

CHAIRMAN Resource

From: Strickland, Fannie <Fannie.Strickland@fpl.com> on behalf of Sole, Michael <Michael.Sole@nexteraenergy.com>
Sent: Thursday, July 25, 2019 9:58 AM
To: joezabel@stanford.edu
Cc: TheSec@doc.gov; Chris.Oliver@noaa.gov; CHAIRMAN Resource
Subject: [External_Sender] Endangered Species Act - FPL Response Letter
Attachments: FPL Response - Mills Legal Clinic.pdf

Dear Mr. Zabel:

Florida Power & Light Company ("FPL") is writing in reference to a notice of intent to sue sent by the Mills Legal Clinic, dated May 30, 2019, on behalf of Turtle Island Restoration Network ("Turtle Island") and Beyond Nuclear for alleged violations of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) at the St. Lucie Nuclear Power Plant. As you are aware, and as you requested in your notice, the United States Nuclear Regulatory Commission ("NRC") recently issued a Biological Assessment and formally requested to reinstate consultation with the National Marine Fisheries Service ("NMFS") pursuant to section 7 of the Endangered Species Act on April 17, 2019. It is our understanding that NMFS reinstated consultation with the NRC, effective May 28, 2019. FPL supports such consultation.

While FPL disagrees with the assertion in the notice of intent that we have violated and continue to violate our legal duties under the Endangered Species Act (ESA), this letter would not be the appropriate vehicle through which to offer our counter to such contentions. Rather, we want to take the opportunity to reaffirm our longstanding commitment to being an industry leader in environmental protection and stewardship, including wildlife and habitat protection. We have substantial environmental programs and policies in place throughout our organization and our facilities, including at the St. Lucie Nuclear Power Plant, to avoid any impacts and to also further improve the information and study of wildlife.

Since the plant became operational in 1976, FPL has been actively engaged in the study of sea turtles. In fact, over 18,000 sea turtles, representing five different species (in order of abundance loggerhead, green, hawksbill, Kemp's ridley, and leatherback turtles), have been documented at the plant and the resultant database is the largest of its kind in the world. Over 90% of these sea turtles have been systematically measured, weighed, tagged, and released by a contracted team of experienced biologists continually present at the canal seven days a week.

The data collected at the plant are of great value to researchers and conservationists and have been cited in more than 23 scientific publications, 17 presentations at conferences, workshops and meetings and four agency documents, including NMFS's recovery plans for the loggerhead and green sea turtles. In addition, the FPL sea turtle program has collaborated with at least seven different colleges and universities. The data that were collected at the canal as a result of these collaborations were used to complete Masters or Doctoral theses. This research has ranged from studies on sea turtle health to growth rates to sex ratios to site fidelity and more. The ability to study five species of sea turtles from both sexes and most age classes has made this 40+ year dataset highly valuable. Its contribution has led to a better understanding of sea turtle biology and conservation.

In addition to the amount of data collected, the program has allowed for sick and injured turtles to be rescued before their health has been fatally compromised. Turtles with injuries or health issues are transported to an animal rescue center recommended by the Florida Fish and Wildlife Conservation Commission (FWC), such as the Loggerhead Marinelife Center, a nonprofit sea turtle hospital located just two miles from FPL's headquarters in Juno Beach. FPL is a longstanding partner and supporter of the Loggerhead Marinelife Center, which promotes conservation of ocean ecosystems with a focus on threatened and endangered sea turtles.

From 2006 to 2017, a total of 6108 turtles were documented at the St. Lucie intake canal and 95% of them were released into the wild the same day. Of that, 216 turtles (3.5%) were transported to rehabilitation facilities with injuries from shark attacks, boat strikes and entanglements in fishing line or other ocean debris. Without entering the canal and receiving a full health

assessment, many of these injuries would have ultimately resulted in death. Of the 216 sea turtles taken to rehabilitation facilities, 155 turtles (72%) were successfully rehabilitated and released, 48 turtles (22%) died or were euthanized while in rehabilitation, nine (4%) were continuing rehabilitation, and four (2%) were deemed non-releasable and transferred to aquariums for long-term care. (Please see Test Evaluation Report dated December 6, 2018)

FPL has worked collaboratively with the NMFS and FWC for decades on this sea turtle program and we will continue to partner with them through the consultation process, in compliance with the Endangered Species Act, to promote the continued conservation of marine species.

If you have any questions regarding the St. Lucie Sea Turtle Program, please contact Amy Albury, Director Environmental Relations, at 561-694-6306.

Sincerely,

Michael Sole
Vice President, Environmental Services
NextEra Energy

cc:

- Honorable Wilber Ross, Secretary of Commerce, U.S. Department of Commerce
- Mr. Chris Oliver, Assistant Administrator for Fisheries, MOAA Fisheries Service
- Honorable Kristine L. Svinicki, Chairman, U.S. Nuclear Regulatory Commission



July 24, 2019

Mr. Joseph Zabel
Mills Legal Clinic
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305

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Michael Sole

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Honorable Kristine L. Svinicki, Chairman, U.S. Nuclear Regulatory Commission