

September 1, 2015

The Honorable Michael J. Bean, Principal Deputy  
Assistant Secretary for Fish and Wildlife and Parks  
Office of the Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Mr. Bean:

Thank you for your letter dated July 30, 2015, to Chairman Burns regarding the draft Environmental Impact Statement (EIS) on the Florida Power and Light (FPL) application for a combined license (COL) for its proposed Turkey Point Units 6 & 7 facility. As Secretary of the Commission, I am responding on the Chairman's behalf. In your letter, you asked to meet with Chairman Burns and the NRC staff to discuss the FPL COL application. In particular, you asked to discuss the principal issues in the National Park Service (NPS) and U.S. Fish and Wildlife Service (FWS) comments on the draft EIS, which the NPS and FWS submitted to the NRC on July 17 and 23, 2015, and which you attached to your letter. You also recommended that the NRC staff consider convening a technical discussion among the various Federal agencies to go over the Federal agency comments as the EIS is finalized to support the Commission's decision on the application.

The Commission appreciates the Department's important role in protecting and managing the resources in Biscayne and Everglades National Parks, and the care the NPS and FWS take in discharging their statutory obligations in that regard. The Commission and the NRC staff are sensitive to the effects the proposed reactors might have on the natural resources under the Department's jurisdiction as well as to the NPS and FWS concerns associated with those effects. As I'm sure you're aware, the NRC, as the lead agency, is cooperating with two other Federal agencies, namely, the NPS and the U.S. Army Corps of Engineers, in preparing the EIS.

Some of the issues discussed in the NPS and FWS comments are currently in litigation before the Commission itself or the Atomic Safety and Licensing Board, which is an independent body that adjudicates certain challenges to proposed NRC actions, including those in license applications. The Commission has established rules in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.347 and 2.348 to preclude communications to Commissioners and adjudicatory employees, either from outside the NRC (ex parte rules under 10 CFR 2.347) or within the NRC (separation of functions under 10 CFR 2.348), concerning the merits of any issue in dispute in litigation before the Commission or Board. It is the Commission's policy to avoid even the appearance of such precluded communications. Since the NPS and FWS comments touch on matters in litigation regarding the FPL COL application now pending before the Commission and the Board, Chairman Burns will be unable to meet with you to discuss these issues. Nonetheless, I am referring your letter to the NRC staff, which is separated from the Commission and the Board in regard to these adjudicatory matters, for further response.

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In accordance with 10 CFR 2.347(c), I am serving this letter and your letter of July 30, 2015, together with its attachments, on the parties to the ongoing adjudicatory proceedings regarding the Turkey Point combined license application.

Sincerely,

***/RA/***

Rochelle C. Baval, Acting,  
Secretary of the Commission