

APPENDIX B

LEVY NUCLEAR PLANT UNIT 1

ENVIRONMENTAL PROTECTION PLAN

(NONRADIOLOGICAL)

1.0 Objectives of the Environmental Protection Plan

The Environmental Protection Plan (EPP) objectives are to ensure compliance with Biological Opinions issued pursuant to the Endangered Species Act of 1973, as amended (ESA), and to ensure that the U.S. Nuclear Regulatory Commission (NRC) is kept informed of other environmental matters. The EPP is intended to be consistent with Federal, State, and local requirements for environmental protection.

2.0 Environmental Protection Issues

In the Final Environmental Impact Statement (FEIS) dated April 2012 the staff considered the environmental impacts associated with the construction and operation of Levy Nuclear Plant Units 1 and 2 (LNP). This EPP applies to Duke Energy Florida, LLC (DEF), actions affecting the environmental resources evaluated in the FEIS and DEF's actions that may affect any newly discovered environmental resources.

2.1 Aquatic Resources Issues

Federal agencies other than the NRC, such as the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers, have jurisdiction to regulate aquatic resources under the Federal Water Pollution Control Act (Clean Water Act or CWA) and the Rivers and Harbors Appropriation Act of 1899 (RHA). Certain water quality environmental considerations identified in the FEIS, including effluent limitations, monitoring requirements, and mitigation measures, are regulated under DEF's CWA permits, such as National Pollutant Discharge Elimination System and Section 404 permits, and RHA Section 10 permit. Nothing within this EPP shall be construed to place additional requirements on the regulation of aquatic resources except the imposition of the requirements in a Biological Opinion under the ESA (see Section 2.3). DEF is required to inform the NRC of events or situations concerning aquatic resources consistent with the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.72(b)(2)(xi), and this EPP does not expand any reporting requirement required by that regulation.

2.2 Terrestrial Resources Issues

Several statutes govern the regulation of terrestrial resources. For example, the U.S. Fish and Wildlife Service (FWS) regulate matters involving migratory birds and their nests in accordance with the Migratory Bird Treaty Act (MBTA). Activities affecting migratory birds or their nests may require permits under the MBTA. The FWS also regulates matters involving the protection and taking of bald and golden eagles in accordance with the Bald and Golden Eagle Protection Act. DEF shall inform NRC of any events or situations concerning terrestrial resources consistent with the provisions of 10 CFR 50.72(b)(2)(xi), and this EPP does not expand any reporting requirement required by that regulation.

### 2.3 Endangered Species Act of 1973

The NRC may be required to protect some aquatic resources and terrestrial resources in accordance with the ESA. In accordance with ESA Section 7, DEF shall comply with the following conditions to implement the terms and conditions set forth in the Incidental Take Statement of the Biological Opinion issued by the FWS on December 1, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML113530504):

1. No greater than two years prior to commencing land clearing or building activities for the plant and associated facilities, the licensee shall conduct surveys in areas to be disturbed to determine whether:

- 1) there is any occurrence of Britton's beargrass or longspurred mint,
- 2) the sand skink or suitable habitat for the sand skink is present, and
- 3) the Florida scrub-jay or suitable habitat for the Florida scrub-jay is present.

The licensee shall avoid or relocate within the same area any Britton's beargrass or longspurred mint so that no "take" occurs. The licensee shall contact and coordinate with the FWS's Jacksonville Field Office if surveys reveal that sand skinks, Florida scrub-jays, or suitable habitat for either are present to ensure that no "take" occurs.

2. If the post-survey coordination described in Condition 1 is necessary, the licensee shall comply with any additional requirements identified during the post-survey coordination between the licensee and the FWS to prevent a "take" of the sand skink or the Florida scrub-jay.
3. Prior to conducting any clearing activities in the Levy-South Central Florida transmission line corridor during the nesting season of the Florida scrub-jay (March 1–June 30), the licensee shall survey the area to be cleared to determine whether there are any active Florida scrub-jay nests located within the vegetation. If an active Florida scrub-jay nest is located clearing activities to the maximum extent practicable must not take place within 150 feet of the nest site until the nestlings have fledged or until it has been determined that the nest has failed.
4. The licensee shall immediately report any unauthorized take of a Florida scrub-jay caused by its activities on the Levy Nuclear site or in the Levy-South Central Florida transmission line corridor to the FWS's Jacksonville Field Office by telephone at (904) 731-3336. If a dead Florida scrub-jay is found on the Levy Nuclear site or in the Levy-South Central Florida transmission line corridor, the specimen shall be thoroughly soaked in water and frozen for later analysis.
5. The licensee shall implement the Standard Protection Measures for the Eastern Indigo Snake identified in the biological opinion developed by the FWS prior to conducting activities for the development of the plant and associated facilities.

If any Federally listed species or critical habitat occurs in an area affected by construction or operation of the plant that was not previously identified as occurring in such areas, including species and critical habitat that were not previously Federally listed, DEF shall inform the NRC

within four hours of discovery. The time of discovery is identified as the specific time when a decision is made to notify another agency or to issue a press release. Similarly, DEF shall inform the NRC within four hours of discovery of any take, as defined in the ESA, of a Federally listed species or destruction or adverse modification of critical habitat. The four-hour discovery notification shall be made to the NRC Operations Center via the Emergency Notification System. DEF shall provide any necessary information to the NRC if the NRC initiates or reinitiates consultation under the ESA.

Unusual Event - DEF shall inform the NRC of any onsite mortality, injury, or unusual occurrence of any species protected by the ESA within four hours of discovery, followed by a written report in accordance with Section 4.1. The time of discovery is identified as the specific time when a decision is made to notify another agency or to issue a press release. Such incidents shall be reported regardless of DEF's assessment of causal relation to plant construction or operation.

### 3.0 Consistency Requirements

DEF shall notify the NRC of proposed changes to permits or certifications concerning aquatic or terrestrial resources by providing the NRC with a copy of the proposed change(s) at the same time it is submitted to the permitting agency.

DEF shall provide the NRC with a copy of the application for renewal of permits or certifications at the same time the application is submitted to the permitting agency.

Changes to or renewals of such permits or certifications shall be reported to the NRC within 30 days following the later of the date the change or renewal is approved or the date the change becomes effective. If a permit or certification, in part or in its entirety, is appealed and stayed, the NRC shall be notified within 30 days following the date the stay is granted.

### 4.0 Administrative Procedures

#### 4.1 Plant Reporting Requirements: Non-routine Reports

A written report shall be submitted to the NRC within 30 days of occurrence of any unusual event described in Section 2.3 of this EPP. The report shall:

- (a) describe, analyze, and evaluate the event, including extent and magnitude of the impact and plant operating characteristics at the time of the event,
- (b) describe the probable cause of the event,
- (c) indicate the action taken to correct the reported event,
- (d) indicate the corrective action taken to preclude repetition of the event and to prevent similar occurrences involving similar components or systems, and
- (e) indicate the agencies notified and their preliminary responses.

Events reportable under this subsection, which also require reports to other Federal, state, or local agencies, shall be reported in accordance with those reporting requirements in lieu of the

requirements of this subsection. The NRC shall be provided a copy of such report at the same time it is submitted to the other agency.

#### 4.2 Review and Audit

DEF shall provide for review and audit of compliance with Section 2.3 of this EPP. The audits shall be conducted independently of the individual or groups responsible for performing the specific activity. A description of the organizational structure utilized to achieve the independent review and audit function and results of the audit activities shall be maintained and made available for inspection.

#### 4.3 Records Retention

Records required by this EPP shall be made and retained in a manner convenient for review and inspection. These records shall be made available to the NRC on request. The records, data, and logs relating to this EPP shall be retained for five years or, where applicable, in accordance with the requirements of other agencies.

#### 4.4 Changes in Environmental Protection Plan

A request for a change in the EPP shall include an assessment of the environmental impact of the proposed change and a supporting justification. Implementation of such changes in the EPP shall not commence prior to NRC approval of the proposed changes in the form of a license amendment incorporating the appropriate revision to the EPP.

DEF shall request a license amendment to incorporate the requirements of any Terms and Conditions set forth in the Incidental Take Statement of applicable Biological Opinions issued subsequent to the effective date of this EPP.