

August 14, 2012

Mr. David M. Bernhart
Assistant Regional Administrator
For Protected Resources
National Marine Fisheries Service
263 13th Avenue South
Saint Petersburg, FL 33701

SUBJECT: ENDANGERED SPECIES ACT, MAGNUSON-STEVEN'S FISHERY
CONSERVATION AND MANAGEMENT ACT, AND FISH AND WILDLIFE
COORDINATION ACT CONSULTATION CLOSE OUT FOR THE WILLIAM
STATES LEE III NUCLEAR STATION, UNITS 1 AND 2 COMBINED LICENSES
APPLICATION ENVIRONMENTAL REVIEW

Dear Mr. Bernhart:

The U.S. Nuclear Regulatory Commission (NRC) staff is reviewing an application submitted by Duke Energy Carolinas, LLC (Duke) for a combined license (COL) application for construction and operation of two new nuclear reactors, William States Lee III Nuclear Station, Units 1 and 2 (Lee Nuclear Station), at the Lee Nuclear Station site in Gaffney, South Carolina. As part of its review of the proposed action, the NRC staff prepared a draft environmental impact statement (EIS) (NUREG-2111), which was published in December 2011. The draft EIS is available through the NRC's Agencywide Documents Access and Management System (ADAMS), which is accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html> at ADAMS Accession No. ML113430094. The draft EIS can also be found online at the NRC's Lee Nuclear Station specific webpage at <http://www.nrc.gov/reactors/new-reactors/col/lee/documents/nrc-2011.html>.

During the preparation of the draft EIS, the NRC staff issued a scoping letter to the National Marine Fisheries Service (NMFS) Southeast Regional Office dated April 9, 2008 (ADAMS Accession No. ML080850962), requesting information regarding Federally-protected species and critical habitat under NMFS' jurisdiction and, in support of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), any designated Essential Fish Habitat in the vicinity of the Lee Nuclear Station site. The NRC staff also requested any information considered appropriate under the provisions of the Fish and Wildlife Coordination Act (FWCA). By letter dated May 5, 2008 (ADAMS Accession No. ML081400585) NMFS provided a list of Federally-protected species for the state of South Carolina, which included the shortnose sturgeon (*Acipenser brevirostrum*). Subsequently, effective April 6, 2012, the NMFS listed the Carolina and South Atlantic distinct population segments of Atlantic sturgeon (*A. oxyrinchus oxyrinchus*) as endangered under the Endangered Species Act (ESA).

In the draft EIS, the NRC staff concluded that while not currently present in the vicinity of the Lee Nuclear Station site, two diadromous species (currently without Federal protection), the American eel (*Anguilla rostrata*) and American shad (*Alosa sapidissima*) had a historical presence at the site. Both shortnose and Atlantic sturgeon are not currently present nor were historically present in the vicinity of the site. The draft EIS cites the *Santee River Basin Accord for Diadromous Fish Protection, Restoration, and Enhancement of 2008*, and concludes that in

the future, should fish passage facilities be built in the Broad River, including at the Ninety-Nine Islands Dam, there is the possibility for diadromous fish to return to the vicinity of the Lee Nuclear Station.

As documented in an e-mail with Mr. Eric Hawk, ESA Section 7 Coordinator for NMFS, dated May 21, 2012 (ADAMS Accession No. ML12171A581), the NRC staff considers its consultation with NMFS under the ESA, MSFCMA, and FWCA for the Lee Nuclear Station COL application to be complete. However, upon construction and operation of the proposed Lee Nuclear Station and, in the event of the successful implementation of the fish passage program as described in the Santee River Basin Accord, the NRC staff will reinitiate consultation with NMFS, if there is potential for thermal, chemical, and physical impacts to Federally-protected species from operations at the Lee Nuclear Station.

If you have any questions regarding this matter, please contact the NRC environmental project manager, Ms. Sarah Lopas at 301-415-1147, or via e-mail to Sarah.Lopas@nrc.gov.

Sincerely,

/RA/

William F. Burton, Chief
Environmental Projects Branch 1
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-018 and 52-019

cc: See next page

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NRO-002

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