F.A.C. and Rule 68A-16.001 F.A.C.]

*Fitzpatrick, J. W., G.E. Woolfenden, M.T. Kopeny. 1991. Ecology and development-related requirements of the Florida scrub-jay (Aphelocoma coerulescens). Nongame Wildl. Prog. Tech. Rep. No. 8, Fla. Game Fresh Water Fish Comm., Tallahassee.

5. Red-Cockaded Woodpeckers

a. The Licensee will coordinate with the FWC prior to conducting surveys for red-cockaded woodpeckers (*Picoides borealis*) to insure that surveys are in accordance with the FWC-approved Red-Cockaded Woodpecker Management Plan, adopted in 2003, and the USFWS Red-Cockaded Woodpecker Recovery Plan, or subsequent FWC-approved or USFWS-approved versions of either plan.

b. The Licensee will conduct the surveys and provide the FWC with the red-cockaded woodpecker survey results and identify where impacts to red-cockaded woodpeckers cannot be avoided.

c. The Licensee will coordinate with the FWC to determine mitigative measures for areas where impacts to red-cockaded woodpeckers cannot be avoided.

[Article IV, Sec. 9, Fla. Const., Section 403.507, F.S., Section 403.5113(2), F.S., Rule 62-17.191, F.A.C., Section 379.2291, F.S., 68A-27 F.A.C. and Rule 68A-16.001 F.A.C.]

6. Avian Protection Plan

The Licensee will coordinate with the FWC in the development of an Avian Protection Plan that delineates a program designed to reduce the operational and avian risks that result from avian interactions with the Certified Facilities with the goal of reducing avian mortality. Guidelines for the Avian Protection Plan can be found on the USFWS website ~~at~~:

~~http://www.fws.gov/migratorybirds/issues/APP/AVIAN%20PROTECTION%20PLAN%20FINAL%204%2019%2005.pdf~~

[Article IV, Sec. 9, Fla. Const., Section 403.507, F.S., Rule 62-17.191, F.A.C., Section 379.2291, F.S., 68A-27 F.A.C. and Rule 68A-16.001 F.A.C.]

7. Florida Manatee

a. The Standard Manatee Conditions for In-Water Work (revision 2005) shall be followed for all in-water activity located where waters are accessible to manatees. These are enclosed as Attachment ~~1~~C. Blasting or pile hammering activities to break rock shall be prohibited in or adjacent to waters accessible to manatees. If no other alternative exists, a modification of these conservation measures can be requested. An adequate Blast and Protected Species Watch Plan must be submitted to and approved by the Imperiled Species Management Section of the FWC prior to these methodologies being used.

b. At least 60 days prior to the beginning of in-water construction or demolition activities located where waters are accessible to manatees, the Licensee shall contact the FWC to determine whether observers will be required, how many observers will be needed and who those observers will be. The Licensee may provide the FWC with a list of prospective observers or the FWC will provide a list. Observers must be approved by the FWC prior to construction and be equipped with polarized sunglasses to aid in observation. The manatee observer must be on site during all in-water construction activities and will advise personnel to cease operation upon sighting a manatee within 50 feet of any in-water construction activity. Movement of a work barge, other associated vessels, or any in-water work associated with construction or demolition activities shall not be performed after sunset, when the possibility of spotting manatees is negligible. Observers shall maintain a log detailing manatee sightings, work stoppages, and other protected species-related incidents. A report, summarizing all activities noted in the observer logs, the location and name of project, and the dates and times of work shall be submitted within 30 days following project completion to the FWC's Imperiled Species Management Section at: 620 South Meridian Street, 6A, Tallahassee, Florida 32399-1600, or e-mailed at fcmpmail@myfwc.com.

c. If a cofferdam is used during in-water construction to minimize release of sediment to the Cross Florida Barge Canal, the area inside (behind) the cofferdam must be checked for the presence of manatees during and after installation of the barrier before further work occurs to determine that manatees have not been entrapped.

d. At the earliest point in the final design phase of the project and prior to construction in waters accessible to manatees, the Licensee must submit a complete final description and final design of the Cooling Water Intake Structure (CWIS) plan to be approved by the FWC with regard to manatee safety issues. The description should include the width of proposed vertical bar screens and the means by which they will be secured to the structure, the location and type of material proposed for screens and the method of securing the screens, the location of the pump and pump house, and a complete explanation of how access by manatees to the pump mechanism will be prevented. A final CWIS plan approved by the FWC must be implemented prior to the facility operation and maintained for the life of the facility.

e. At the earliest point in the final design phase of the project and prior to construction in waters accessible to manatees, the Licensee must submit a complete description and final design of the trash rack/rake plan, which must be approved by the FWC. The description must include the type (brand) of trash rack proposed, the proposed rack installation angle, and if a rake/rake gripper (or other moving element for cleaning or straining) is proposed as part of the mechanism, a description of the rake gripper, the size (in inches) of the rake gripper opening, the proposed descent velocity of the rake or other straining mechanism, the proposed type of operation of the rake (automated or manual), and the proposed location of the trash rack relative to the CWIS forebay. A final trash rack/rake plan must minimize risks to manatees, must be approved by the FWC, implemented prior to the facility operation and maintained for the life of the facility.

f. To reduce the risk of entrapment and drowning of manatees, grating shall be installed over any existing or proposed pipes or culverts greater than 8 inches, but smaller than 8 feet in diameter that are submerged or partially submerged and reasonably accessible to manatees. Bars or grates no more than 8 inches apart shall be placed on the accessible end(s) during all phases of the construction process and as a final design element to restrict manatee access.

[Article IV, Sec. 9, Fla. Const., Section 403.507, F.S., Section 403.5113(2), F.S., Rule 62-17.191, F.A.C., Section 379.2291, F.S. and 68A-27 F.A.C.]

B. Biological Survey and Monitoring Conditions

The Licensee may request modification of the following applicable FWC conditions upon issuance by the Department of Environmental Protection, in consultation with the FWC, of Final NPDES permit FL0633275-001-IWlSINP

1. Cross Florida Barge Canal and Withlacoochee River Survey and Monitoring

Field data are needed in order to determine if there are any impacts of the proposed withdrawals in the Cross Florida Barge Canal and the Withlacoochee River below the Lake Rousseau Dam.

a. Within 180 days following certification of the Levy County Nuclear Facility, the Licensee shall submit to the DEP Siting Office and FWC a Cross Florida Barge Canal and Withlacoochee River Baseline Survey and Monitoring Plan (CRSMP). Unless otherwise agreed to by the Licensee and FWC, in consultation with DEP, the CRSMP shall include, at a minimum, the following components and may include additional components as proposed by either the FWC or Licensee:

i. Nekton pre-operational survey and post-operational monitoring should be based on a stratified-random sampling design, with a minimum of 12 samples per month in the Cross Florida Barge Canal, a minimum of 6 samples per month in the Withlacoochee River downstream of Lake Rousseau, and a minimum of 6 samples per month in the area just off the entrance to the Cross Florida Barge Canal. Ideally the sampling effort would be divided between bag seines and otter trawls, with a ratio of two seine hauls to one trawl haul. This study design will allow comparison between monitoring results of nekton communities, and possible changes in these communities, in the CFBC and Withlacoochee River with systems north and south of the CFBC. Ideally the number of samples necessary per month would be based on preliminary sampling and subsequent power analysis (to determine power to detect change). If additional gear is deemed more appropriate, these should be provided in the nekton monitoring study design.

ii. Plankton (icthyoplankton and meroplankton) preoperational survey and post-operational monitoring should be based on a stratifiedrandom sampling design, with a minimum of 12 samples per month in the Cross Florida Barge Canal, a minimum of 6 samples per month in the area just off the entrance to the Cross Florida Barge Canal, and in the Withlacoochee River. The surveys should employ standard plankton sampling gear. Ideally the number of samples necessary per month would be based on preliminary sampling and subsequent power analysis (to determine power to detect change). The plankton monitoring should, at a minimum, include sampling at night.

iii. Additional hydrographic survey sites may be needed, depending on the data available from previous studies, to characterize circulation and flow from the Withlacoochee River south to the Barge Canal, across and into the Barge Canal, and south towards

the Crystal River Energy Complex. Specific survey and monitoring locations, sampling frequencies and methods, and specific parameters to be surveyed and monitored shall be approved by the FWC, in consultation with DEP and SWFWMD.

iv. Pre-operational surveys ~~and monitoring~~ shall be conducted ~~for a period of time to be determined by statistical analysis in coordination between the FWC and the Licensee in order~~ to establish baseline seasonal/climatological ~~baseline,~~ biological and water quality conditions. ~~This timeframe will not exceed the period of time that is available prior to operation of the facility.~~ An initial three years of pre-operational surveys shall be performed beginning no later than five years before the expected date of operation of the first generating unit for the Certified Facility. The collected data from the pre-operational surveys shall be analyzed by the Licensee and reviewed by FWC to determine whether, based upon a statistical analysis of the data, further pre-operational surveys are required to be performed for up to an additional two years (for a maximum total of five years of pre-operational surveys). The Licensee shall continue the pre-operational surveys while the analysis is conducted by the Licensee and review of that analysis is undertaken by FWC. The analysis shall be provided by the Licensee to FWC within 180 days of completion of the initial three years of surveys. FWC shall have up to 90 days from the date it receives this analysis to review the analysis and issue its determination as to whether additional surveys are required. This timeline for analysis and review may be extended upon mutual agreement of the Licensee and FWC. If FWC determines additional surveys are necessary to establish baseline seasonal/climatological biological and water quality conditions, the Licensee shall conduct up to another two years of surveys prior to operation of the first unit, inclusive of the information collected during the analysis and review period.

v. ~~Pre-operational survey and p~~Post-operational monitoring shall be conducted for a period of time to be determined by statistical analysis in coordination between the FWC, in consultation with DEP, and the Licensee, utilizing the same pre-operational survey methodologies in order to identify and characterize biological and water quality impacts associated with the project for any needed mitigation purposes.

vi. In accordance with federal regulations related to the project's intake structure, an impingement and entrainment study shall be developed and implemented for use during operations to validate the assumptions of limited or no impingement and entrainment of organisms.

vii. An adaptive management approach shall be applied during pre-operational surveying and post-operational monitoring plan development in order to accommodate for less expensive data collection methodologies that may become available.

viii. This CRSMP, including survey and monitoring locations, shall be approved prior to implementation. The FWC, in consultation with DEP and SWFWMD, shall indicate approval or disapproval of the submitted plan within 90 days of ~~the originally submitted information~~ a complete submittal. The FWC will transmit its findings to the DEP-Siting Office for coordination and transmittal to the Licensee. In the event that additional information is needed from the Licensee to complete and approve the Plan, the FWC, in consultation with DEP and SWFWMD, shall make a written request to the DEP Siting Office and the Licensee for additional information no later than 30 days after receipt of the submitted information.

ix. ~~Upon approval~~ As approved,, the Licensee will implement ~~start implementation of~~ the CRSMP.

b. Following implementation, t~~T~~he Licensee will prepare ~~yearly~~ annual progress reports, including all data and statistical analyses resulting from the survey and monitoring requirements, hydrographic analysis documenting the flow and circulation patterns in the nearshore areas, and a summary report at the end of the baseline period. The~~se~~ annual reports shall be submitted to the FWC, and DEP Siting Office for review no later than May 1st of each applicable year, for the previous calendar year's information. The summary report shall be submitted to the FWC and DEP Siting Office for review no later than 180 days after completion of the baseline period. If the FWC, in consultation with DEP and SWFWMD, in their review of the yearly progress reports, determines inadequacies or the need to modify the CRSMP, FWC will notify DEP and the Licensee and a joint meeting will be held to discuss the findings. At the end of the baseline ~~monitoring~~ surveying period as determined in accordance with Section C, Condition III. Florida Fish and Wildlife Conservation Commission, B.1.a.iv. above, the Licensee will hold a joint meeting with the DEP and ~~E~~FWC to discuss the results. At that time, the FWC, in consultation with DEP and SWFWMD, and the Licensee will determine what, if any, modifications need to be made to the CRSMP for monitoring once the Plant begins operations. The FWC will transmit its findings to the DEP-Siting Office for coordination and transmittal to the Licensee.

c. If the CRSMP is determined to need modifications for monitoring during the operation of the Plant, the Licensee will submit, within 180 days after notification of needed modifications, a revised CRSMP to the FWC and the DEP Siting Office for review. The FWC, in consultation with DEP and SWFWMD, shall indicate its approval or disapproval of the submitted plan within 90 days of a complete submittal ~~of the submitted information~~. The FWC will transmit its findings to the DEP-Siting Office for coordination and transmittal to the Licensee. In the event that additional information from the Licensee is necessary to complete and approve the CRSMP, the FWC, in consultation with DEP and SWFWMD, shall make a written request to the DEP-Siting Office and the Licensee for additional information no later than 30 days after receipt of the submitted information.

d. The Licensee will submit, after initiation of operations at the Levy Plant, an annual report, including all data and statistical analyses resulting from the monitoring requirements and an analysis comparing the current data to the preoperational survey (baseline) data to the FWC and the Siting Office. This annual report shall be submitted no later than May 1st of each applicable year, for the previous calendar year's information. If the FWC, in consultation with DEP and SWFWMD, determines that the pre-operational survey and post-operational monitoring data indicate harm or potential harm to the ecological resources of the waters of the State and/or indicate exceedance of State water quality standards, or if these data are insufficient to evaluate changes, then additional measures shall be required to evaluate or to abate such impacts. Additional measures include but are not limited to:

i. Enhanced monitoring and/or modeling, and mitigative measures;

ii. Operational changes in the cooling water intake system to reduce any such impacts;

iii. Other measures to abate impacts as may be described in the Canal and River Monitoring Plan.

e. The Licensee will submit a summary report, including all data and statistical analyses from the baseline monitoring and an analysis comparing ~~the current data to the baseline data, to the FWC and the DEP Siting Office. The summary report should be submitted a minimum of 6 months before renewal of the NPDES permit.~~available post-operational monitoring

data to the baseline data to the FWC and the DEP Siting Office and Industrial Wastewater Section. The summary report should be submitted a minimum of 180 days prior to the expiration date of the NPDES permit in place three years following the commencement of operation of the first unit. Submittal of this report is required to assist in the evaluation of the application for renewal of the referenced NPDES permit, is independent of other reporting that may be required under these conditions, and is not indicative of any intent to determine in advance of the statistical analysis required by other conditions a post-operational monitoring period of three years.

[Article ~~N~~IV, Sec. 9, Fla~~n~~. Const., Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2401 F.S., Rules 68A-1.002 and ~~Florida Administrative Code (F.A.C),~~ 68A-4.001, F.A.C., and Chapter 68A-27, F.A.C.]

2. Levy Nuclear and Crystal River Energy Complex Combined Discharge Survey and Monitoring

a. Within 180 days following certification of the Levy County Nuclear Facility, the Licensee will submit to the FWC and the DEP Siting Office a LNP Combined Discharge Survey and Monitoring Plan (Discharge Monitoring Plan). Unless otherwise agreed to by the Licensee and FWC, in consultation with DEP, the Discharge Monitoring Plan shall include, at a minimum, the following components:

i. ~~A broad based, p~~Pre-operational surveys ~~and a~~ of baseline seasonal/climatological biological and water quality conditions and post-operational monitoring ~~plan, for a period of time to be determined by statistical analysis~~ in coordination between the DEP, FWC and the Licensee, ~~that is available prior to operation of the facility, that~~ including~~es~~ sites outside of the existing or predicted plume areas to allow for a comparison of the plume area sites to a "control site." An initial three years of pre-operational surveys shall be performed beginning no later than five years before the expected date of operation of the first generating unit for the Certified Facility. The collected data from the pre-operational surveys shall be analyzed by the Licensee and reviewed by FWC to determine whether, based upon a statistical analysis of the data, further pre-operational surveys are required to be performed for up to an additional two years (for a maximum total of five years of pre-operational surveys). The Licensee shall continue the pre-operational surveys while the analysis is conducted by the Licensee and review of that analysis is undertaken by FWC. The analysis shall be provided by the Licensee to FWC within 180 days of completion of the initial three years of surveys. FWC shall have up to 90 days from the date it receives this analysis to review the analysis and issue its determination as to whether additional surveys are required. This timeline for analysis and review may be extended upon mutual agreement of the Licensee and FWC. If FWC determines additional surveys are necessary to establish baseline seasonal/climatological biological and water quality conditions, the Licensee shall conduct up to another two years of surveys prior to operation of the first unit, inclusive of the information collected during the analysis and review period. Post-operational monitoring shall continue for a period of time to be determined by statistical analysis in coordination between the DEP, FWC and the Licensee.~~This time frame will not exceed the period of time that is available prior to operation of the facility~~.

ii. Specific survey and monitoring locations, sampling frequencies and methods, and specific parameters to be surveyed and monitored.

iii. The survey and monitoring will include, at minimum, protocols to monitor seagrass, oyster and hardbottom resources. Monitoring of physical and chemical parameters shall include, at minimum, surface and bottom temperature, salinity, dissolved oxygen (DO), total nitrogen, total phosphate, and water column transparency data collection.

iv. Intensive survey and monitoring of the central areas of the existing and future predicted plume areas during the first and second summers of the combined discharge. This should include measurements of DO at the surface and at the bottom measured on a regular schedule (quarterly at minimum, monthly if possible), and, within the zone of plume impact, DO at the bottom measured overnight 3 to 4 times during each summer.

v. The Discharge Monitoring Plan, including survey and monitoring locations, shall be approved prior to implementation. The FWC, in consultation with DEP and SWFWMD, shall indicate its approval or disapproval of the submitted plan within 90 days of ~~the originally submitted information~~ a complete submittal. The FWC will transmit its findings to the DEP-Siting Office for coordination and transmittal to the Licensee. In the event that additional information from the Licensee is necessary to complete and approve the Plan, the FWC, in consultation with DEP and SWFWMD, shall make a written request to the Licensee for additional information no later than 30 days after receipt of the submitted information.

vi. The Discharge Monitoring Plan shall be implemented ~~upon approval~~ as approved. As noted above, upon issuance of Final NPDES permit FL0633275-001-IWlS/NP, the Licensee may request to DEP, in consultation with FWC, modification of the FWC conditions of certification.

b. The Discharge Monitoring Plan and results of monitoring data collected over the course of the previous and current CREC operating period and NPDES permits will be submitted to the DEP and FWC so as to provide a basis for developing the LNP Discharge Mitigation Plan, if needed.

c. Following implementation, ~~T~~the Licensee will prepare ~~yearly~~ annual progress reports, including all data and statistical analyses resulting from the survey and monitoring requirements, and a summary report at the end of ~~5 years after approval of the Discharge Monitoring Plan of the Levy County Nuclear facility~~ the baseline period. ~~and submit the~~ The annual reports shall be submitted to the FWC and DEP Siting Office for review no later than May 1st of each applicable year, for the previous calendar year's information. The summary report shall be submitted to the FWC, and DEP Siting Office for review no later than 180 days after completion of the baseline period. If in the review of the ~~yearly~~ annual progress reports, the FWC, in consultation with DEP and SWFWMD, determines inadequacies or the need to modify the Discharge Monitoring Plan, FWC will notify the DEP ~~Siting Office~~ and the Licensee to discuss the findings. At the end of the baseline ~~monitoring~~ surveying period as determined in accordance with Section C, Florida Fish and Wildlife Conservation Commission, Condition III.B.2.a.i. above, the Licensee will contact DEP and FWC to discuss the results. At that time, the FWC, in consultation with DEP and SWFWMD, and the Licensee will determine what if any modifications need to be made to the Discharge Monitoring Plan for monitoring once the Plant begins operations.

d. If the Discharge Monitoring Plan is determined to need modifications for monitoring during the operation of the Plant, the Licensee will submit, within 180 days, a revised Discharge Monitoring Plan to the Agencies for review. The FWC, in consultation with DEP and SWFWMD, shall indicate its approval or disapproval of the submitted plan within 90 days of ~~the submitted information~~ a complete submittal. The FWC will transmit its findings to the DEP-Siting Office for coordination and transmittal to the Licensee. In the event that additional information from the Licensee is necessary to complete and approve the Discharge Monitoring Plan, the FWC, in consultation with DEP and SWFWMD, shall make a written request to the DEP-Siting Office and the Licensee for additional information no later than 30 days after receipt of the submitted information.

e. The Licensee will submit, after initiation of operations at the Levy Plant, an annual ~~yearly~~ progress report, including all data and statistical analyses from the baseline surveys and monitoring and an analysis comparing the current data to the baseline data, to the Agencies. This annual report shall be submitted no later than May 1st of each applicable year, for the previous calendar year's information. If the FWC, in consultation with DEP and SWFWMD, determines that the pre-operational survey and post-operational discharge monitoring data are insufficient to evaluate changes, indicate harm or potential harm to the ecological resources of the waters of the State and/or exceed State water quality standards, then additional measures shall be required to evaluate or to abate such impacts. Additional measures include but are not limited to:

i. Enhanced monitoring and/or modeling, and mitigative measures;

ii. Operational changes in the discharge or water cooling system to reduce any such impacts;

iii. Other measures to abate impacts as may be described in the Plan.

f. The Licensee will submit a summary report, including all data and statistical analyses from the baseline survey and an analysis comparing the ~~current data to the baseline data to FWC and the DEP Siting Office. The summary report should be submitted a minimum of 6 months before renewal of the NPDES permit.~~ available post-operational monitoring data to the baseline data to the FWC and the DEP Siting Office and Industrial Wastewater Section. The summary report should be submitted a minimum of 180 days prior to the expiration date of the NPDES permit in place three years following the commencement of operation of the first unit. Submittal of this report is required to assist in the evaluation of the application for renewal of the referenced NPDES permit, is independent of other reporting that may be required under these conditions, and is not indicative of any intent to determine in advance of the statistical analysis required by other conditions a post-operational monitoring period of three years.

g. If FWC, in consultation with DEP and the Licensee find that the monitoring demonstrates no impact from Levy, then Licensee may request that FWC, in consultation with DEP amend the monitoring plan or terminate it.

[Article ~~N~~IV, Sec. 9, Fl~~a~~a. Const., Section 403.507and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2401 F.S., Rules 68A-1.002 ~~Florida Administrative Code~~ (F.A.C.), and Chapter 68A-2 7, F.A.C.]

C. Mitigation

1. Cross Florida Barge Canal and Withlacoochee River

a. FWC, in consultation with DEP and SWF~~E~~WMD, will review the CRSMP Annual Reports. If after the review and analysis of the data and reports there is an indication of adverse impacts, FWC, in consultation with DEP and SWFWMD, will notify the DEP-Siting Office and the Licensee of the need for mitigation. Within 180 days following notification from DEP-Siting Office of the need for mitigation, the Licensee will submit to the DEP and FWC a Withlacoochee River and/or the Cross Florida Barge Canal Mitigation Plan (~~CFJ3CWR~~ CFBCWR Mitigation Plan). The CFBCWR Mitigation Plan may include the following components:

i. Plans to alleviate changes in flow, water quality, or biology, as determined from the survey and monitoring, in the Withlacoochee River between Lake Rousseau and the CFBC.

ii. Possible operational changes in the cooling water intake system to reduce any such impacts.

iii. The CFBCWR Mitigation Plan shall be approved by FWC, in consultation with DEP and SWFWMD, prior to implementation. FWC, in consultation with DEP and SWFWMD, shall indicate its approval or disapproval of the submitted plan within 90 days of ~~the submitted information~~ a complete submittal. The FWC will transmit its findings to the DEP-Siting Office for coordination and transmittal to the Licensee. In the event that FWC, in consultation with DEP and SWFWMD, requires additional information for the Licensee to complete and approve the CFBCWR Mitigation Plan, the FWC, in consultation with DEP and SWFWMD, shall make a written request to the DEP Siting Office and the Licensee for additional information no later than 30 days after receipt of the submitted information.

iv. ~~Upon~~ As approved~~al~~ by FWC, in consultation with DEP and SWFWMD, the Licensee will start implementation of the CFBCWR Mitigation Plan.

~~v. The Licensee will prepare yearly progress reports, including all data and statistical analyses resulting from the implementation of the CFBCWR Mitigation Plan, and a summary report at the end of 5 years or a minimum of 6 months before renewal of the NPDES permit, and submit the report to FWC and DEP for review. If the FWC, in consultation with DEP and SWFWMD in their review of the yearly progress reports determine inadequacies or the need to modify the CFBCWR Mitigation Plan, they will notify the DEP-Siting Office and the Licensee to discuss the findings. If the hydrographic monitoring from the Canal and River Monitoring Plan indicates changes to the circulation and flow due to the LNP a proposal will be developed to restore circulation patterns.~~

b. The Licensee will prepare yearly progress reports, including all data and statistical analyses resulting from the implementation of the CFBCWR Mitigation Plan and will prepare a summary report at a time specified in the CFBCWR Mitigation Plan. If the FWC, in consultation with DEP and SWFWMD in their review of the yearly progress reports determine inadequacies or the need to modify the CFBCWR Mitigation Plan, FWC will notify the DEP-Siting Office and the Licensee to discuss the findings. If the hydrographic monitoring from the CRSMP indicates unacceptable changes to the circulation and flow due to the LNP, a proposal will be developed and included in the CFBCWR Mitigation Plan to restore acceptable circulation patterns. In addition, the Licensee will prepare a report, including all available data and statistical analyses resulting from the implementation of the CFBCWR Mitigation Plan, to be submitted to the FWC and the DEP Siting Office and Industrial Wastewater Section a minimum of 180 days prior to the expiration date of the NPDES permit in place at commencement of the CFBCWR Mitigation Plan. Submittal of this report, which may not be the final summary report, is required to assist in the evaluation of the application for renewal of the referenced NPDES permit.

[Article IV, Sec. 9, Fla. Const., Section 403.507 and 403.509, F.S. Section 379.1025 F.S., Section 379.2291 F.S.; Section 379.2401 F.S., Rules 68A-1.002 F.A. C., 68A-4.001, F.A. C and Chapter 68A-27, F.A.C.]

2. Crystal River Combined Discharge

a. FWC, in consultation with DEP and SWFWMD, will review the Discharge Monitoring Plan Annual Reports. If after the review and analysis of the data and reports there is an indication of adverse impacts, FWC, in consultation with DEP and SWFWMD, will notify the Licensee of the need for mitigation for impacts caused by the LNP discharge. Within 180 days following notification through the DEP Siting Office of the need for mitigation, the Licensee will

submit to FWC and the DEP Siting Office a Levy Nuclear Discharge Mitigation Plan (LNP Mitigation Plan). The Plan may include the following components:

i. Remedial action options if the Levy Nuclear discharge has adverse impacts on water quality and physical parameters, seagrasses, oysters, or other marine organisms.

ii. Development of a hydrologic model for restoring flows and circulation if deemed necessary from the Canal and River Monitoring Plan.

iii. If the hydrologic modeling, from item 2 above, indicates positive changes, then consideration should be given to re-establishing the "flow-through cuts" along the Crystal River Intake Canal spoil piles.

iv. Operational changes in the discharge or water cooling system to reduce any such impacts.

v. The LNP Mitigation Plan shall be approved prior to implementation. FWC, in consultation with DEP and SWFWMD, shall indicate its approval or disapproval of the submitted plan within 90 days of ~~the originally submitted information~~ a complete submittal. The FWC will transmit its findings to the DEP-Siting Office for coordination and transmittal to the Licensee. In the event that FWC, in consultation with DEP and SWFWMD, requires additional information ~~for~~ from the Licensee to complete and approve the ~~LNCREC~~LNP Mitigation Plan, the FWC, in consultation with DEP and SWFWMD, shall make a written request to the DEP-Siting Office and the Licensee for additional information no later than 30 days after receipt of the submitted information.

vi. ~~Upon~~ As approved~~al~~ by FWC, in consultation with DEP and SWFWMD, the Licensee will start implementation of the LNP Mitigation Plan.

b. The Licensee will prepare yearly progress reports, including all data and statistical analyses resulting from the implementation of the ~~LNCREC~~ LNP Mitigation Plan, ~~and a summary report submitted 6 months before the application for renewal of the NPDES permit, and submit the report to FWC and the DEP Siting Office for review~~ and will prepare a summary report at a time specified in the LNP Mitigation Plan. If the FWC, in consultation with DEP and SWFWMD, in their review of the yearly progress reports determine inadequacies or the need to modify the ~~LNCREC~~ LNP Mitigation Plan, FWC will notify the DEP-Siting Office and the Licensee to discuss the findings. In addition, the Licensee will prepare a report, including all available data and statistical analyses resulting from the implementation of the LNP Mitigation Plan, to be submitted to the FWC and the DEP Siting Office and Industrial Wastewater Section a minimum of 180 days prior to the expiration date of the NPDES permit in place at commencement of the LNP Mitigation Plan. Submittal of this report, which may not be the final summary report, is required to assist in the evaluation of the application for renewal of the referenced NPDES permit.

[Article IV, Sec. 9, Fla. Const., Sections 403.507 and 403.509, F.S.; Section 379.1025 F.S., Section 379.2291 F.S., Section 379.2401 F.S., Rules 68A-1.002 F.A. C, Chapter 68A-27, F.A. C.]

Modifications Associated with the Department Initiated Incorporation of General Conditions

In addition to the above modifications, the modified Conditions of Certification PA08-51C (Attachment A to this document) replace the existing Conditions of Certification PA08-51B (Attachment B) in their entirety. Several existing Conditions have been updated and incorporated

into the more uniform set of General Conditions. Many existing Conditions have been moved to different sections of the document.

Attachment B (existing Conditions) contains cross references to the corresponding condition in Attachment A (modified Conditions) appearing in red following each section of the document. In the electronic Adobe pdf file of Attachment B (existing Conditions), the cross references have been electronically linked to the corresponding condition in the Adobe pdf file of Attachment A (modified Conditions). In order to toggle between the two documents on your screen, copy both files (Attachment A and Attachment B) from http://publicfiles.dep.state.fl.us/siting/outgoing/PEF_Levy/Mod_C/NOI_and_DFO_Docs/ and paste them into a single folder and open both files. (If you open the documents from the ftp site and "Save As" with a different file name, the links will not work. You must copy and paste with the same file names.) Clicking on a link in Attachment B will take you directly to the corresponding new and/or modified condition in Attachment A.

A complete set of the Conditions of Certification (including attachments) can be viewed and downloaded from the following website: http://www.dep.state.fl.us/siting/certification.htm. Copies of the Conditions of Certification and/or attachments may also be obtained by contacting Michael P. Halpin, P.E., Program Administrator, Siting Coordination Office, Department of Environmental Protection, 3900 Commonwealth Blvd, MS 48, Tallahassee, Florida 32399-3000, (850) 245-2002.

Any party to the this Order has a right to seek judicial review of it pursuant to Section 120.68, F.S., by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000, and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty days from the date this Order is filed with the Clerk of the Department of Environmental Protection.

Executed in Tallahassee, Florida.

Michael P. Halpin, P.E.

Michael P. Halpin, P.E.
Administrator,
Siting Coordination Office

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

1/25/11
Date

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