



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

Teleconference with the National Marine Fisheries Service (NMFS) Regarding Endangered Species Act (ESA) Section 7 Consultation for St. Lucie Plant, Units 1 and 2 (St. Lucie)

Proposed Action: Continued Operations

February 3, 2020

TELECONFERENCE DATE

January 29, 2020

PARTICIPANTS

U.S. Nuclear Regulatory Commission (NRC)

Briana Grange, Conservation Biologist &
ESA Consultation Coordinator

Robert Elliott, Environmental Review License
Renewal Branch Chief

National Marine Fisheries Service (NMFS)

Audra Livergood, Section 7 Biologist

Jennifer Moore, Coral Conservation Acting
Branch Chief

Florida Power & Light Company (FPL) and NextEra Energy (NextEra)

Jodie Eldridge, NextEra Energy Wildlife
Environmental Services Manager

Kristin Eaton, FPL Environmental Services
Wildlife

Richard Sciscente, FPL St. Lucie Licensing

BACKGROUND

- On November 18, 2019, the NRC requested to reinitiate ESA Section 7 consultation with NMFS related to continued operation of St. Lucie.
- On January 22, 2020, NMFS accepted the NRC's reinitiation request and initiated consultation.

TELECONFERENCE NOTES

Consultation Timeline

- NMFS summarized the regulatory timeline for formal consultation, which stipulates 90 days for the consultation itself and an additional 45 days for NMFS to complete the biological opinion (BiOp) for a total of 135 days.
- Given the complex nature of the St. Lucie consultation, NMFS proposed to extend the consultation timeline as follows:
 - **June 30, 2020:** NMFS completes and submits a draft BiOp for internal review.
 - **December 31, 2020:** NMFS signs and issues the finalized BiOp to the NRC.

- This extended timeline will allow NMFS 5 months to prepare the document, ask any necessary follow-up questions of NRC or FPL, and address any issues that arise, followed by 6 months for internal review, which includes legal and management review.
- NRC and FPL stated that they are in agreement with this timeline.

Draft Proposed Action

- NMFS plans to base the proposed action off the NRC’s April 2019 biological assessment.
- NMFS can also incorporate reasonable and prudent measures (RPMs) and terms and conditions (T&Cs) from the previous biological opinion directly into the proposed action of the new biological opinion if NRC and FPL are amendable to doing this.
- Any actions or items within the draft proposed action essentially act as commitments by the action agency and licensee.
- FPL expressed concern over whether this would affect its ability to budget or fund certain items or programs if they are no longer explicit requirements of the new incidental take statement (ITS). FPL will follow up internally with the appropriate licensing and legal staff regarding this. As long as company budgeting or funding is not affected, FPL is amenable to this option.
- NMFS will work to incorporate the RPMs and T&Cs from the previous BiOp that it deems appropriate into the new proposed action and will share a draft of the proposed action with the NRC for review and comment.
- NMFS anticipates completing the draft proposed action in about 4 weeks (i.e., approx. **February 28, 2020**).

Draft BiOp Review

- The NRC requested that NMFS share a draft of the BiOp for review and comment.
- NMFS stated that once the completed BiOp is deemed legally sufficient, NMFS can share a copy with the NRC.
- This would occur sometime between the June 30, 2020, and December 31, 2020, milestones.

Future Meetings

- NRC and NMFS discussed whether we should establish any plans for future meetings.
- NRC and NMFS agreed that we will tentatively plan to meet near the June 30, 2020, milestone to discuss the NMFS’s draft RPMs and T&Cs.
- In the meantime, Audra will reach out directly to Briana with any questions that arise and to share the draft proposed action, as previously noted.

Incidental Take Reporting

- FPL will continue to contact Audra and Briana to share ongoing incidental take information during the consultation.
- Audra confirmed that if FPL exceeds any of the annual limits of the current BiOp in calendar year 2020, such exceedances would not require further or separate action to reinstate consultation because the agencies are already in consultation.
- FPL committed to providing Audra with courtesy notifications when an unusual event, such as the July 2019 loggerhead nesting event, occurs in the future.

Olive Ridley Sea Turtles

- NMFS’s position on this species is that any individuals that occur in the Southeast Atlantic are considered lost to the population.
- FPL expressed concerns about what to do if another olive ridley is captured. FPL asked whether it should transport the individual to rehabilitation, even if healthy, for possible transportation and release to another area rather than FPL releasing it directly back to the Atlantic Ocean.
- FPL will send NMFS follow-up questions concerning this issue, and Audra will follow-up with Dennis Klemm, NMFS’s Southeast Region Sea Turtle Program Coordinator.
- NRC reminded FPL that any future captures olive ridley individuals would be reportable under St. Lucie’s Environmental Protection Plan.
- NRC also noted that its reinitiation request asked the NMFS to clarify in writing that the olive ridley turtle is not subject to consultation in the St. Lucie action area and that any future captures of the species would not constitute prohibited takes under ESA Section 9.

NMFS, FPL, and NextEra were provided an opportunity to review and comment on this teleconference summary prior to its finalization.