

August 24, 2017

Ingrid Gilbert, Chief, Miami Permits Section
US Army Corps of Engineers
9900 SW 107th Avenue, Suite 203
Miami, FL 33716

Dear Ms. Gilbert:

This letter confirms commitments agreed upon between the U.S. Nuclear Regulatory Commission (NRC) and the Army Corps of Engineers, Miami Field Office (USACE or Corps) regarding the Biological Opinion (BO) issued by the U.S. Fish and Wildlife Service (FWS), South Florida Ecological Services Office, Vero Beach on the Florida Power & Light Company (FPL) combined license (COL) application for Turkey Point Units 6 and 7. The NRC and USACE are cooperating agencies on the proposed project near Homestead, Florida. By letter dated September 28, 2016, the NRC initiated formal consultation with FWS under Section 7 of the Endangered Species Act (ESA). FWS presented its conclusions regarding the proposed project in a BO issued on June 28, 2017, which concluded that the proposed project would not likely put any species in jeopardy. Concurrent with the BO, FWS issued an incidental take statement establishing limits of take not expected to put any species in jeopardy of extinction.

If the proposed COLs are issued, the NRC plans to incorporate the non-discretionary terms and conditions of the incidental take statement into license conditions established in its non-radiological environmental protection plan (Enclosure 1). However, the NRC notes that there are twelve non-discretionary term and condition mitigation measures that will not be incorporated into the NRC COLs, but that we understand will be included in the Corps' Department of the Army (DA) permit. As outlined in an email between Alicia Williamson, NRC Environmental Project Manager and Megan Clouser, USACE, Project Manager, dated July 6, 2017, the Corps committed to include these conditions as part of any DA permit granted to FPL (see Agencywide Documents Access and Management System [ADAMS] Accession No. ML17213A355). The FWS agreed via telephone on June 29, 2017 that this approach is satisfactory (ADAMS Accession No. ML17215A469). Enclosure 2 provides a list of the mitigation measures taken from the BO that NRC will not include as conditions to its combined license but that the Corps has agreed to include as license conditions in its DA permit.

I. Gilbert

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The NRC appreciates the USACE's continued support and commitment for this project since the beginning of the environmental review process. If you have any questions or require additional information, please contact Ms. Alicia Williamson, Environmental Project Manager, at (301) 415-1878 or via e-mail to Alicia.Williamson@nrc.gov.

Sincerely,

/RA/

Francis M. Akstulewicz, Director
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-040
52-041

Enclosures:
As stated

LETTER TO US Army Corps of Engineers SUBJECT: BIOLOGICAL OPINION FROM US FWS
 PREPARED IN SUPPORT OF THE ENVIRONMENTAL REVIEW OF THE FLORIDA POWER &
 LIGHT COMPANY DATED AUGUST 24, 2017

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ADAMS Accession No: ML17201Q242

NRO-002

OFFICE	NRO/DNRL/EPB	NRO/DNRL/	NRO/DNRL/B	OGC	NRO/DNRL/D	NRO/DNRL/D
E	:PM	LB4:LA	C		D	
NAME	AWilliamson	RButler	JDixon-Herrity	MWright	ABradford	FAkstulewicz
DATE	7/ 23 /17	7/24/17	8/ /17	8/ 3 /17	8/ /17	8/ /17

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APPENDIX B
TURKEY POINT UNITS 6 & 7
ENVIRONMENTAL PROTECTION PLAN
(NONRADIOLOGICAL)

1.0 Objectives of the Environmental Protection Plan

The Environmental Protection Plan (EPP) objectives are to ensure compliance with Biological Opinions issued pursuant to the Endangered Species Act of 1973, as amended (ESA), and to ensure that the U.S. Nuclear Regulatory Commission (NRC) is kept informed of other environmental matters. The EPP is intended to be consistent with Federal, State, and local requirements for environmental protection.

2.0 Environmental Protection Issues

In the Final Environmental Impact Statement (FEIS) dated October 2016 the staff considered the environmental impacts associated with the construction and operation of Turkey Point Units 6 & 7. This EPP applies to Florida Power & Light (FPL, the licensee) actions affecting the environmental resources evaluated in the FEIS and FPL's actions that may affect any newly discovered environmental resources.

2.1 Aquatic Resources Issues

Federal agencies other than the NRC, such as the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers, have jurisdiction to regulate aquatic resources under the Federal Water Pollution Control Act (Clean Water Act or CWA) and the Rivers and Harbors Appropriation Act of 1899 (RHA). Certain water quality environmental considerations identified in the FEIS, including effluent limitations, monitoring requirements, and wetland and aquatic resource mitigation measures, are regulated under FPL's CWA permits, such as National Pollutant Discharge Elimination System and Section 404 permits, and RHA Section 10 permit. Nothing within this EPP shall be construed to place additional requirements on the regulation of aquatic resources except the imposition of the requirements in a Biological Opinion under the ESA (see Section 2.3). FPL is required to inform the NRC of events or situations concerning aquatic resources consistent with the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.72(b)(2)(xi), and this EPP does not expand any reporting requirement required by that regulation.

2.2 Terrestrial Resources Issues

Several statutes govern the regulation of terrestrial resources. For example, the U.S. Fish and Wildlife Service (FWS) regulates matters involving migratory birds and their nests in accordance with the Migratory Bird Treaty Act (MBTA). Activities affecting migratory birds or their nests may require permits under the MBTA. The FWS also regulates matters involving the protection and taking of bald and golden eagles in accordance with the Bald and Golden Eagle Protection Act. FPL shall inform NRC of any events or situations concerning terrestrial resources consistent with the provisions of 10 CFR 50.72(b)(2)(xi), and this EPP does not expand any reporting requirement required by that regulation.

2.3 Endangered Species Act of 1973

The NRC may be required to protect some aquatic resources and terrestrial resources in accordance with the ESA. In accordance with ESA Section 7, FPL shall comply with the following conditions to implement the terms and conditions set forth in the Incidental Take Statement of the Biological Opinion issued by the FWS on June 23, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17177A673):

- A. No earlier than one year before commencing land clearing and construction activities for the plant and associated facilities in areas potentially containing one or more of the following species, FPL shall conduct surveys to determine whether the following species are present:

- Florida bonneted bat
- Piping plover
- Bartram's scrub-hairstreak butterfly
- Florida leafwing butterfly
- Miami tiger beetle

FPL shall provide the survey results in a report to the FWS Vero Beach Field Office and the NRC. If any individuals are found by these surveys, the licensee shall coordinate with the FWS to avoid or minimize any "take" of these species.

- B. No earlier than one year before commencing land clearing and construction activities for the plant and associated facilities in areas potentially containing one or more of the following species, FPL shall conduct surveys to determine whether the following species are present:

- Beach jaquemontia
- Carter's small-flowered flax
- Crenulate lead plant
- Deltoid spurge
- Florida Brickell-bush
- Gerber's spurge
- Small's milkpea
- Tiny polygala

FPL shall provide the survey results in a report to the FWS Vero Beach Field Office and NRC. If any occurrences of these species are found by these surveys, the licensee shall coordinate with the FWS to avoid or minimize any "take" of these species.

- C. Before and for each day throughout the period of active land clearing, site preparation, and muck placement work, the licensee shall conduct pedestrian surveys for the American crocodile and eastern indigo snake in potentially suitable habitats undergoing disturbance. If any crocodiles are found, the licensee shall cease work in the affected area until the individuals have left or been relocated. If any eastern indigo snakes are found, the licensee shall cease work until the individuals have left areas where they might be killed or injured by project work.

- D. Prior to land-clearing to build the west transmission lines, the licensee shall conduct an aerial survey for the wood stork during the nesting season to determine if active wood stork nesting colonies occur within 0.5 mi (0.8 km) of the west transmission line route.
- E. After land-clearing but prior to commencing construction on the west transmission lines, the licensee shall conduct flight surveys for the wood stork during the nesting season.
- F. During the first nesting season following completion of construction of the west transmission lines, the licensee shall monitor for injured or dead wood storks along the section of the west transmission line that occurs near the known wood stork nesting colonies. Monitoring methods shall be developed in conjunction with the FWS, Florida Fish and Wildlife Conservation Commission, and South Florida Water Management District.
- G. Following commencement of construction and throughout the period of construction, the licensee shall submit to the FWS Vero Beach Field Office an annual report describing:
 - 1) Any observations within the project area of injured or dead individuals of the following species: American crocodile, eastern indigo snake, Everglade snail kite, Florida panther, red knot, and wood stork.
 - 2) The acreage of each habitat type cleared, using habitat names used in the FEIS.
- H. Upon locating a dead, injured, or sick threatened or endangered species, the licensee shall immediately notify the FWS Law Enforcement Office at 20501 Independence Boulevard, Groveland, Florida 34736-8573; Phone 352-429-1064 and the Florida Fish and Wildlife Conservation Commission, South Region, 3900 Drane Field Road, Lakeland, Florida, 33811-1299; Phone 800-282-8002. The licensee shall follow the instruction of the FWS Law Enforcement Office regarding the care, disposition, and/or preservation of any such individuals.

If any Federally listed species or critical habitat occurs in an area affected by construction or operation of the plant that was not previously identified as occurring in such areas, including species and critical habitat that were not previously Federally listed, FPL shall inform the NRC within four hours of discovery. The time of discovery is identified as the specific time when a decision is made to notify another agency or to issue a press release. Similarly, FPL shall inform the NRC within four hours of discovery of any take, as defined in the ESA, of a Federally listed species or destruction or adverse modification of critical habitat. The four-hour discovery notification shall be made to the NRC Operations Center via the Emergency Notification System. FPL shall provide any necessary information to the NRC if the NRC initiates or reinitiates consultation under the ESA.

Unusual Event - FPL shall inform the NRC of any onsite mortality, injury, or unusual occurrence of any species protected by the ESA within four hours of discovery, followed by a written report in accordance with Section 4.1. The time of discovery is identified as the specific time when a decision is made to notify another agency or to issue a press release. Such incidents shall be reported regardless of FPL's assessment of causal relation to plant construction or operation.

3.0 Consistency Requirements

FPL shall notify the NRC of proposed changes to permits or certifications concerning aquatic or terrestrial resources by providing the NRC with a copy of the proposed change(s) at the same time it is submitted to the permitting agency.

FPL shall provide the NRC with a copy of the application for renewal of permits or certifications at the same time the application is submitted to the permitting agency.

Changes to or renewals of such permits or certifications shall be reported to the NRC within 30 days following the later of the date the change or renewal is approved or the date the change becomes effective. If a permit or certification, in part or in its entirety, is appealed and stayed, the NRC shall be notified within 30 days following the date the stay is granted.

4.0 Administrative Procedures

4.1 Plant Reporting Requirements: Non-routine Reports

A written report shall be submitted to the NRC within 30 days of occurrence of any unusual event described in Section 2.3 of this EPP. The report shall:

- (a) describe, analyze, and evaluate the event, including extent and magnitude of the impact and plant operating characteristics at the time of the event,
- (b) describe the probable cause of the event,
- (c) indicate the action taken to correct the reported event,
- (d) indicate the corrective action taken to preclude repetition of the event and to prevent similar occurrences involving similar components or systems, and
- (e) indicate the agencies notified and their preliminary responses.

Events reportable under this subsection, which also require reports to other Federal, state, or local agencies, shall be reported in accordance with those reporting requirements in lieu of the requirements of this subsection. The NRC shall be provided a copy of such report at the same time it is submitted to the other agency.

4.2 Review and Audit

FPL shall provide for review and audit of compliance with Section 2.3 of this EPP. The audits shall be conducted independently of the individual or groups responsible for performing the specific activity. A description of the organizational structure utilized to achieve the independent review and audit function and results of the audit activities shall be maintained and made available for inspection.

4.3 Records Retention

Records required by this EPP shall be made and retained in a manner convenient for review and inspection. These records shall be made available to the NRC on request. The records, data, and logs relating to this EPP shall be retained for five years or, where applicable, in accordance with the requirements of other agencies.

4.4 Changes in Environmental Protection Plan
A request for a change in the EPP shall include an assessment of the environmental impact of the proposed change and a supporting justification. Implementation of such changes in the

EPP shall not commence prior to NRC approval of the proposed changes in the form of a license amendment incorporating the appropriate revision to the EPP.

FPL shall request a license amendment to incorporate the requirements of any Terms and Conditions set forth in the Incidental Take Statement of applicable Biological Opinions issued subsequent to the effective date of this EPP.

List of Mitigation Measures from
U.S. Fish and Wildlife Service Biological
Opinion to be Covered by the U.S. Army Corps of Engineers DA Permit for Proposed
Turkey Point Units 6 and 7

FPL shall implement the following Minimization and Conservation Measures as described in detail on Pages 8 through 13 of the BO:

- 1) Install wildlife fencing and underpasses of the composition specified, and at the locations specified, on Pages 8 and 9 of the BO.
- 2) Implement a site worker education program on threatened and endangered species as described on Page 9 of the BO.
- 3) Implement the measures indicated on BO Pages 9 and 10 for protection of sea turtles, manatees, and benthic marine resources; including those in the Florida Fish and Wildlife (FWS) Conservation Commission's *Standard Manatee Construction Conditions for In-Water Work*.
- 4) Implement the FWS *Eastern Indigo Snake Protection Measures* on Page 9 of the BO.
- 5) Establish a speed limit of 25 miles per hour for vehicles transporting muck to the muck storage sites as stated on Page 10 of the BO.
- 6) Implement the FPL Avian Protection Plan provided as Appendix A to the BO.
- 7) Implement the wetland mitigation measures indicated on Page 10 of the BO.
- 8) Perform shorebird, wood stork, and sea grass surveys as outlined on Page 11 of the BO, and report those surveys to the FWS Vero Beach Field Office.
- 9) Restore construction access roadways to their baseline condition, as outlined on Page 12 of the BO.
- 10) Reserve or acquire 2,154 Panther Habitat Units from the Panther Island Mitigation Bank, to the acceptance of the FWS Vero Beach Field Office as stated on Page 12 of the BO.
- 11) Acquire enough wetland credits from the Hole-in-the-Donut Mitigation Bank to provide 71.3 lb. of wood stork forage biomass from short hydroperiod wetlands and 1347.3 lb. from long hydroperiod wetlands as described on Page 12 of the BO.
- 12) Relocate any individuals of Federally-listed threatened or endangered plant species that cannot be avoided when building the proposed transmission line through the Kings Highway Pine Rockland to a new location acceptable to the FWS Vero Beach Field Office as stated on Page 13 of the BO.