

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Stephen G. Burns, Chairman
Kristine L. Svinicki
William C. Ostendorff
Jeff Baran

In the Matter of

FLORIDA POWER & LIGHT CO.

(Turkey Point Nuclear Generating
Units 3 and 4)

Docket Nos. 50-250-LA and
50-251-LA

CLI-15-25

MEMORANDUM AND ORDER

The NRC Staff and Florida Power & Light Company (FPL) have appealed the Atomic Safety and Licensing Board's decision granting a hearing to Citizens Allied for Safe Energy, Inc. (CASE) in this license amendment matter.¹ CASE has challenged FPL's request to allow an increase in the ultimate heat sink temperature at Turkey Point Nuclear Generating Units 3 and 4.² As discussed below, we affirm the Board's decision.

¹ *NRC Staff's Notice of Appeal of LBP-15-13* (Apr. 17, 2015); *Florida Power & Light Company's Notice of Appeal of LBP-15-13* (Apr. 17, 2015); LBP-15-13, 81 NRC 456 (2015).

² *Citizens Allied for Safe Energy, Inc. Petition to Intervene and Request for a Hearing* (Oct. 14, 2014) (CASE Intervention Petition).

I. BACKGROUND

The license amendment application at issue here involves an increase to the ultimate heat sink temperature limit reflected in the Technical Specifications for both Turkey Point units from 100°F to 104°F. To provide context for the issues raised in this proceeding, we first provide a short description of the cooling canal system at Turkey Point and recent plant licensing history relevant to this proceeding.

Turkey Point Units 3 and 4 are pressurized water reactors located approximately 25 miles (40 km) south of Miami and bordering Biscayne Bay. The two nuclear units are cooled by a 6,100-acre (2,500-ha) “closed-loop” cooling canal system.³ Heated water from the plants discharges into the system at one end, flows through the canals where it cools, and is withdrawn from the other end for reuse as plant cooling water.⁴ The cooling canal system serves as the ultimate heat sink for the safety-related intake cooling water system.⁵

At Turkey Point, the water in the cooling canal system is hypersaline; in 2014, salinity levels in the canals ranged from approximately 60 to 90 parts per thousand (ppt)—compared to approximately 34 ppt in nearby Biscayne Bay.⁶ The cooling canal system includes 168 miles (270 km) of earthen canals with an average depth of 2.8 feet (0.8 m) and contains

³ Florida Power & Light Company; Turkey Point Nuclear Generating Unit Nos. 3 and 4; Environmental Assessment and Final Finding of No Significant Impact, 79 Fed. Reg. 44,464, 44,465 (July 31, 2014) (Environmental Assessment).

⁴ See “Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Turkey Point Units 3 and 4—Final Report.” NUREG-1437, supp. 5 (Jan. 2002), at 1-8 (ADAMS accession no. ML020280236) (Turkey Point License Renewal SEIS).

⁵ Environmental Assessment, 79 Fed. Reg. at 44,465.

⁶ *Id.* at 44,468; *FPL’s Answer to Citizens Allied for Safe Energy, Inc.’s Petition to Intervene and Request for a Hearing* (Nov. 10, 2014) (FPL Answer), Ex. 1, South Florida Water Management District Emergency Final Order Issued to Florida Power and Light for the Purpose of Authorizing Temporary Pump Installation and Water Withdrawal Along and from the L-31 E Canal System; Miami-Dade County, Florida (Aug. 28, 2014), at 9 (August 2014 Emergency Final Order).

approximately 4 billion gallons (15 billion l) of water.⁷ Water in the system travels 13.2 miles (21.2 km) from plant discharge back to plant intake.⁸ Rainfall, stormwater runoff, and groundwater exchange naturally replenish evaporative losses.⁹

In 2012, the NRC granted FPL's request for an extended power uprate of both units; the uprate increased the maximum allowable power level from 2,300 megawatts thermal (MWt) to 2,644 MWt for each unit.¹⁰ The NRC did not identify any significant environmental impacts associated with the extended power uprate.¹¹

As part of its review of the extended power uprate, the Florida Department of Environmental Protection (FDEP) imposed "Conditions of Certification" that require FPL to monitor and assess potential harm to the State's waters.¹² The FDEP issued an administrative order in December 2014 that required FPL to propose a salinity management plan.¹³ The plan would reduce salinity in the cooling canal system to 34 ppt (comparable to the salinity in

⁷ Environmental Assessment, 79 Fed. Reg. at 44,466.

⁸ *Id.*

⁹ *Brief in Support of Florida Power & Light Company's Appeal of LBP-15-13* (Apr. 17, 2015), at 2 (FPL Brief) (citing Environmental Assessment, 79 Fed. Reg. at 44,466); see also Turkey Point License Renewal SEIS at 2-7 ("The canal system does not discharge directly to fresh or marine surface waters. However, an exchange of water between the canal system and groundwater is likely because the canals are unlined.").

¹⁰ License Amendment to Increase the Maximum Reactor Power Level, Final Environmental Assessment and Finding of No Significant Impact; Florida Power & Light Company, Turkey Point, Units 3 and 4, 77 Fed. Reg. 20,059, 20,060 (Apr. 3, 2012) (Environmental Assessment for Extended Power Uprate). The change, a 15 percent increase over the prior licensed power level, was considered an "extended power uprate" that involved extensive modifications to the plant's secondary side. *Id.*

¹¹ *Id.* at 20,059.

¹² *NRC Staff's Brief in Support of its Appeal of LBP-15-13* (Apr. 17, 2015), at 4-5 (Staff Brief) (citing Conditions of Certification PA 03-45D at 22).

¹³ FPL Brief at 4 (citing *In re Florida Power & Light Company*, Administrative Order (Dec. 23, 2014) (ML15035A227) (December 2014 Administrative Order)).

Biscayne Bay) within four years by adding water that is less saline than that currently in the cooling canal system.¹⁴ These additions could also help moderate water temperatures.¹⁵

During the summer of 2014, the ultimate heat sink temperature approached the limit provided in the plant's Technical Specifications at the time—100°F. In response, FPL submitted the license amendment request at issue here to increase the ultimate heat sink temperature limit in Technical Specification 3.7.4 from 100°F to 104°F, to add a surveillance requirement to monitor the ultimate heat sink water temperature once per hour whenever the temperature exceeds 100°F, and to increase the frequency of a component-cooling-water heat-exchanger performance test.¹⁶ FPL later asked for the license amendment request to be processed on an emergency basis to avoid a dual unit shutdown that would affect grid reliability.¹⁷

The NRC Staff published the Environmental Assessment and Finding of No Significant Impact for this license amendment in the *Federal Register* on July 31, 2014.¹⁸ The Environmental Assessment noted that higher temperatures would increase water evaporation

¹⁴ *Id.* at 4, 12 n.18 (citing December 2014 Administrative Order at 5-6).

¹⁵ Staff Brief at 10 (citing Environmental Assessment, 79 Fed. Reg. at 44,468). Elevated salinity levels contribute to higher temperatures in the cooling canals. FPL Answer, Ex. 1, August 2014 Emergency Final Order at 8.

¹⁶ FPL Brief at 1 (citing Letter from Michael Kiley, FPL, to Document Control Desk, NRC (July 10, 2014) (ML14196A006)).

¹⁷ Letter from Michael Kiley, FPL, to Document Control Desk, NRC (July 17, 2014), at 1 (ML14202A392).

¹⁸ Environmental Assessment, 79 Fed. Reg. 44,464. The Staff determined that the proposed action will not have a significant effect on the quality of the human environment and that therefore the Staff would not prepare an environmental impact statement for the proposed action. *Id.* at 44,469; *see also* 10 C.F.R. § 51.32(a). CASE filed a motion to invalidate the Environmental Assessment and Final Finding of No Significant Impact on a procedural ground. *Citizens Allied for Safe Energy Motion to Invalidate Nuclear Regulatory Commission Environmental Assessment of [July] 31, 2014* (Aug. 25, 2015). The Board denied CASE's motion. Order (Denying Motion to Invalidate Environmental Assessment) (Sept. 11, 2015) (unpublished).

rates in the canals and result in higher salinity levels but that this effect would be temporary because salinity would decrease upon natural freshwater recharge of the system.¹⁹ The Environmental Assessment also anticipated that FPL would adopt a salinity management plan similar to that imposed by the FDEP in the December 2014 Administrative Order.²⁰

The Staff determined that the amendments involved no significant hazards considerations and that exigent circumstances existed and therefore issued the amendments on August 8, 2014.²¹ As approved by the Staff, the license amendments revise the ultimate heat sink water-temperature limit in the Turkey Point Units 3 and 4 Technical Specifications from 100°F to 104°F and revise surveillance requirements for monitoring the ultimate heat sink temperature and component cooling water heat exchangers.²²

¹⁹ Environmental Assessment, 79 Fed. Reg. at 44,466-67.

²⁰ *Id.* at 44,468.

²¹ Letter from Audrey L. Klett, NRC, to Mano Nazar, NextEra Energy (Aug. 8, 2014) (ML14199A107) (Letter Noting Issuance of License Amendments). The Staff initially issued a proposed no significant hazards consideration determination and notice of opportunity to request a hearing on July 30, 2014. Florida Power & Light Co.; Turkey Point Nuclear Generating Units 3 and 4; License Amendment Application; Opportunity to Comment, Request a Hearing, and Petition for Leave to Intervene, 79 Fed. Reg. 44,214 (July 30, 2014). Shortly after issuance of the license amendments, the Staff extended the deadline to request a hearing. Florida Power & Light Company; Turkey Point Nuclear Generating Units 3 and 4; License Amendment; Issuance, Opportunity to Request a Hearing, and Petition for Leave to Intervene, 79 Fed. Reg. 47,689, 47,690 (Aug. 14, 2014) (Second Hearing Notice); see also 10 C.F.R. § 50.91(a)(6) (“Where the Commission finds that exigent circumstances exist, in that a licensee and the Commission must act quickly and that time does not permit the Commission to publish a *Federal Register* notice allowing 30 days for prior public comment, and it also determines that the amendment involves no significant hazards considerations, it” will (among other things) “provide a hearing after issuance, if one has been requested by a person who satisfies the provisions for intervention specified in § 2.309 of this chapter.”).

²² Letter Noting Issuance of License Amendments at 1.

In response to the notice of the issuance of the license amendments, CASE requested a hearing. FPL and the Staff opposed CASE's hearing request.²³ Following a prehearing conference in Homestead, Florida, the Board found that CASE had demonstrated standing and had submitted an admissible contention.²⁴ FPL's and the Staff's appeals followed.

II. DISCUSSION

Our rules of practice provide for an automatic right to appeal a Board decision on the question whether a petition to intervene should have been wholly denied.²⁵ On appeal, both the Staff and FPL contend that the Board erred in finding that CASE had demonstrated standing and had submitted an admissible contention.²⁶

A. Standing

For CASE to be admitted as a party to this proceeding, it must demonstrate that it has an interest that may be affected by the proceeding. A petitioner must "allege[] such a personal stake in the outcome of the controversy' as to demonstrate that a concrete adverseness exists [that] will sharpen the presentation of issues."²⁷ In evaluating standing claims, we apply contemporaneous judicial concepts of standing.²⁸ Accordingly, a petitioner must (1) allege an

²³ FPL Answer; *NRC Staff's Answer to Citizens Allied for Safe Energy, Inc.'s Petition for Leave to Intervene and Request for Hearing* (Nov. 10, 2014).

²⁴ FPL has sought dismissal of the admitted contention before the Board. *Florida Power & Light Company's Motion to Dismiss CASE Contention 1 or, in the Alternative, for Summary Disposition* (Dec. 3, 2015).

²⁵ See 10 C.F.R. § 2.311(d)(1).

²⁶ See Staff Brief at 1-2; FPL Brief at 7-8.

²⁷ *Sequoyah Fuels Corp. & General Atomics* (Gore, Oklahoma Site), CLI-94-12, 40 NRC 64, 71 (1994) (citing *Duke Power Co. v. Carolina Envtl. Study Group, Inc.*, 438 U.S. 59, 72 (1978) (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962))).

²⁸ *Calvert Cliffs 3 Nuclear Project, LLC, & UniStar Nuclear Operating Services, LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-09-20, 70 NRC 911, 915 (2009) (citations omitted); *Sequoyah Fuels*, CLI-94-12, 40 NRC at 71.

injury in fact that is (2) fairly traceable to the challenged action, and (3) is likely to be redressed by a favorable decision.²⁹ With respect to the second element, the cause of the injury need not flow directly from the challenged action, but the chain of causation must be plausible.³⁰

In making standing determinations, our licensing boards “construe the [intervention] petition in favor of the petitioner.”³¹ Our standard of review of a board’s determination on standing is deferential: we will uphold the decision “absent a ‘clear misapplication of facts or law.’”³² While we generally place “[t]he burden of setting forth a clear and coherent argument for standing”³³ on the petitioner, we do not hold CASE, a *pro se* petitioner, to the same “standards of clarity and precision to which a lawyer might reasonably be expected to adhere.”³⁴

In its intervention petition, CASE argued that FPL’s use of water from the Biscayne and Floridan aquifers threatens the interests of CASE’s members who live, work, and recreate in the

²⁹ *Sequoyah Fuels*, CLI-94-12, 40 NRC at 71-72 (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992) (citations and internal quotations omitted)).

³⁰ *Id.* at 75 (citing *Nat’l Wildlife Fed’n v. Hodel*, 839 F.2d 694, 705 (D.C. Cir. 1992)).

³¹ *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta Georgia), CLI-95-12, 42 NRC 111, 115 (1995).

³² See, e.g., *Crow Butte Resources, Inc.* (North Trend Expansion Project), CLI-09-12, 69 NRC 535, 543 (2009) (quoting *Sequoyah Fuels Corp.* (Gore, Oklahoma Site Decommissioning), CLI-01-2, 53 NRC 9, 14 (2001)); *Gulf States Utilities Co.* (River Bend Station, Unit 1), CLI-94-10, 40 NRC 43, 47-48 (1994) (“In the absence of a clear misapplication of the facts or misunderstanding of law, the Licensing Board’s judgment at the pleading stage that a party has crossed the standing threshold is entitled to substantial deference. We are not inclined to disturb a Licensing Board’s conclusion that the requisite affected interest . . . has been established unless it appears that that conclusion is irrational.”) (internal quotations omitted)).

³³ *Commonwealth Edison Co.* (Zion Nuclear Power Station, Units 1 & 2), CLI-99-4, 49 NRC 185, 194 (1999) (internal quotations omitted).

³⁴ LBP-15-13, 81 NRC at 468 & n.65 (quoting *DTE Electric Co.* (Fermi Nuclear Power Plant, Unit 2), LBP-15-5, 81 NRC 249, 286 (2015) and *Public Service Electric & Gas Co.* (Salem Nuclear Generating Station, Units 1 and 3), ALAB-136, 6 AEC 487, 489 (1973)); see also *Entergy Nuclear Vermont Yankee, LLC* (Vermont Yankee Nuclear Power Station), CLI-10-17, 72 NRC 1, 45 n.246 (2010) (citing *U.S. Enrichment Corp.* (Paducah, KY), CLI-01-23, 54 NRC 267, 272 (2001)).

area and use fresh water for purposes such as agriculture, mining, fishing, and drinking.³⁵

CASE claimed that drawing water from these aquifers exacerbates saltwater intrusion in the region.³⁶ In evaluating CASE's standing claims, the Board found that CASE "alleged a sufficient injury related to the use of freshwater aquifer resources and any resulting potential for increased saltwater intrusion."³⁷ Neither FPL nor the Staff challenges this finding of the Board on appeal.

In addition, to show standing, CASE must demonstrate that the asserted injury is plausibly linked to the challenged action.³⁸ Without the amendments, Turkey Point would have been forced to either shut down or reduce power to maintain a cooling canal system intake-temperature below 100°F, thus potentially eliminating or reducing the need for more extensive aquifer withdrawals.³⁹ FPL and the Staff both argue that CASE failed to connect water withdrawals to the license amendments and that the amendments actually decrease water withdrawals.⁴⁰ But the hearing request observed that since the license amendments were granted, FPL has continued operating and requested State permission to withdraw additional water.⁴¹ Therefore, the Board's conclusion (related to its standing determination) that plant

³⁵ CASE Intervention Petition at 1, 4-5.

³⁶ *Id.* at 4-5, 18-19.

³⁷ LBP-15-13, 81 NRC at 466.

³⁸ *Sequoyah Fuels*, CLI-94-12, 40 NRC at 75.

³⁹ *See* LBP-15-13, 81 NRC at 466.

⁴⁰ FPL Brief at 9; Staff Brief at 18-19.

⁴¹ CASE Intervention Petition at 15-16; *see* LBP-15-13, 81 NRC at 474; FPL Brief at 18 & n.26. The parties also dispute whether to characterize the water in the Biscayne and Floridan aquifers as fresh, salt, or brackish and whether it is potable. *See* LBP-15-13, 81 NRC at 465; FPL Brief at 9 (FPL asserting that the Biscayne Aquifer is not fresh water); FPL Answer at 11-12 (FPL claiming that the Biscayne Aquifer is salt water, the Floridan Aquifer is brackish, and neither is potable); Tr. at 56-57 (Staff asserting that FPL withdraws salt water, not fresh water); Tr. at 32-35 (CASE arguing that FPL uses fresh, but not potable, water from the Biscayne Aquifer); CASE Intervention Petition at 16 (CASE claiming that FPL withdraws fresh water). We agree with the Board that, for purposes of the standing determination here, resolution of these disputes is not

operation with the increased ultimate heat sink temperature limit could result in increased water withdrawals was not a clear error or abuse of discretion.⁴²

Moreover, CASE has claimed, without objection from FPL or the Staff, that its members use water in the Turkey Point area for a variety of purposes.⁴³ FPL concedes that the higher cooling canal system temperatures (resulting from these amendments) could lead to increased salinity levels.⁴⁴ The parties also acknowledge that the cooling canal system consists of unlined, earthen canals—groundwater exchange occurs with the water in the canals; therefore, it is not truly a “closed” system.⁴⁵ As such, we find no error of law or abuse of discretion in the Board’s conclusion that plant operation with increased temperatures in the cooling canals may cause water of higher salinity to interact with the ground water in the area, which could contribute to degradation of area water quality, thereby causing injury to CASE’s members.

Finally, CASE argues that its injury can be redressed because the NRC has the power to shut down, reduce the operation of, or condition the operation of one or both Turkey Point units.⁴⁶ As recognized by FPL and the Staff, without the license amendments, FPL would have

necessary—CASE has articulated a sufficient injury for the reasons described above and in the Board’s decision. See LBP-15-13, 81 NRC at 465-67.

⁴² See LBP-15-13, 81 NRC at 466.

⁴³ CASE Intervention Petition at 2.

⁴⁴ FPL Answer at 22; Tr. at 126-27; see also Environmental Assessment, 79 Fed. Reg. at 44,466-67 (“Temperature increases would also increase [the cooling canal system’s] water evaporation rates and result in higher salinity levels.”).

⁴⁵ Environmental Assessment, 79 Fed. Reg. at 44,466-67; FPL Answer at 3; *Citizens Allied for Safe Energy, Inc.’s Reply to FPL and to NRC Staff Answers to its Petition to Intervene and Request for a Hearing* (Nov. 17, 2014), at 8 (CASE Reply); Tr. at 91-92.

⁴⁶ See CASE Intervention Petition at 4. CASE also seeks remedies that are beyond what the National Environmental Policy Act (NEPA) requires. For example, CASE requests studies and corrective actions to be taken regarding the conditions in the cooling canal system. See CASE Intervention Petition at 9, 19, 22; CASE Reply at 15; *Citizens Allied for Safe Energy Notice of Filing a Brief in Opposition to FPL and NRC Staff Appeals of LBP-15-13* (May 12, 2015), at 15-16 (CASE Answering Brief). However NEPA does not require the NRC to create information

shut down or reduced power operations at the units during periods of hotter weather.⁴⁷ Either of those conditions would be expected to result in less heat discharged to the canals because the plants would be operating less than if the amendments were granted, thus reducing the volume of water that would need to be injected into the canals to mitigate high temperatures.⁴⁸

Therefore, we find reasonable the Board's conclusion that CASE's claimed injury could be redressed.

In sum, we find that the Board did not err when it determined that CASE articulated sufficient detail as to how the proposed action would affect its members. Once the Board made that determination, it would not be appropriate for the Board to weigh the evidence to determine whether the harm to CASE's members is certain.⁴⁹ Viewing the disputed facts in a light favorable to CASE, the Board concluded that CASE asserted a sufficient injury related to the use of aquifer resources and any resulting potential for increased saltwater intrusion that could

that does not currently exist or impose mitigation measures. Rather, NEPA imposes upon the NRC a disclosure obligation—that the NRC publicly discuss its evaluation of the reasonably foreseeable effects of a proposed action. See *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350-53 (1989); *Town of Winthrop v. FAA*, 535 F.3d 1, 11-13 (1st Cir. 2008); *Lee v. U.S. Air Force*, 354 F.3d 1229, 1244 (10th Cir. 2004).

⁴⁷ See Second Hearing Notice, 79 Fed. Reg. at 47,690 (“The licensee requested a timely review of its application to avoid a dual unit shutdown that could affect grid reliability.”).

⁴⁸ FPL notes that it injects water into the canals to reduce salinity levels pursuant to its State-required salinity management plan. FPL Brief at 12-13. But since salinity and temperature are correlated, reducing the heat discharged to the canals might also mitigate salinity levels in the canals. Therefore, operation of the plants as permitted by the license amendments could result in additional injection of water into the canals to meet the salinity targets set forth in FPL's salinity management plan.

⁴⁹ *Strata Energy, Inc.* (Ross In Situ Uranium Recovery Project), CLI-12-12, 75 NRC 603, 613 (2012) (citing *Sequoyah Fuels*, CLI-94-12, 40 NRC at 74) (“[W]e have held that petitioners are not required to demonstrate their asserted injury with ‘certainty’ at this stage of the proceeding.”).

be brought about by the plant's operation with a higher temperature in the canals.⁵⁰ We defer to the Board's judgment on CASE's standing.

B. Contention Admissibility

We defer to a Board's contention admissibility rulings "unless the appeal points to an error of law or abuse of discretion."⁵¹ On appeal, FPL and the Staff argue that the Board erred in admitting Contention 1. We find the question to be a close call, but as discussed below, we defer to the Board and affirm its decision.⁵² We agree with the Board that CASE's petition was not a "model of clarity or organization," but we do not hold CASE, a *pro se* petitioner, to the same standards as parties represented by counsel.⁵³

CASE's intervention petition included four proposed contentions.⁵⁴ Contention 1 related to increases in salinity, temperature, tritium, and chloride in the cooling canal system since the extended power uprate.⁵⁵ Contention 2 challenged the need to issue the license amendments on an exigent basis.⁵⁶ Contention 3 claimed that FPL's mitigating measures to control conditions in the cooling canal system are "extraordinarily invasive, environmentally usurious,

⁵⁰ LBP-15-13, 81 NRC at 466.

⁵¹ *Crow Butte Resources, Inc. (Marsland Expansion Area)*, CLI-14-2, 79 NRC 11, 13-14 (2014); *Crow Butte North Trend*, CLI-09-12, 69 NRC at 543.

⁵² *See, e.g., NextEra Energy Seabrook, LLC (Seabrook Station, Unit 1)*, CLI-12-5, 75 NRC 301, 326-27 (2012) ("Although we consider . . . that support for this contention is weak, because the Board is the appropriate arbiter of such fact-specific questions of contention admissibility, we will not second-guess the Board's evaluation of factual support for the contention, absent an error of law or abuse of discretion.") (citation omitted).

⁵³ LBP-15-13, 81 NRC at 468 & n.65. To be sure, although we afford some leniency to *pro se* petitioners, we caution all parties to bear in mind, as this case goes forward, that we expect parties to our proceedings to fulfill the obligations imposed by our rules. *See, e.g., Statement of Policy on Conduct of Licensing Proceedings*, CLI-81-8, 13 NRC 452, 454 (1981).

⁵⁴ LBP-15-13, 81 NRC at 461.

⁵⁵ CASE Intervention Petition at 5.

⁵⁶ *See id.* at 10.

and some untested.”⁵⁷ Finally, Contention 4 essentially challenged the current design and function of the cooling canal system and questioned whether FPL limited its options due to decisions it made for Turkey Point Units 1 and 2.⁵⁸ The Board admitted a narrowed version of Contention 1, rejected Contention 3 as duplicative, and rejected Contentions 2 and 4 as beyond the scope of the proceeding and immaterial to the NRC’s required findings.⁵⁹

On appeal, FPL and the Staff challenge the admission of Contention 1. As reformulated and admitted by the Board, Contention 1 states:

The NRC’s environmental assessment, in support of its finding of no significant impact related to the 2014 Turkey Point Units 3 and 4 license amendments, does not adequately address the impact of increased temperature and salinity in the [cooling canal system] on saltwater intrusion arising from (1) migration out of the [cooling canal system]; and (2) the withdrawal of fresh water from surrounding aquifers to mitigate conditions within the [cooling canal system].⁶⁰

The Board narrowed the contention to eliminate an area where CASE asserted the omission of information that is, in fact, discussed in the Staff’s Environmental Assessment.⁶¹

FPL and the Staff make a number of similar arguments on appeal regarding standing and contention admissibility. Below we treat similar issues together and discuss FPL’s and the Staff’s major arguments in turn, in the context of the Board’s contention admissibility determination.

⁵⁷ *Id.* at 14.

⁵⁸ *See id.* at 22-23.

⁵⁹ LBP-15-13, 81 NRC at 468.

⁶⁰ *Id.* at 476.

⁶¹ *Id.* at 476, 478 (excluding claims related to the potential environmental impacts associated with the use of copper sulfate and other chemicals in the cooling canals).

1. Contention 1 Must Be Within the Scope of this Proceeding

To satisfy our contention admissibility requirements, CASE must, among other things, demonstrate that the issue raised in its contention is within the scope of the proceeding.⁶² FPL and the Staff argue that the Board abused its discretion by reformulating Contention 1 from a challenge to the 2012 extended power uprate to a challenge to the Environmental Assessment for the instant license amendments.⁶³ In its intervention petition, CASE discussed the extended power uprate and its asserted impacts, but CASE maintains that Contention 1 challenged the instant Environmental Assessment.⁶⁴ And at the prehearing conference, CASE's representative stated: "[O]ur position is, we're not challenging the [uprate]. What we're saying is, you must look at the consequences and what it's causing, what's happening."⁶⁵ CASE and the Board characterized CASE's discussion of the extended power uprate as providing context for the current environmental conditions at Turkey Point.⁶⁶ We understand CASE's concern to be that the extended power uprate caused significant increases in salinity and temperature in the cooling canal system that must now be addressed in the context of baseline conditions

⁶² 10 C.F.R. § 2.309(f)(1)(iii).

⁶³ FPL Brief at 20-22; Staff Brief at 8-9, 11.

⁶⁴ See, e.g., CASE Intervention Petition at 9; Tr. at 120-21 (CASE acknowledging that the notice of hearing related only to the Environmental Assessment for the instant license amendments).

⁶⁵ Tr. at 120-21. Similarly, in response to FPL's assertion that "[t]he EPU licensing actions are simply not at issue here," CASE agreed and explained: "True, CASE is not challenging the licensing per se. But the reason that the NRC posted a request for comments in [the *Federal Register*] . . . is the result of the operation of the units." CASE Reply at 14 (citing FPL Answer at 21).

⁶⁶ See LBP-15-13, 81 NRC at 470-71; CASE Intervention Petition at 9; Tr. at 120-21. To the extent CASE asks us to revisit the extended power uprate, its request is indeed beyond the scope of this license amendment proceeding. CASE may file at any time a request for action pursuant to 10 C.F.R. § 2.206 if it wishes to challenge ongoing operations at Turkey Point.

discussed in the Environmental Assessment for the license amendment at issue here.⁶⁷

Considering CASE's intervention petition and its statements at the prehearing conference, we find that the Board did not err when it construed Contention 1 as a challenge to the *instant* Environmental Assessment and within the scope of the proceeding.⁶⁸

In admitting and revising Contention 1, the Board interpreted CASE's position to be that the Environmental Assessment cannot import the previous environmental analyses without consideration of subsequent developments at the site.⁶⁹ The Board reasoned that "[t]o hold otherwise would render meaningless NEPA's requirement to supplement an [environmental impact statement] or [environmental assessment]."⁷⁰ To be clear, 10 C.F.R. § 51.92(a)(2) does not apply to the question whether the Environmental Assessment adequately describes the current environment; section 51.92(a) applies when considering whether to supplement an environmental analysis for the period between issuance of the final document and before the agency has taken the proposed action. We are not revisiting the issuance of previous environmental analyses for Turkey Point (including the environmental assessment for the extended power uprate); the final agency action was taken three years ago.

⁶⁷ *Cf.* CASE Intervention Petition at 5 (extended power uprate has been concurrent with alarming increases in salinity and temperature in the cooling canal system); *id.* at 6 (Environmental Assessment does not discuss the impacts of salinity in the cooling canal system or saltwater intrusion); *id.* at 23 (extended power uprate was the main cause of problems in the cooling canal system).

⁶⁸ LBP-15-13, 81 NRC at 472.

⁶⁹ *See id.* at 471.

⁷⁰ *Id.* at 471 n.89 (citing 40 C.F.R. § 1502.9(c)(1)(ii); 10 C.F.R. § 51.92 (a)(2); *S. Utah Wilderness All. Corp. v. Norton*, 301 F.3d 1217, 1238 n.19 (10th Cir. 2002), *rev'd on other grounds*, 542 U.S. 55 (2004)).

But CASE argued that conditions in the cooling canal system have changed since the extended power uprate.⁷¹ The Environmental Assessment characterizes the previous environmental analyses as continuing to accurately describe the current environment.⁷² Therefore, we find no error in the Board's interpretation of Contention 1 as challenging the adequacy of the Environmental Assessment's discussion of current and reasonably foreseeable environmental conditions.⁷³

2. Contention 1 Must Include a Brief Explanation of Its Bases

In addition to demonstrating that its contention is within the scope of the proceeding, CASE must also provide a brief explanation of the basis for its contention.⁷⁴ On appeal, the Staff argues that CASE in Contention 1 essentially challenged the 2012 extended power uprate, and as such, the contention's bases all relate to the extended power uprate.⁷⁵ Therefore, according to the Staff, when the Board combined portions of Contentions 1 and 3, it improperly expanded the scope of Contention 1 and added supporting bases to Contention 1 that CASE did not raise.⁷⁶ To support this claim, the Staff argues that CASE cited the Environmental Assessment only once in its stated bases for Contention 1.⁷⁷ But the Staff does not explain why

⁷¹ CASE Intervention Petition at 7, 15-17, & Ex. 4, Letter from Brian Carlstrom, National Park Service, to Blake Guillory, South Florida Water Management District (Aug. 29, 2014), at 2 (National Park Service Letter) (discussing, among other things, increases in salinity from 50 practical salinity units (psu) to 97 psu between 2012 and 2014, increases in cooling canal temperatures between 2012 and 2014, and increases in algae since the extended power uprate).

⁷² Environmental Assessment, 79 Fed. Reg. at 44,465.

⁷³ See LBP-15-13, 81 NRC at 471.

⁷⁴ 10 C.F.R. § 2.309(f)(1)(ii).

⁷⁵ See Staff Brief at 11-12.

⁷⁶ *Id.*

⁷⁷ *Id.* at 9; see Tr. at 51-52 (FPL counsel observing that CASE cites the Environmental Assessment only once).

a single reference is insufficient. CASE argues that the Environmental Assessment does not discuss the negative impacts of increased temperature and salinity in the cooling canal system; for such an argument, multiple citations to the Environmental Assessment are unnecessary. Moreover, as the Board noted, CASE's petition refers to the Environmental Assessment several times, just in different terms.⁷⁸

As discussed above, the Board reasonably interpreted Contention 1 as challenging the instant Environmental Assessment. Under these circumstances, we find no error in the Board's combination of similar issues submitted by CASE in support of two separate contentions. Indeed, we expect our licensing boards to "reformulate contentions to 'eliminate extraneous issues or to consolidate issues for a more efficient proceeding.'" ⁷⁹ We find that the Board did so here. Accordingly, the Staff's argument that the Board improperly combined the bases of Contention 1 and Contention 3 is without merit.⁸⁰

For its part, FPL argues that the Board improperly supplied a basis for Contention 1 by hypothesizing that increased cooling canal system temperature causes saltwater intrusion when CASE did not expressly link saltwater intrusion to increased temperature.⁸¹ Based on CASE's unopposed assertions that water migrates out of the canals, coupled with its reference to the National Park Service's concerns related to the proposed withdrawals' impacts on Biscayne National Park, we find the Board did not supply its own basis for the contention but reasonably

⁷⁸ LBP-15-13, 81 NRC at 472.

⁷⁹ See *Crow Butte North Trend*, CLI-09-12, 69 NRC at 552-53 (quoting *Shaw AREVA MOX Services (Mixed Oxide Fuel Fabrication Facility)*, LBP-08-11, 67 NRC 460, 482 (2008) (emphasis omitted)).

⁸⁰ See Staff Brief at 12.

⁸¹ FPL Brief at 21-23.

reformulated it to clarify the issue for hearing.⁸² Moreover, CASE contends (as the Board captured in the reformulated contention) that the Environmental Assessment fails to address the impacts of increased temperature *and salinity*. The parties acknowledge that the cooling canal system contains hypersaline water and neither the Staff nor FPL challenges the assertion that water migrating out of the canals can exacerbate saltwater intrusion.⁸³ Further, neither FPL nor the Staff contests the assertion that the license amendments would result in higher temperatures *and salinity* levels in the canals (at least during certain times in the summer).⁸⁴ Therefore, we find no error or abuse of discretion in the Board's reformulation of Contention 1.

3. Contention 1 Must Demonstrate that the Issue Raised Is Material to the Findings the NRC Must Make to Support the Action Involved in the Proceeding

CASE must also show that its contention is material to the findings the NRC must make to support the issuance of the license amendments.⁸⁵ On appeal, FPL argues that the Board erred because CASE has not demonstrated that the claimed inadequacies in the

⁸² FPL acknowledges that it may be reasonable to assume that water could migrate out of the cooling canal system and significantly impact surrounding ground and surface water since the canals are unlined and exchange water with the surrounding aquifer, but it argues that CASE did not make such a claim in its intervention petition. FPL Brief at 23. But, in its conclusions regarding Contention 1, CASE states "Let the science and not economics determine the cause and the solution to the salinity, algae bloom, tritium and chloride problems to stop the dangerous withdrawals of water from the aquifer, *the migrations of canal water in the area* and the use of chemicals harmful to wildlife." CASE Intervention Petition at 9 (emphasis added). Further, in support of Contention 3, CASE argued that "the [cooling canal system] is unlined, just dirt. There is nothing to stop [toxins leaching out of the canals and into the aquifer]." CASE Intervention Petition at 14-15. CASE also cites statements from the Superintendent of Biscayne National Park to support its claim that reduction in fresh water due to aquifer withdrawal exacerbates saltwater intrusion. CASE Intervention Petition at 16-17 & Ex. 4, National Park Service Letter.

⁸³ See FPL Answer at 4; FPL Brief at 4, 12, 23; Staff Brief at 19; Tr. at 28-30.

⁸⁴ See FPL Answer at 22 (noting that the higher temperature limit could temporarily result in higher salinity levels); Tr. at 126-27 (FPL counsel stating that the potential increased salinity levels due to the increased temperature limit would only be temporary); see *also* Environmental Assessment, 79 Fed. Reg. at 44,466-67.

⁸⁵ 10 C.F.R. § 2.309(f)(1)(iv).

Environmental Assessment are material to the findings the NRC must make.⁸⁶ Specifically, FPL claims that “there is no suggestion that this potential temporary increase in [cooling canal system] salinity attributable to the amendment[s] would . . . potentially lead to the abandonment of the NRC’s finding of no significant impact.”⁸⁷ But CASE asserts that the impacts of saltwater intrusion would be significant—thereby implicitly challenging the Staff’s Finding of No Significant Impact with respect to the license amendments.⁸⁸ Moreover, the Board found that CASE raised a material issue related to the Staff’s “NEPA obligation to undertake a full evaluation of the environmental impacts associated with a proposed federal action.”⁸⁹ Based upon our review of the record, we find no error of law or abuse of discretion in the Board’s finding the contention satisfied the materiality prong of our contention admissibility standards.

4. *Contention 1 Must Provide Sufficient Information to Show that a Genuine Dispute Exists on a Material Issue of Law or Fact*

Finally, CASE must provide sufficient information to show that a genuine dispute exists with the Environmental Assessment on a material issue of law or fact.⁹⁰ As originally presented, Contention 1 challenged the Environmental Assessment’s asserted failure to discuss the impacts of salinity in the cooling canal system or saltwater intrusion into the aquifers.⁹¹ As

⁸⁶ FPL Brief at 26-29. The Staff argues that CASE’s claimed omission is not material because the discussion in the Environmental Assessment of beneficial environmental impacts demonstrates that the topic was not, in fact, omitted. Staff Brief at 14.

⁸⁷ FPL Brief at 27.

⁸⁸ See, e.g., CASE Intervention Petition at 9 (“the data show[] that major changes occurred in the canals and in the surrounding area” between 2012 and 2014); *id.* (advocating the termination of “dangerous withdrawals of water from the aquifer”); *id.* at 18-19 (“[S]alt water intrusion is a major threat to the viability of the Floridan Aquifer. . . . [U]sing large amounts of water from the Floridan aquifer for power generation puts the water supply at risk.”).

⁸⁹ LBP-15-13, 81 NRC at 472.

⁹⁰ 10 C.F.R. § 2.309(f)(1)(vi).

⁹¹ CASE Intervention Petition at 6; Tr. at 101-03.

admitted, Contention 1 disputes the adequacy of the Environmental Assessment's discussion of environmental impacts related to the saltwater intrusion issue only.⁹² On appeal, FPL argues that CASE did not address the Staff's conclusions in the Environmental Assessment that there would be no impact on waters other than the cooling canal system and no impact on groundwater resources.⁹³ Similarly, the Staff argues that the Environmental Assessment addressed saltwater intrusion into the aquifers.⁹⁴ The Board acknowledged that the Environmental Assessment mentioned these issues, but it treated the contention as disputing the adequacy of the Environmental Assessment rather than claiming a complete omission of the discussion.⁹⁵

The Staff also argues that the Board erred in not acknowledging that the NRC has already found the environmental impact of groundwater quality degradation resulting from water withdrawals to be small in the Turkey Point License Renewal supplemental EIS.⁹⁶ The

⁹² LBP-15-13, 81 NRC at 475-76.

⁹³ FPL Brief at 24-26.

⁹⁴ Staff Brief at 9-11.

⁹⁵ The Board observed that the Environmental Assessment considered the addition of water into the cooling canal system to have either beneficial effects or no significant impact because the cooling canal system is a man-made closed-cycle cooling system. LBP-15-13, 81 NRC at 474 (citation omitted); Tr. at 56 (Counsel for the Staff confirming Judge Kennedy's statement that the Environmental Assessment "credited the aquifer withdrawals as a positive impact on the cooling canal and having no negative impact on groundwater or surficial water resources."). The Board did not err in treating Contention 1 as a challenge to the adequacy of the Environmental Assessment's discussion of impacts rather than a true contention of omission. Contentions of omission are appropriate when an issue that by law should be discussed is not, whereas contentions of adequacy are those that assert the existing discussion of an issue is incomplete. See *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-02-28, 56 NRC 373, 382-83 (2002).

⁹⁶ Staff Brief at 12-13 (citing Turkey Point License Renewal SEIS at 4-31 (citations omitted)). The Environmental Assessment referenced the Turkey Point License Renewal SEIS and noted that the license amendments would not result in any impacts beyond those characterized in that SEIS or the Environmental Assessment associated with the 2012 extended power uprate. 79 Fed. Reg. at 44,466. The Staff also notes that the Commission reexamined saltwater intrusion in its recently updated generic environmental impact statement and rule associated

Environmental Assessment also references other previous environmental reviews of Turkey Point, including the Atomic Energy Commission's July 1972 Final Environmental Statement (prepared at the operating license stage) and the NRC's 2012 Environmental Assessment for the extended power uprate, and concludes that those descriptions "continue to accurately depict the Turkey Point site and environs."⁹⁷ The Staff argues that neither the Board nor CASE explained why these existing analyses must be revisited in this Environmental Assessment.⁹⁸

We agree with the Staff that the prior environmental analyses are not appropriately revisited in the context of this licensing action. But CASE argues that environmental conditions have changed since the extended power uprate and that the instant license amendments will cause environmental harm to the plant environs. In this vein, CASE has presented evidence—sufficient for purposes of contention admissibility—of changes in recent environmental conditions that it contends were not considered in the Environmental Assessment or the prior environmental analyses upon which it relies.⁹⁹ The Board therefore did not abuse its discretion in interpreting CASE's claims to include a challenge to the adequacy of the Environmental Assessment's discussion of the current description of the environment.

One recent change in environmental conditions relates to FPL's use of water from a canal close to Turkey Point's cooling canal system, the L-31 E canal.¹⁰⁰ As the Board noted, the

with power plant license renewal and found the impact to be small. Staff Brief at 13 (citing Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 78 Fed. Reg. 37,282, 37,300-01 (June 20, 2013)).

⁹⁷ Environmental Assessment, 79 Fed. Reg. at 44,465.

⁹⁸ Staff Brief at 13-14 (citing *N.J. Dep't of Env'tl. Prot. v. NRC*, 561 F.3d 132, 136 (3d Cir. 2009)).

⁹⁹ CASE Intervention Petition at 7, 16-17, & Ex. 4, National Park Service Letter. Some of these changed conditions, CASE argues, prompted FPL to request the license amendments in the first instance. *Id.* at 7-9.

¹⁰⁰ The L-31 E canal lies less than one-quarter mile (0.4 km) to the west of the cooling canal system. Turkey Point License Renewal SEIS at 4-49. "The L-31 E canal is a borrow canal and levee system that stretches north-south both intercepting water as it flows eastward to tide and

Environmental Assessment did not consider FPL's temporary authorization to withdraw up to 100 million gallons per day from the L-31 E canal or FPL's request for permanent authorization to draw that amount from the L-31 E canal to mitigate temperature and salinity levels in the cooling canal system.¹⁰¹ We agree that CASE has asserted a genuine dispute that additional water withdrawals are likely, and that these withdrawals might result in environmental impacts that were not considered in the Environmental Assessment. CASE supported this position by citing a letter from the Superintendent of Biscayne National Park expressing concern that the temporary withdrawals from the L-31 E canal will "*negatively affect the [Biscayne National] Park in the short term*, and set a precedent for future freshwater requests."¹⁰² The Board "is the appropriate arbiter of such fact-specific questions of contention admissibility," and we defer to the Board's decision,¹⁰³ particularly in view of the letter discussed above, whose provenance is a federal agency with expertise on the matter.

providing storm surge protection." FPL Answer, Ex. 1, August 2014 Emergency Final Order at 3-4. The canal is part of a canal network and coastal levee system that (among other things) reduces the potential for flood and storm surge damage and limits saltwater intrusion. *Id.* at 4. Water from the canal "is discharged to Biscayne Bay at several coastal structures." *Id.* CASE asserts that the canal contains fresh water. CASE Answering Brief at 9.

¹⁰¹ The Environmental Assessment addressed the withdrawals known or expected at the time of publication; these temporary withdrawals were approved shortly thereafter—August 28, 2014. LBP-15-13, 81 NRC at 474 & n.110 (citing Environmental Assessment, 79 Fed. Reg. at 44,468). FPL requested that the State permanently authorize this withdrawal on February 18, 2015. *Id.* at 474 (citing Jenny Staletovich, *Florida Power & Light Spars with National Park Over Water Needs for Nuclear Plant*, MIAMI HERALD, Feb. 19, 2015, <http://www.miamiherald.com/news/local/environment/article10655732.html>.); *see also* LBP-15-13, 81 NRC at 474 & n.114 (citing 10 C.F.R. § 2.340(a)(2)(ii)) (where the Staff takes action pursuant to a determination of no significant hazards consideration and issues a license amendment prior to a presiding officer's initial decision, the Staff will thereafter take appropriate action (if necessary) in accordance with the presiding officer's decision).

¹⁰² CASE Intervention Petition at 16-17 & Ex. 4, National Park Service Letter at 2 (emphasis added).

¹⁰³ *FirstEnergy Nuclear Operating Co.* (Davis-Besse Nuclear Power Station, Unit 1), CLI-12-8, 75 NRC 393, 409 (2012).

FPL and the Staff further argue that the Board abused its discretion when it speculated that additional aquifer withdrawals would be needed if the license amendments were granted.¹⁰⁴ FPL and the Staff emphasized that the withdrawals were authorized by the State of Florida, not the NRC.¹⁰⁵ They also claim that there is no reasonably close causal relationship between the license amendments and the actions taken by FPL in response to the State's requirements to maintain certain salinity levels in the cooling canal system.¹⁰⁶

While we agree with FPL and the Staff that the NRC has no regulatory authority over FPL's withdrawals from local aquifers, we find that the Board did not err when it found that there is a reasonably close causal relationship between the NRC's authorization to allow an increase in the ultimate heat sink temperature and the volume of water withdrawn by FPL pursuant to State processes to support admission of the contention in this matter. With the approval of the license amendments, rather than shutting down and thereby ceasing their contribution to increases in water temperature, Turkey Point Units 3 and 4 may continue at full power. Full-power operation in turn will increase the temperature and salinity in the canals during periods of warmer weather, thereby making it possible that FPL will withdraw additional water to inject into the cooling canal system to maintain the salinity of the system at the desired levels.¹⁰⁷ Therefore, we find no error in the Board's determination that CASE has raised a genuine

¹⁰⁴ FPL Brief at 11-14; Staff Brief at 15. FPL made this argument in the context of standing, whereas the Staff framed it as a NEPA issue.

¹⁰⁵ FPL Brief at 11-13; Staff Brief at 15.

¹⁰⁶ FPL Brief at 10-11; Staff Brief at 15.

¹⁰⁷ See, e.g., FPL Answer, Ex. 1, August 2014 Emergency Final Order at 8, 9 (identifying elevated salinity as a factor contributing to higher than usual temperatures in the cooling canal system and discussing relationship between algae bloom, temperature, and salinity); Extended Power Uprate Environmental Assessment, 77 Fed. Reg. at 20,062; FPL Answer at 3-4 (noting that the State, in approving the extended power uprate, required FPL to have an "ongoing program" to monitor the temperature and salinity in the cooling canal system to help prevent saltwater intrusion).

dispute with the Environmental Assessment—the adequacy of the impacts discussion in this area.

In a similar vein, the Staff argues that the energy output of the reactors remains the same with the license amendments and thus no reasonably close causal relationship exists between the license amendment request and the aquifer withdrawals.¹⁰⁸ Because Contention 1 challenges whether the Environmental Assessment adequately describes the existing environmental conditions and reasonably foreseeable environmental impacts, at the contention admissibility stage, we need not determine precisely how the change in allowable cooling canal system temperatures might affect the volume of future withdrawals. It is sufficient, at this stage, that the license amendments allow Turkey Point Units 3 and 4 to operate during conditions where the licensee previously might have had to shut down or reduce power.

In sum, the Board did not abuse its discretion when it admitted for hearing the issue whether the Environmental Assessment contains a sufficient discussion of the current baseline environmental conditions and the reasonably foreseeable environmental impacts of increased temperature and salinity in the cooling canal system on saltwater intrusion arising from migration out of the system and the withdrawal of fresh water from surrounding aquifers to mitigate conditions within the system, and, with respect to this issue, the “reasons why the proposed action will not have a significant effect on the quality of the human environment.”¹⁰⁹ We find no error in the Board’s holding that CASE has articulated a genuine dispute with regard to the Environmental Assessment on this question.¹¹⁰

¹⁰⁸ Staff Brief at 17.

¹⁰⁹ LBP-15-13, 81 NRC at 471 (citing 10 C.F.R. § 51.32(a)(3)).

¹¹⁰ The Staff notes that the Board itself raised a challenge as to whether the Staff consulted the correct state official when preparing its Environmental Assessment. Staff Brief at 14 n.70 (citing LBP-15-13, 81 NRC at 475; Tr. at 195-206). To avoid any confusion going forward, we agree that this issue was not raised by CASE and is not properly encompassed within Contention 1 as admitted. Thus, the Staff’s selection of an official for consultation purposes is not within the

III. CONCLUSION

For the reasons set forth above, we *affirm* the Board's decision in LBP-15-13, in which the Board held that CASE has demonstrated standing to intervene in this proceeding and admitted Contention 1, as limited.

IT IS SO ORDERED.

For the Commission

NRC SEAL

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 17th day of December, 2015.

scope of the proceeding, and the Board overstepped its authority in this instance by inserting this issue into CASE's filing.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
FLORIDA POWER & LIGHT COMPANY) Docket Nos. 50-250 and 50-251-LA
)
)
(Turkey Point Nuclear Generating)
Units 3 & 4)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **COMMISSION MEMORANDUM AND ORDER CLI-15-25** have been served upon the following persons by Electronic Information Exchange.

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Turkey Point, Units 3 & 4, Docket Nos. 50-250 and 50-251-LA
COMMISSION MEMORANDUM AND ORDER CLI-15-25

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Dated at Rockville, Maryland,
this 17th day of December, 2015