



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
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St. Petersburg, Florida 33701-5505
<https://www.fisheries.noaa.gov/region/southeast>

F/SER31:AL
SERO-2019-00302

Ms. Briana A. Grange
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Ms. Grange:

This letter responds to your April 17, 2019, request to reinstate Endangered Species Act (ESA) Section 7 consultation between the National Marine Fisheries Service (NMFS) and the Nuclear Regulatory Commission (NRC) on our March 24, 2016, Biological Opinion (BO) for the continued operation of the St. Lucie Nuclear Power Plant (Units 1 and 2), located in St. Lucie County, Florida. The NRC requested reinstatement of formal consultation due to the licensee, Florida Power and Light (FPL), exceeding the annual take limits authorized in the 2016 BO for smalltooth sawfish (annual nonlethal capture limit exceeded in 2017), green sea turtles (annual causal mortality limit exceeded in 2018), and Kemp's ridley sea turtles (annual nonlethal capture limit exceeded in 2018).

We believe that, had the NRC fully implemented the Reasonable and Prudent Measures (RPMs) and the Terms and Conditions (T&Cs) included in the 2016 BO, then FPL likely would not have exceeded the authorized take limits in the Incidental Take Statement (ITS). In particular, we note that RPM 1 and its implementing T&C¹ have only been partially met. FPL completed and tested one excluder device design; however, testing was suspended on February 20, 2017, when a test subject, which was a loggerhead sea turtle, became lodged in the test panel and was unable to extricate itself. The turtle was removed unharmed by the test staff, and no further testing has occurred.

Subsequently, FPL developed an alternative conceptual design for an excluder device and that design was presented to NMFS for review and comment. After soliciting comments from three of our sea turtle experts, NMFS sent a statement to the NRC and FPL on April 24, 2018. The statement summarized the experts' comments and recommended that FPL move forward with the new conceptual design. However, NMFS is not aware of any further action that has been taken by FPL or NRC to test the alternative conceptual design.

Conclusion

NMFS concludes that the 2016 BO and its ITS do not currently require revision or amendment. The baseline, effects, jeopardy analyses, and take statement, including RPMs and the

¹ RPM 1 and its implementing T&C 1 state, in part, that the NRC must ensure FPL designs, tests, constructs, and implements excluder devices for the intake pipe velocity caps at the St. Lucie Nuclear Power Plant.



implementing T&Cs, are still proper, functional, and adequate. The NRC should fully implement the RPMs and T&Cs in the 2016 BO to ensure that no jeopardy will occur to any of the species considered therein.

This concludes the reinitiation of ESA Section 7 consultation between NMFS and the NRC. Thank you for your continued cooperation in the conservation of listed species and designated critical habitat. If you have any questions, please contact the Consultation Biologist, Audra Livergood, at (786) 351-2225 or by e-mail at Audra.Livergood@noaa.gov.

Sincerely,

Roy E. Crabtree, Ph.D.
Regional Administrator

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