

LevyCEm Resource

From: Elizabeth Yarbrough [Elizabeth.Yarbrough@noaa.gov]
Sent: Tuesday, November 30, 2010 11:19 AM
To: Bruner, Douglas
Cc: LevyCOLEIS@nrc.gov; Dennis Klemm
Subject: NMFS ESA Section 7 Response DEIS Levy Nuclear Power Plant
Attachments: JDCOE 03913.pdf

Please see the attached document regarding:

Mr. G. Hambrick and Mr. R. Schaaf
Progress Energy Florida, Inc.
Draft Environmental Impact Statement for Levy Nuclear Power Plant Units
1 & 2
Levy County, Florida

Thank you.

Federal Register Notice: 75FR49539
Comment Number: 33

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NOV 26 2010

F/SER3:DK

Mr. Robert G. Schaaf
Chief, Environmental Projects Branch 3
Division of Site and Environmental Reviews
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Mr. Gordon A. Hambrick, III
Senior Project Manager, Panama City Permits Section
Jacksonville District
U.S. Army Corps of Engineers
1002 West 23rd Street, Suite 350
Panama City, FL 32401

Re: Levy Nuclear Plant Units 1 and 2

Dear Messrs. Schaaf and Hambrick:

This replies to your letter dated August 5, 2010, initiating joint consultation between the Nuclear Regulatory Commission (NRC), the U.S. Army Corps of Engineers (USACE), and the National Marine Fisheries Service (NMFS) pursuant to section 7 of the Endangered Species Act (ESA). The proposed action is the issuance of a construction and operating license by the NRC, and issuance of the associated Clean Water Act permits by the USACE, for Progress Energy's proposed Levy Nuclear Plant. In the biological assessment (BA) provided, the NRC and USACE determined the proposed project may affect but is not likely to adversely affect loggerhead, Kemp's ridley, green, or hawksbill sea turtles, smalltooth sawfish, or Gulf sturgeon. NMFS' determinations regarding the effects of the proposed action are based on the description of the action in this informal consultation. You are reminded that any changes to the proposed action may negate the findings of the present consultation and may require reinitiation of consultation with NMFS.

The project is proposed for a 3,015-acre greenfield site 30 miles due west of Ocala, 4 miles from the town of Inglis, and 8 miles east of the Gulf of Mexico, in Levy County, Florida. Although the project is located inland, discharge from the plant operations is expected to be released through two primary points into habitats under NMFS' purview: the Crystal River Energy Complex (CREC) discharge canal (flows into the Gulf near 28.956°N latitude and 82.731°W longitude) and the Cross Florida Barge Canal (CFBC) (flows into the Gulf near 28.994°N latitude and 82.739°W longitude). As provided in the



BA, the following proposed construction and operation activities that could potentially affect ESA-listed species under NMFS purview were considered:

Construction

- new dredging and construction of a barge slip and boat ramp on the shoreline of the CFBC.
- installation of the cooling-water intake structure (CWIS) on the CFBC shoreline
- installation of the cooling-water discharge system to CREC, including dredging and placement of discharge piping in the CFBC
- connection of discharge piping with the existing CREC discharge canal
- vessel movements associated with in-water work; vessel transportation of large components via barge for the LNP site
- new transmission line corridors and towers

Operation

- impingement, entrainment, and maintenance activities associated with the CWIS
- salinity changes in the CFBC and the lower portion of the Old Withlacoochee River
- discharge plume from the cooling-water system (thermal, chemical, and physical effects)
- maintenance of transmission line corridors.

Smalltooth sawfish, Gulf sturgeon, and four species of sea turtles (loggerhead, green, hawksbill, Kemp's ridley) protected by the ESA can be found in or near the action area and may be affected by the project. NMFS believes that the proposed action may affect but is unlikely to adversely affect these species. The fifth sea turtle species found in the Gulf of Mexico, the leatherback sea turtle, is largely pelagic and is not expected in the vicinity of the project or the discharge locations, and thus will not be affected. There is no designated critical habitat in or near the project area.

Construction Activities

All of the construction activities listed above will take place on land, or within the CREC discharge canal or CFBC. Although it is possible that a sea turtle, smalltooth sawfish, or Gulf sturgeon could enter the CFBC or the CREC discharge canal, it is highly unlikely as these locations do not provide valuable habitat for these species. Additionally, all of the species being considered are highly mobile and would be able to avoid any construction equipment, including barges, if they did enter these areas during construction activities. The attached Sea Turtle and Smalltooth Sawfish Construction Conditions should be followed during construction activities, and will further reduce the likelihood of interactions. Therefore, the likelihood of construction activities impacting the above-mentioned species is discountable. Any avoidance of the area by individuals of the species mentioned would result in an insignificant impact as the area is not typical

habitat, nor does it provide valuable habitat function, for any of the species. The same rationale applies to construction-type maintenance activities listed under plant operation.

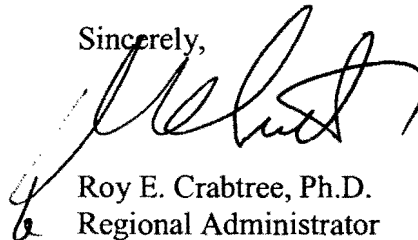
Operation of the Plant

Potential sources of impact from plant operation were detailed and analyzed in the BA as listed above. Impingement and entrainment are not expected to be a source of impact to any of NMFS' listed species. The plant intends to utilize a closed-cycle cooling system which will result in an intake flow of 0.5 fps or less, which is less than half that at the CREC intake. The intake will be covered with a trash screen. At that rate of flow, any sea turtle, sawfish, or sturgeon that is not already dead or immobile could swim away from the current and would not get entrained on the screen. Changes to the water quality (salinity, thermal, chemical, physical) are also not expected to negatively impact any of NMFS's listed species. Neither changes in overall fresh water intake, nor thermal or chemical releases, are expected from the additional units compared to what is currently occurring from the existing facilities.

This concludes your consultation responsibilities under the ESA for species under NMFS' purview. Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat in a manner or to an extent not previously considered, or if a new species is listed or critical habitat designated that may be affected by the identified action.

We have enclosed additional information on other statutory requirements that may apply to this action, and on NMFS' Public Consultation Tracking System, which will allow you to track the status of ESA consultations. If you have any questions, please contact Dennis Klemm at (727) 824-5312 or by e-mail at dennis.klemm@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy E. Crabtree", is written over a horizontal line.

Roy E. Crabtree, Ph.D.
Regional Administrator

Enclosures (2)

File: 1514-22.m

Ref: I/SER/2010/03913

PCTS Access for Determining Status of ESA Section 7 Consultations (Revised 3-17-2010)

Public Consultation Tracking System (PCTS) Guidance:

PCTS is an online query system at <https://pcts.nmfs.noaa.gov/> that allows the public, consultants, federal agencies, and U.S. Army Corps of Engineers' (COE) permit applicants to ascertain the status of NMFS' Endangered Species Act (ESA) and Essential Fish Habitat (EFH) consultations, conducted pursuant to ESA section 7, and Magnuson-Stevens Fishery Conservation and Management Act's (MSA) sections 305(b)(2) and 305(b)(4), respectively.

Federal agencies are required to enter an agency-specific username and password to query the Federal Agency Site. The COE "Permit Site" (no password needed) allows COE permit applicants and consultants to check on the current status of Clean Water Act section 404 permit actions for which NMFS has conducted, or is in the process of conducting, an ESA or EFH consultation with the COE. The general public, consultants, and non-federal applicants can query PCTS by using the following username and password: PCTSNMFS, and PCTS22NMFS, respectively.

For COE-permitted projects, click on "Enter Corps Permit Site." From the "Choose Agency Subdivision (Required)" list, pick the appropriate COE district. At "Enter Agency Permit Number" type in the COE district identifier, hyphen, year, hyphen, number. The COE is in the processing of converting its permit application database to PCTS-compatible "ORM." An example permit number is: SAJ-2005-000001234-IPS-1. For the Jacksonville District, which has already converted to ORM, permit application numbers should be entered as SAJ (hyphen), followed by 4-digit year (hyphen), followed by permit application numeric identifier with no preceding zeros. For example: SAJ-2005-123; SAJ-2005-1234; SAJ-2005-12345.

For inquiries regarding applications processed by COE districts that have not yet made the conversion to ORM (e.g., Mobile District), enter the 9-digit numeric identifier, or convert the existing COE-assigned application number to 9 numeric digits by deleting all letters, hyphens, and commas; converting the year to 4-digit format (e.g., -04 to 2004); and adding additional zeros in front of the numeric identifier to make a total of 9 numeric digits. For example: AL05-982-F converts to 200500982; MS05-04401-A converts to 200504401.

PCTS questions should be directed to Eric Hawk at Eric.Hawk@noaa.gov or (727) 551-5773.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
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SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
- g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006

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