

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

E. Roy Hawken, Chair

Dr. Michael F. Kennedy

Dr. William C. Burnett

	)	
In the Matter of	)	
	)	Docket Nos. 52-040 and 52-041
Florida Power & Light Company	)	
	)	ASLBP No. 10-903-02-COL-BD01
Turkey Point,	)	
Units 6 and 7	)	
	)	

March 6, 2012

CITIZENS ALLIED FOR SAFE ENERGY REPLY TO FLORIDA  
POWER & LIGHT COMPANY AND TO NRC STAFF OPPOSITION TO  
CASE CONTENTION 10 REGARDING TURKEY POINT UNITS 6 & 7

INTRODUCTION

Pursuant to 10 C.F.R. § 2.309(h) and in accordance with the Atomic Safety and Licensing Board's ("Board") Memorandum and Order (Granting FPL's Motions to Dismiss Joint Intervenors' Contention 2.1 and CASE's Contention 6 as Moot) of January 26, 2012 ("Dismissal Order"), Citizens Allied for Safe Energy (CASE) hereby replies jointly to answers submitted separately on February 27, 2012 by Florida Power & Light (FPL) and by the NRC Staff to "MOTION TO FILE

A TIMELY CONTENTION” and its attachment “Contention 10 – FPL’s Turkey Point 6 & 7 Environment Report of COL Revision 3 Does Not Adequately Address The Impact of Extended Storage Of All Types Of AP1000 LLW” filed on February 10, 2012.

## BACKGROUND

On February 27, 2012 FPL filed “FLORIDA POWER & LIGHT COMPANY’S ANSWER TO CASE’S MOTION FOR LEAVE TO FILE A NEW CONTENTION AND NEW CONTENTION 10” On the same day the NRC Staff filed NRC STAFF ANSWER TO “MOTION TO FILE A TIMELY CONTENTION IN RESPONSE TO NEW INFORMATION”. Because, for the most part, both filings address the same issues with similar answers CASE will reply to both answers at the same time.

## ISSUES

- 1) CASE’S FILING IS NOT TIMELY
- 2) THE FAILED STEAM GENERATOR CLAIM IS NONTIMELY AND IRRELEVANT; THE CONTAMINATED SOIL CLAIM IS IRRELEVANT AND NONTIMELY;THE CLAIM REGARDING LIQUID PATHWAY ANALYSIS IS IRRELEVANT
- 3) FPL ADDRESSED CLIMATE CHANGE ISSUES IN ITS ORIGINAL COLA FILING IN JUNE, 2009
- 4) NO EXPERT OPINION
- 5) NO RECOGNITION OF FPL’S PLAN TO ELEVATE REACTORS 6 & 7

## DISCUSSION OF ISSUES

### 1) **CASE’S FILING IS NOT TIMELY**

In the answers referenced above FPL and NRC Staff challenge the timeliness of Contention 10 on several grounds. Regarding temporal concerns, CASE would note that, on January 26, 2012 the ASLB issued 2

MEMORANDUM AND ORDER (Granting FPL's Motions to Dismiss Joint Intervenor's Contention 2.1 and CASE's Contention 6 as Moot). It states:

*"To the extent CASE wishes to proffer a new contention challenging the adequacy of FPL's cure of Contention 6, we will allow it fifteen (15) days from the date of this Memorandum and Order to file such a motion (i.e., by February 10, 2012). FPL and the NRC Staff may file answers within fifteen (15) days after service of such motion. Within seven (7) days of service of the answers, CASE may file a reply." At 6.*

CASE has complied with these guidelines.

CASE's filing is also timely because it addresses new plans by FPL regarding storage of LLW at Turkey Point. In FLORIDA POWER & LIGHT COMPANY'S MOTION FOR SUMMARY DISPOSITION OF CASE CONTENTION 7, filed on January 3, 2012, FPL states:

*"The Revised LLW Management Plan maintains its reliance on the initial plan to contract with Studsvik for LLW management, storage, and disposal, **but adds a contingency plan in case off-site disposal capacity is unavailable.** The revised FSAR now states that "[i]f additional storage capacity for Class B and C waste were required, **further temporary storage would be designed, constructed, and operated** in accordance with the design guidance provided in NUREG-0800, Standard Review Plan 11.4, Appendix 11.4-A." COLA Rev. 3, FSAR at 11.4-3. At 4. (Emphasis added).*

This new plan, to store LLW on site is, will be subject to all reviews and analysis provided for in the regulations. Thus, CASE's filing a motion challenging this new plan is timely. Further, FPL and NRC Staff challenge the bases for any opposition to Revision 3 contending that any material or information available prior to the filing of that Revision should have been or was presented in earlier contentions. By definition, and as stated in Contention 10, all matters must be newly considered in relation to the new plan. This is especially true for geological concerns since the LLW will now be kept on-site.

In the quote above FPL says "temporary storage"; elsewhere they say two

years. We have not been advised as to how they arrived at these time estimates. Since FPL acknowledges and CASE contends that off-site storage is and will be problematical for some time, it must be assumed that the LLW will be on site a long time and, therefore, the actuarial probability that a major geological event will happen at Turkey Point while the LLW is stored there must be taken into account. In any event, given this new and revised plan, CASE's filing is timely.

**3) THE FAILED STEAM GENERATOR CLAIM IS NONTIMELY AND IRRELEVANT; THE CONTAMINATED SOIL CLAIM IS IRRELEVANT AND NONTIMELY; THE CLAIM REGARDING LIQUID PATHWAY ANALYSIS IS IRRELEVANT**

Not being an attorney, it is unclear what FPL means by "irrelevant" (at 7, 8,9) in these proceedings. The word does not seem to appear in the NRC regulations referenced. There is this provision:

*10CFR Part 2.309(f)(iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;*

CASE will assume that by "irrelevant" it was meant that they are "immaterial" to these proceedings. CASE holds that they are material.

In CASE's Contention 10, at 5,6 on this subject, it states:

*In the Revised ER, at 5.4.2 RADIATION DOSES TO MEMBERS OF THE PUBLIC, FPL makes this statement: "As stated above, there is no dose due to liquid effluents during normal operations. 5.7.1.6 Radioactive Waste." One must ask, "what provision has been made for such effluents in an abnormal situation, such as one caused by the climatic and geologic situations we are postulating in this Contention. For LLW disposal, the NRC notes in 10 CFR 51.51(b) that there will be no significant radioactive releases to the environment. (Emphasis added). It CASE's contention that this means what it says, **no releases**. Can FPL guarantee this following total inundation of the site? How do you handle a situation where the reactors could be suspended on an island surrounded by water? How do you contain or retrieve water and solid run off from a compromised radioactive storage facility? This has not been addressed.*

What could be more material to a decision as to whether or not license reactors which will produce LLW for 40 to 60 years which might have to be stored on site forever? Is it not material to ask how events at a geologically threatened site will affect all of the material stored there there? In addition to the LLW already on site at Turkey Point, there are radioactive generators weighing 250 to 400 metric tons each which will someday be retired or fail, 41,000 cubic feet of contaminated soil, and unanalyzed liquid pathways following storm surge, tropical cyclones and tornados within and sea level rise. At any time Turkey Point can be a catastrophic maelstrom of energy and destruction. Residents of the area, such as this writer, have experienced such events and face them every year. The spector of a LLW storage site in our presence at such times is more than any citizen should be forced to endure in his home. Are such concerns immaterial, or irrelevant, to the outcome of these proceedings. If they are, one must question the character of the proceedings.

In the FPL Answer, at 8, the following statement is made:

“...nowhere in COLA Rev. 3 does FPL describe a plan to store failed steam generators onsite.”

Exactly. Or retired or even working generators. Actually this is not true since the generators are already included in LLW so when FPL says they will store LLW on site, it includes these generators all of which consist of gigantic repositories of radioactive material which must be accounted for during a tropical cyclone which can include high winds and internal tornados of cataclismic proportions. So to admit that these generators have not been mentioned in plans for Turkey Point is very grave and diquieting, especially for those of us who live nearby.

Regarding the generators. NRC Staff has mischaracterized the nature of CASE's Contention 10 about the disposition of retired or replaced generators at Turkey Point. NRC Staff states:

*“... CASE asserts that the Westinghouse steam generator design is defective, at 12 .... CASE's argument that steam generator waste is more radioactive than the general LLRW to be stored on site in the event that offsite storage is unavailable is untimely, at 13”*

As discussed above, the new plan in Rev 3 presents the new likelihood of long term storage of LLW at Turkey Point, which includes generators. CASE, in Contention 10, relates the history and nature of such generators to demonstrate and define the scope and requirements of such storage; they are huge and very radioactive. *CASE never said that the AP1000 generators were any more or less dependable than others.* CASE did point out, based on information available and referenced, that they could become very radioactive. They will need more care than, say, gloves or material handling equipment. CASE was only calling attention to the challenge which would be encountered when these generators either end their useful lives or do fail. At that point, any geological event must have been anticipated and allowed for to prevent it turning into a radiological event involving these huge generators, their tubing and the sludge which accumulates in them. Forever is a long time. While all Regulations might be followed, going forward without detailed plans regarding potential catastrophic events, might be a leap of faith some local residents might be unwilling to make; doing so did not turn out so well for the people of Japan or Chernobyl.

Regarding the relevance or materiality of considering Sea Level Rise (SLR) in July, 2009, the U.S. Army Corp of Engineers issued WATER RESOURCE POLICIES AND AUTHORITIES INCORPORATING SEA-LEVEL CHANGE CONSIDERATIONS IN CIVIL WORKS PROGRAMS (Attachment 1). On pages 1 to 3, Colonel Alex C. Dornstauder exhorts the reader to be fully cognizant of SLR, stating, in part:

*5. Geographic Extent of Applicability.*

- a. USACE water resources management projects are planned, designed, constructed and operated locally or regionally. For this reason, it is important to distinguish between global mean sea level (GMSL) and local (or "relative") mean sea level (MSL). At any location, changes in local MSL reflect the integrated effects of GMSL change plus changes of regional geologic, oceanographic, or atmospheric origin as described in Appendix B and the Glossary.*
- b. Potential relative sea-level change must be considered in every USACE coastal activity as far inland as the extent of estimated tidal influence.*
- b. Fluvial studies (such as flood studies) that include backwater profiling should also include potential relative sea-level change in the starting water surface*

*elevation for such profiles, where appropriate. The base level of potential relative sea-level change is considered the historically recorded changes for the study site. Areas already experiencing relative sea-level change or where changes are predicted should analyze this as part of the study.*

Colonel Dornstauber continues his charge to those for whom his words and admonitions are relevant. All such persons are encouraged by by this writer to read his remarks and the report. The relevance of addressing SLR at Turkey Point or any other coastal site will become quite clear.

CASE would like to point out that nowhere in the Declaration of Mr. Paul R. Jacobs (FPL FARS Revision 3) does he mention SLR or the potential impact of SLR, storm surge or hurricanes in the short or long tem for Turkey Point. In fact, neither Rev 3 of the COL, Mr Jacobs nor FPL in any of their discussion of the new buildings to house LLW istates exactly at what elevation or where they would be placed on the site. Given the unique ocean side location of the site at sea level, subject to storm surge, sea level rise and hurricanes, sitting between two national parks, on top of the water supply for a million people, one would want to know that he had addressed or considered all such a questions in his review of FPL's plans.

### **3) FPL ADDRESSED CLIMATE CHANGE ISSUES IN ITS ORIGINAL COLA FILING IN JUNE, 2009**

FPL did address climate change in June, 2009 at **FSAR 2.4.5** Part 2 — FSAR 2.4.5.2.2.1 Antecedent Water Level, which reads:

The NOAA station nearest to Units 6 & 7 where long-term trend in sea level rise is available is the Miami Beach, Florida (8723170), station. The station is located close to the Virginia Key, Florida, station and is no longer active. The long- term sea level rise trend at Miami Beach, Florida, as estimated based on data from 1931 to 1981, is 0.78 foot per century (**Reference 206**). Accordingly, a nominal long-term sea level adjustment of 1 foot is applied to the 10 percent high tide level resulting in an antecedent water level of 3.6 feet NAVD 88 (2.6 feet NAVD 88 + 1 foot), which represents the initial water level condition in the SLOSH model simulations. 206.NOAA, *Sea Levels Online*, Mean Sea Level Trend, 8723170 Miami Beach, Florida. Available at [http://tidesandcurrents.noaa.gov/sltrends/sltrends\\_station.shtml?stnid=8723170](http://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?stnid=8723170) Miami Beach, FL, accessed June 19, 2008. <http://pbadupws.nrc.gov/docs/ML1036/ML103630099.pdf>

This seems to be the *full* extent of FPL's consideration of sea level rise at Turkey Point and in South Florida using data prior to 1981. Conveniently, in Revision 3, FPL did not update this information when, filing on December 16, 2012, a comprehensive review of the subject *A Unified Sea Level Rise Projection for Southeast Florida* ( <http://www.southeastfloridaclimatecompact.org/documents/SLR.pdf>), dated April, 2011, was available. CASE did provide this information in Contention 10 but FPL apparently did not open it and look at the information and charts provided. CASE did provide the data. For a project which, if built in 2022 and 2023, would most likely be in place until 2082 and 2083, would it not be prudent to look at the impact of sea level rise at Turkey Point based on the latest and most authoritative estimates, unless, of course, they work against the Applicant's interests and could materially impact the outcome of the licenses being sought. CASE consultants do have very current scientific maps regarding SLR available upon request.

Looking at the information in *A Unified Sea Level Rise Projection for Southeast Florida*, we find graphics which show the resultant nature of southeast Florida after sea level rise (SLR) at 1,2,and 4 feet of such rise. **The graphic at 1 foot of SLR shows Turkey Point as a small dot, an island. At 2 feet of SLR, Turkey Point is gone.** This is further illustrated in Table 5 which shows SLR far in excess of ".78 per century" which, based on 1981 and prior data, FPL postulates. Table 5 at 11.

**Table 5. Estimated Timeframes for a 1-3 Foot Rise in Sea Level in Southeast Florida from the 2010 Level. The time estimates are based on the USACE projection in Figure 3.**

Projected Sea Level Rise	Estimated Time Occurrence	
1 Foot	2040-2070	
2 Feet	2060-2115	
4 Feet	2078-2150	8

CASE's contention is that a 5-6 meter (16-20 ft) storm surge is a distinct possibility in this century given the large number of similar surges that have accompanied landfalls elsewhere in the 20th century. That figure accounts for the expectation that storm surges on the Atlantic coast will in general be less than on the Gulf coast (up to 8 meters historically) and not counting the possibility of a resonance (seiche) occurring within the bay which would amplify the surge. Even the proposed reactor base at 20 feet above mean low water is not an assurance because it is likely that a storm surge can occur at high tide (+2 ft) and if sea level has risen +2 feet there is only a 16-foot margin for error if a large storm surge enters Biscayne Bay. In the likely event of a two-foot rise in sea level, inundation maps based on reliable Miami-Dade LiDAR surveys indicate that Turkey Point will be cut off from land, even if, during this century, reactors 6 & 7 are not permanently inundated, anything at grade will be inundated as occurred during Hurricane Andrew in 1992. For the next century, with projected SLR, even the current plan for elevation will not suffice. And there is no reason to assume that LLW will not still be at Turkey Point; no one else in the world seems to want it. Don't create it in the first place; end of problem.

One must also consider the impact of even modest SLR on the cooling canals at Turkey Point. They will quickly be inundated at even half of a foot of SLR and therefore will become of no use.

Attachment 1, THE ADAPTATION-MITIGATION DILEMMA: IS NUCLEAR POWER A PRACTICAL SOLUTION FOR CLIMATE CHANGE? by Natalie Kopytko, A Thesis Submitted in partial fulfillment of the requirements for the degree Master of Environmental Studies The Evergreen State College June, 2009) in Table (in meters), at 55, shows that

*"Considerable flooding occurs at the site under current storm conditions as shown in Table 14. The potential for flooding occurs at 0.4 m and flooding becomes evident with*

*a 0.5 m rise in sea level as shown in Figure 8. This level of sea level rise is somewhere between the low 100 and mid 100 year scenarios. Roads could potentially flood at 0.7 m, and are completely covered at 0.9 m as seen in Figure 9.*

*As revealed in Figure 10 the site is almost completely flooded at 2.5 m. According to these scenarios, a Category V storm would cause flooding conditions that exceed the probable maximum surge (5.6 m) for the site and approach the design basis flood level (6.1-6.7 m) within the lifetime of the reactor. The Turkey Point site receives an overall coastal vulnerability index (CVI) ranking of high due to very high rankings received in geomorphology, slope, and tides as shown in Table 15.”*

*This study was summarized in *Sea Level Rise Brings Added Risks to Coastal Nuclear Plants* (March, 2011) <http://www.climatecentral.org/news/sea-level-rise-brings-added-risks-to-coastal-nuclear-plants/>*

*In their study, Perkins and Kopytko used estimates of future sea level to calculate how much water might encroach upon nuclear plants. They found that the plants in the U.S. were all built high enough to withstand sea level rise alone over the next 50 years (which goes beyond the expected operating lifetime of the current plants). But they also discovered that with the IPCC's expected rate of sea level rise, storm surges from Category 4 or 5 hurricanes will completely inundate the nuclear plants within their projected lifetimes. Their findings were [published](#) in the January 2011 issue of the journal *Energy Policy*.*

*As sea levels continue to rise, scientists say the storm surges of these hurricanes will get even larger. Worse yet, climate scientists now believe that while Atlantic hurricanes may become less frequent later this century, they're likely to get more powerful on average.*

*The NRC says it considers these factors when assessing the safety of nuclear plants, and that the existing facilities at Turkey Point, in particular, are capable of withstanding future storms, as proven by the experience with Hurricane Andrew.*

**Let's hope that this writer is correct in the last sentence. This study, done in 2009 and updated in 2011, shows that with the FPL COL only using data from 1981 and before does a disservice to the cause of credible scientific inquiry especially when so much is at stake, not just property but life, health and safety.**

#### 4) NO EXPERT OPINION REGARDING INUNDATION LEVELS

FPL states, at 13,

*CASE refers to the sea level rise projection it espouses as though it were an established fact, sufficient in itself to demonstrate that inundation of the Turkey Point site is likely. CASE's discussion of sea level rise is, however, **limited to a citation to a working group document** that projects a one-foot rise in sea level sometime between 2040 and 2070, with a two foot rise possible by 2060.<sup>10</sup> Because it is **not accompanied by an expert projection** of anticipated inundation levels, CASE cannot demonstrate the existence of a genuine dispute with the Application based upon sea level rise flooding. (Emphasis added)*

CASE would like to point out that that the working group document, A Unified Sea Level Rise Projection for Southeast Florida, <http://www.southeastfloridaclimatecompact.org/documents/SLR.pdf>) referenced, at 2 in CASE's Contention 10 document, was prepared by some of the leading authorities in southeast Florida on this subject most, if not all, of whom qualify as experts. The credentials and academic and professional affiliations of the participants in the working group document should provide sufficient expert bases for the information and data in their report. These affiliations include the U.S.Army Corps of Engineers, NOAA, the University Of Miami, and the local governmental organizations charged with monitoring such information.

#### 5) NO RECOGNITION OF FPL'S PLAN TO ELEVATE REACTORS 6 & 7

CASE has addressed the elevation of the new reactors above and has shown that FPL's plan to place them at 20 feet above mean low tide does not allow for all eventualities. The possibility of the elevated plateau becoming an island approachable only by boat is real. The inundation of lower placed equipment and roadways is real. These events will occur, with certainty. Not once in the FPL FARS Revision 3 are these matters addressed directly and materially. It is FPL which has failed to recognize these realities.

FPL's Answer, at 15., they state:

*"The FSAR revisions in COLA Rev. 3 make clear that FPL would not build an onsite LLW storage facility without consideration of sea level rise or storm surge.:*

CASE submits that this is not clear. As noted above, the threat is real, the dangers are apparent, and FPL has only said that they will, in due course, address them. CASE submits that this is not sufficient. Too much is at stake. Fukushima-Daichi demonstrates that government and industry are accountable not only after an event, but, more importantly, before an event. FPL has based its projections, done in 2009, on data collected prior to 1981. A realistic presentation of actual and current predictions of impact of climate change on the climatological and atmospheric events which can, and probably will, occur over time would reveal frightening conclusions. CASE contends that no amount of number crunching can arrive at any other conclusion. In due course, Turkey Point is doomed. Exactly *when* the material stored there will be disturbed by such events is somewhat uncertain, but that disruptive events *will* happen there is certain. To believe otherwise is to deny all available scientific information. Yes, you can build buildings which will not allow any water in or out, and you can place them on a forty foot high plateau, but why create such a need? The continued operation and expansion of Turkey Point in the face of actuarial geological and climatological certainties is indefensible if not irrational.

## CONCLUSION

CASE's timely filing of Contention 10 has presented scientifically credible evidence that Turkey Point will experience major geological challenges during this century and beyond so the Contention should be admitted for consideration in these proceedings.

Respectfully submitted,

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Combined License Application for	)	
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**CERTIFICATE OF SERVICE**

I, Barry J. White, hereby certify that copies of the document above and all documents related to this motion were served upon the following persons by Electronic Information Exchange and/or electronic mail.

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