

From: [Grange, Briana](#)
To: ["Audra Livergood - NOAA Federal"](#)
Cc: [Jennifer Moore](#); [Elliott, Robert](#); [Eldridge, Jodie](#); [Eaton, Kristin](#)
Subject: RE: St. Lucie, Request for Additional Information
Date: Wednesday, December 18, 2019 1:00:00 PM
Attachments: [NRC Response to NMFS 12-13-19 Request for Additional Information.pdf](#)

Audra,

With this email, I am transmitting to you the NRC's response to your December 13, 2019, request for additional information concerning the NRC's request to reinstate Endangered Species Act Section 7 consultation for the St. Lucie Plant, Unit Nos. 1 and 2.

Please note that the NRC's response also addresses the NMFS's position, as stated in your email, that Activities 2 and 4 of the proposed action are already required under the current biological opinion. The NRC disagrees. The biological opinion does not require FPL to perform Activity 2 or to perform all aspects of Activity 4. These additional activities are new and differ from the activities of the previous consultation's action. Please see the section titled, "Activities Under the Proposed Action," in the attached response for a detailed explanation of the differences between the current biological opinion's requirements and the new activities being proposed as part of this consultation.

Thank you,

Briana

[Briana A. Grange](#)

Conservation Biologist & ESA Consultation Coordinator

Division of Rulemaking, Environmental, and Financial Support
Office of Nuclear Material Safety and Safeguards
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From: Audra Livergood - NOAA Federal <audra.livergood@noaa.gov>
Sent: Friday, December 13, 2019 11:02 AM
To: Grange, Briana <Briana.Grange@nrc.gov>
Cc: Jennifer Moore <Jennifer.Moore@noaa.gov>
Subject: [External_Sender] St. Lucie, Request for Additional Information

Dear Briana,

The National Marine Fisheries Service (NMFS) has reviewed the Nuclear Regulatory Commission's (NRC) November 18, 2019 request to reinstate Endangered Species Act Section 7 consultation with NMFS for the continued operation of Units 1 and 2 at Florida Power and Light's (FPL) nuclear power plant located in St. Lucie County, Florida.

In addition to the November 18, 2019 request, NMFS also reviewed the NRC's Biological Assessment (BA) that was received by NMFS via email on April 22, 2019. The NRC stated in their November 18, 2019 request that the BA remains relevant to this consultation.

The Proposed Action is described on page 2 of NRC's BA as follows:

The proposed action is the continued operations of St. Lucie and its ocean intake system under the terms of NRC Renewed Facility Operating License Nos. DPR-67 and NPF-16, which

authorize operations through March 1, 2036 (Unit No. 1) and April 6, 2043 (Unit No. 2), assuming FPL's implementation of Option 2, "Maintain Programs and Identify and Minimize Negative Impacts Associated with Entrainment and Travel through the Intake Piping," as described in FPL's December 6, 2018, final excluder device test report. In Section 2 of NMFS's 2016 biological opinion, NMFS includes a detailed discussion of St. Lucie operations. This discussion remains relevant to the present reinitiated consultation. In addition to operations as described in the biological opinion, FPL proposes to implement the following actions to reduce or minimize the take of and harm to listed species:

1. Perform initial detailed inspection of interior of intake pipes and velocity caps to identify conditions that may cause injury to large marine animals that may travel through the pipes.
2. Perform maintenance and modifications to address adverse conditions, to include creation of a smooth transition at the base of the Unit No. 1 velocity caps where the horizontal pipe enters the vertical section of the velocity cap.
3. Perform periodic inspections of interior of intake pipes and velocity caps to identify potential conditions that may cause injury to large marine animals.
4. Require biologists to inspect and record observations of the intake canal banks for potential turtle nesting and document inspection results in the Annual Environmental Report.

We note that activity #2 (above) is already required in Term and Condition 2 of Reasonable and Prudent Measure 2 in NMFS's 2016 Biological Opinion. Moreover, we note that activity #4 (above) is already required in Term and Condition 6 of Reasonable and Prudent Measure 2 in NMFS's 2016 Biological Opinion. Thus, we respectfully disagree with the NRC's characterization of these activities as additional activities in the BA. NMFS considers these activities to be ongoing as part of the continued operations at the power plant. We do not believe these activities represent a change in operations.

NMFS requests the following information to continue our evaluation:

- 1) Page 16 of the BA states FPL has not observed any sea turtle nesting attempts on the intake canal bank since the 2006 event. Please confirm that this statement is still true.
- 2) Please provide NMFS with FPL's 2019 annual environmental operating report when it becomes available. Please email a pdf of the report to Audra.Livergood@noaa.gov

NMFS reserves the right to request additional information based on our review of the information requested herein.

We look forward to hearing from you in **45 days**. If we do not receive a response within 45 days from the date of this email, we will assume the consultation is no longer active, and we will close out the consultation. Please note this 45-day period has been established as a national policy.

Kind regards,
Audra

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Audra Banks
NOAA National Marine Fisheries Service
SERO Protected Resources Division
Coral Conservation Branch

Looking at them, Jesus said, "With people it is impossible, but not with God; for all things are possible with God." (*Mark 10:27*)



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

St. Lucie Plant, Units 1 and 2

Endangered Species Act (ESA) Section 7 Consultation

Responses to the National Marine Fisheries Service's (NMFS) December 13, 2019, Requests for
Additional Information (RAIs)

December 18, 2019

Responses to Requests for Additional Information

- 1. Page 16 of the [biological assessment¹] states FPL has not observed any sea turtle nesting attempts on the intake canal bank since the 2006 event. Please confirm that this statement is still true.**

On July 8, 2019, FPL discovered a loggerhead nest on the southeast corner of the St. Lucie intake canal. Upon discovery, FPL notified the Florida Fish and Wildlife Conservation Commission, the NMFS, and the U.S. Nuclear Regulatory Commission (NRC). Biologists from Inwater Research Group relocated the nest to a nearby beach and marked the relocation site to monitor it for hatching success. Inwater Research Group maintains ESA Section 10 research permits that allow for nest relocation and associated activities. The nest successfully hatched, and Inwater Research Group observed no adverse impacts attributable to the nest relocation.

This was the first and only sea turtle nesting event within St. Lucie's intake canal since the October 2006 event.² This suggests that FPL's management and monitoring actions following the 2006 event are working. FPL's removal of vegetation and addition of concrete and gravel on the canal banks has made nesting less attractive to female sea turtles that may enter the intake canal while gravid. One nesting event in the past 13 years (and two total nesting events since St. Lucie began operating) indicates that such events are rare. The July 2019 event demonstrates that FPL's active and daily canal bank monitoring ensures the prompt discovery and relocation of gravid females and/or nests.

- 2. Please provide NMFS with FPL's 2019 annual environmental operating report when it becomes available. Please email a pdf of the report to Audra.Livergood@noaa.gov.**

Term and Condition (T&C) 16 of Reasonable and Prudent Measure (RPM) 1 in the NMFS's 2016 biological opinion³ requires FPL to submit annual reports providing data and statistics on sea turtle

¹ U.S. Nuclear Regulatory Commission. 2019. Biological Assessment of Impacts to Sea Turtles and Smalltooth Sawfish, St. Lucie Plant, Unit Nos. 1 and 2, Continued Operations Under Renewed Facility Operating License Nos. DPR-67 and NPF-16. April 2019. 63 p. ADAMS Accession No. [ML19093A064](#)

² In October 2006, FPL personnel discovered 24 loggerhead hatchlings from an undetected nest on the intake canal banks. This event is described and evaluated in Section 7.4 of the biological assessment referenced above.

³ National Marine Fisheries Service. 2016. Biological Opinion for Continued Operation of St. Lucie Nuclear Power Plant. March 24, 2016. 98 p. ADAMS Accession No. [ML16084A616](#).

and smalltooth sawfish entrapment, capture efforts, and injuries/mortalities (causal and non-causal) to the NMFS and the NRC. In accordance with this T&C, FPL will submit its 2019 annual report directly to the NMFS at the mailing address specified in the T&C. Because the 2019 calendar year is ongoing, FPL does not have all the data it needs to prepare the 2019 annual report. FPL typically finalizes its annual reports in April of the following calendar year. In the interim, the NMFS can obtain 2019 sea turtle and smalltooth sawfish data from FPL's monthly reports, which FPL submits to the NMFS in accordance with the previously cited T&C. To date, FPL has submitted monthly reports that include sea turtle and smalltooth sawfish data through November 2019.

Activities Under the Proposed Action

In the NMFS's December 13, 2019, request for additional information,⁴ the NMFS stated that it disagrees with the NRC's characterization that certain activities associated with the proposed action are "additional activities." The NMFS stated that it has already required FPL to perform these activities in the 2016 biological opinion. Specifically, the NMFS stated that T&C 2 of RPM 2 requires FPL to "perform maintenance and modifications to address adverse conditions, to include creation of a smooth transition at the base of the Unit No. 1 velocity caps where the horizontal pipe enters the vertical section of the velocity cap" (Activity 2 of the proposed action). Additionally, the NMFS stated that T&C 6 of RPM 2 requires FPL to "require biologists to inspect and record observations of the intake canal banks for potential turtle nesting and document inspection results in the Annual Environmental Report" (Activity 4 of the proposed action).

The NRC disagrees. The biological opinion does not require FPL to perform Activity 2 or to perform all aspects of Activity 4. As explained below, these additional activities are new and differ from the activities of the previous consultation's action.

Activity 2 of the Proposed Action

Activity 2 is:

Perform maintenance and modifications to address adverse conditions, to include creation of a smooth transition at the base of the Unit No. 1 velocity caps where the horizontal pipe enters the vertical section of the velocity cap.

T&C 2 of RPM 2 states:

Within 6 months of the date of this biological opinion, FPL shall develop a monitoring and maintenance plan to inspect and remove debris and biofouling organisms from the intake pipes based on increased flow rate through the intake pipes and number of fresh scrapes on turtles. This plan must be coordinated with NMFS Southeast Regional Office. The plan may take into account human safety as a valid reason for delays.

FPL developed the required plan⁵ and maintains that plan in accordance with T&C 2 of RPM 2. As required by the T&C, the plan addresses monitoring and maintenance related to debris and biofouling in the intake pipes that could affect the proportion of sea turtles that sustain fresh scrapes during travel through the intake pipes. The plan does not address, nor does T&C 2 of RPM 2 require it to address,

⁴ National Marine Fisheries Service. Email from A. Livergood to B. Grange, NRC. Subject: St. Lucie Request for Additional Information. December 13, 2019. ADAMS Accession No. [ML19350B298](#).

⁵ Florida Power & Light Company. St. Lucie Nuclear Power Plant (SLNPP) Monitoring and Maintenance Plan to Inspect and Remove Debris and Biofouling Organisms from Ocean Intake System. ADAMS Accession No. [ML19142A139](#).

structural design modifications that could be contributing to sea turtle injuries. The creation of a smooth vertical transition at the base of the Unit No. 1 velocity caps is a structural design modification that would be undertaken under the proposed action. Thus, while Activity 2 of the proposed action and T&C 2 of RPM 2 are similar in their objectives—both address adverse conditions within the intake pipes that could contribute to sea turtle injury—FPL is not required to undertake Activity 2 under the current biological. Activity 2 of the proposed action is a wholly new activity that FPL would not otherwise undertake.

Activity 4 of the Proposed Action

Activity 4 is:

Require biologists to inspect and record observations of the intake canal banks for potential turtle nesting and document inspection results in the Annual Environmental Report

T&C 6 of RPM 2 states:

The FPL's contracted biologists must inspect the banks of the intake canal east of the 5-in mesh barrier net for turtle tracks or other signs of nesting each morning during nesting season (March 1-October 31).

The NRC agrees, in part, with the NMFS's opinion that T&C 6 of RPM 2 requires FPL to perform Activity 4. The T&C requires FPL to inspect the intake canal banks for evidence of turtle nesting during the nesting season. Although such inspections are part of Activity 4 of the proposed action, the proposed action would further include FPL's submittal of written inspection results to the NMFS in the Annual Environmental Report. FPL is not required to report results of canal bank inspections or to otherwise maintain such records under the current biological opinion. The reporting portion of Activity 4 of the proposed action is a new activity that FPL would not otherwise undertake.

Docket Nos. 50-335 and 50-389
License Nos. DPR-67 and NPF-16

ADAMS Accession No.: ML19350B348

The NRC's licensee, Florida Power & Light Company, was provided an opportunity to review and comment on this response prior to its finalization.

Response Prepared By:

Briana A. Grange

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