



Serial: NPD-MISC-2011-010  
July 22, 2011

Mr. Osvaldo Collazo  
Chief, North Permits Branch  
Department of the Army  
Jacksonville District Corps of Engineers  
Panama City Regulatory Office  
1002 West 23<sup>rd</sup> Street, Suite 350  
Panama City, Florida 32405-3648

Levy Nuclear Plant/PEF  
SAJ-2008-00490 (IP-GAH)

Dear Mr. Collazo:

This letter is the initial response to your letter dated June 23, 2011 regarding positions, comments, and requests for information concerning a requested CWA § 404 permit associated with construction of the Progress Energy Florida (PEF) Levy Nuclear Plant (LNP) and various associated integral projects. In that letter you requested that we provide response or a proposed time schedule for response within 30 days. On July 14<sup>th</sup> my staff and representatives met with you and your staff in your offices in Jacksonville to discuss your letter and our pending response (see attached list of meeting attendees). As we outlined in that meeting, PEF is currently working on responses and expects to have them complete and submitted to you no later than November 18, 2011.

It is our intention to provide sufficient and timely information to support the scheduled publication of the Final Environmental Impact Statement for the LNP Combined Construction and Operating License (COL), in cooperation with the U. S. Nuclear Regulatory Commission (NRC), by April 2012. As discussed at the July 14<sup>th</sup> meeting, PEF intends to provide response to all of your comments and information requests to allow your staff to complete evaluation of our application and issue a 404 permit soon after the NRC issues a COL. As materials to respond to your requests become available, we will provide them sooner, as appropriate, but we expect all materials to be submitted to your office by November 18<sup>th</sup>.

At the July 14<sup>th</sup> meeting, we discussed several issues and summarize three of them below:

1. PEF informed you that we would take exception to USACE Comment #4 that all remaining wetlands associated with the plant site and support facilities should be preserved under conservation easement granted to the Florida Department of Environmental Protection. The unimpacted wetlands on our property that are not associated with our wetland mitigation plan are not needed for compensatory mitigation and all applicable avoidance and minimization criteria will have been met. The current plan contains sufficient wetland credits to compensate for the impacts and permanent preservation is unwarranted to satisfy compensatory mitigation based on functional assessment. Thus, demand for encumbrance/conservation easement is unsupported by 33 CFR 332.7(a) or 40 CFR 230.97(a).

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P.O. Box 14042  
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2. We also presented our concerns with how the Corps is evaluating the LNP site with regard to groundwater usage in its LEDPA deliberations. First, we explained our concerns with the Corps' reliance on the "recalibrated" groundwater flow model over the groundwater flow model used as a basis for the water use approval granted by the Southwest Florida Water Management District as part of the Levy Site Certification from the State of Florida. It was noted that the "recalibrated" groundwater model had significant limitations which make it inappropriate to use for permitting purposes or for evaluating potential wetland impacts. By comparison, the model employed by the Southwest Florida Water Management District is generally accepted and routinely used for such purposes. We requested and the Corps agreed to a future meeting between our hydrologist/modelers and the Corps' modelers to review our concerns in greater detail.

Second, we noted that the Certification granted for LNP by the State of Florida with its associated Conditions of Certification provides assurance that LNP's proposed use of groundwater from the Floridan Aquifer will not adversely impact wetlands. As described by the Florida Division of Administrative Hearings (DOAH) Administrative Law Judge in the DOAH Recommended Order, paragraph 74 of Exhibit A to the Final Order Approving Certification:

"Groundwater pumping for the LNP is not expected to adversely impact Lake Rousseau, the Withlacoochee River, or other streams or springs in the Project area. Groundwater withdrawals for the LNP are likewise not expected to induce saline water intrusion, cause the spread of pollutants in the aquifer, adversely impact any offsite land uses, cause adverse impacts to wetland systems, or adversely impact any other nearby uses of the aquifer system."

The State Certification used a superior groundwater flow model to conclude there would be no adverse wetland impacts, and has additional safeguards requiring future model refinement, an environmental monitoring plan, and a "backup" requirement to develop alternative water supplies or provide mitigation in the event unexpected drawdowns occur. Thus, the LNP site as evaluated by the State of Florida and limited by the Conditions of Certification results in the same outcome as the current USACE LEDPA presumptive site, because in both cases groundwater pumping will not produce adverse wetland impacts. PEF requests that the Corps reconsider its evaluation of LNP with proposed groundwater withdrawal and suggests that the Corps could adopt a permit condition such as the attached proposed condition to assure no adverse wetland impacts due to permitted groundwater operations.

3. Lastly, we requested and you agreed to establish routine meetings (likely on a monthly basis) to review progress with our efforts to provide the information that the Corps needs to complete its reviews. We propose that the first of these meetings be held the week of August 15<sup>th</sup> or the week of August 22<sup>nd</sup> and a schedule be established for additional meetings in September, October, and November. We look forward to these meetings which are intended to ensure that your needs are being adequately met and that we maintain clear communications.

Thank you again for the opportunity to meet with you and your staff on resolving these issues. We look forward to completing these efforts in the coming months. Should you have any

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questions regarding this initial response, please contact Bob Kitchen at (919) 546-6992 or Paul Snead at (919) 546-2836.

Sincerely,



John Elnitsky  
Vice President  
New Generation Programs & Projects

Attachments

cc: Gordon Donald Hambrick, USACE  
Douglas Bruner, USNRC  
David Pritchett, EPA  
Paul Gagliano, EPA

CRS 2008-00400  
Jacksonville District Office, US Army Corps of Engineers

July 14, 2011

In Jacksonville:

Don Hambrick, USACE

Oswaldo Collazo, USACE

John Kasbar, USACE

Russ Weeks, USACE

June Mirecki, USACE

Doug Bruner, USNRC

Eric Hughes, EPA

Bob Kitchen, Progress Energy

Paul Snead, Progress Energy

Amy Dierolf, Progress Energy

Jeff Lehnen, CH2M Hill

Frank Matthews, Hopping Green & Sams

By Telephone:

Allan Fetter, USNRC

Kevin Roche, USNRC

Jodi Martin, USNRC

Paul Gagliano, EPA

David Pritchett, EPA

### **Proposed Conditions for USACE Approval of Levy as the LEDPA Site**

Withdrawals of up to an annual average of 1.58 million gallons per day of groundwater to supply process and other non-cooling water needs for the Project are not expected to cause adverse impacts to wetland systems. These conclusions are based upon the results of modeling of potential drawdown of groundwater levels using an accepted groundwater impact model from the Southwest Florida Water Management District (SWFWMD).

- At least six months prior to the start of construction of any production well, PEF will submit an aquifer performance test plan to the U.S. Army Corps of Engineers (USACE) for review and approval.
- At least five years prior to any use of production wells in excess of 100,000 gallons per day, PEF will conduct an aquifer performance test pursuant to the terms of this aquifer performance test plan. Based upon this additional aquifer testing, PEF will perform additional groundwater modeling for the SWFWMD in accordance with the state-issued final condition of site certification for the project.
- A copy of the results of any additional groundwater modeling submitted to the SWFWMD will be provided to the USACE on or about the same time. The additional groundwater impact modeling will further consider the potential impacts to wetlands at and near the project site.
- PEF will also confer with the U.S. Corps of Engineers about the results of that final groundwater modeling and any projected change in impacts to wetlands. If this final groundwater modeling shows additional wetland impacts beyond those permitted, PEF will confer with the U.S. Corps of Engineers on the need for any additional wetland impact avoidance, minimization or mitigation as appropriate, including the investigation of the development of potential alternative water supply projects.
- PEF will also provide the U.S. Corps of Engineers with copies of annual monitoring reports that evaluate the relative condition of wetlands in areas potentially affected by groundwater withdrawals at the project site that are prepared as part of the Environmental Monitoring Plan that will be implemented pursuant to the state-issued conditions of certification.