

**From:** [Audra Livergood - NOAA Federal](#)  
**To:** [Grange, Briana](#)  
**Cc:** [Jennifer Moore \(jennifer.moore@noaa.gov\)](#); [Elliott, Robert](#); [Eldridge, Jodie](#); [Eaton, Kristin](#)  
**Subject:** [External\_Sender] Re: St. Lucie Request for Additional Information  
**Date:** Tuesday, January 14, 2020 1:09:51 PM

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Thank you, Briana. I concur with items you have outlined in your interim email response. I will be in touch soon regarding NMFS's action item.

Kind regards,  
Audra

On Tue, Jan 14, 2020 at 12:02 PM Grange, Briana <[Briana.Grange@nrc.gov](mailto:Briana.Grange@nrc.gov)> wrote:

Audra,

Thank you for speaking with me this morning. As we discussed, I am sending you this email to serve as an interim response to your January 10, 2020, request for additional information in support of initiating Endangered Species Act Section 7 consultation with the NRC for the St. Lucie Plant. This email summarizes our conversation and documents the items we discussed. The NRC will provide a final response to your January 10 request at a later date.

If I have mischaracterized anything below, please respond with corrections or additions.

### **Summary of January 14, 2020, NRC/NMFS Teleconference Regarding St. Lucie Plant**

#### **2019 Annual Environmental Operating Report**

- **Background:** NMFS has requested that NRC submit a draft 2019 annual operating report to NMFS by January 31, 2020, and a final report by March 31, 2020.
- I explained that the NRC requires FPL to submit its annual environmental operating report by May 1 of each year in accordance with Appendix B of the plant operating licenses. The annual report addresses all environmental protection plan activities including, but not limited to, sea turtle information.
- FPL has internally discussed whether it could complete this report sooner. Because of the numerous inputs and levels of management/executive approval, FPL is unlikely to be able to provide the report much in advance of the May 1 deadline.

- I explained that FPL has expressed its willingness to provide NMFS with the sea turtle information that it needs for the consultation but that the annual report, specifically, is a challenge for the reasons stated above.
- We discussed whether, in lieu of the annual report, the NRC could compile information from the 2019 monthly reports that would fulfill the NMFS's needs to initiate the consultation. The NRC could provide that information to NMFS now to fulfill the NMFS's January 10 request. FPL would then submit its annual report as scheduled, and NMFS could use that report to verify the NRC's submittal. (Alternately, the NRC could submit a statement to NMFS confirming that the annual report does not change any information previously submitted to NMFS.)
- To explore this option, I asked whether NMFS could provide the NRC with further direction on what specific sea turtle data and information NMFS had intended to gather from the 2019 annual report.
- NMFS will further consider this question and whether the NRC could compile this information separately from the annual report to meet NMFS's current needs. (NMFS action item)

#### FPL's Ocean Intake System Monitoring and Maintenance Plan

- **Background:** NMFS requested that NRC submit a copy of FPL's Monitoring and Maintenance Plan to NMFS by January 31, 2020.
- As we discussed, the NRC has previously submitted this plan to NMFS. The plan was attached to the NRC's May 22, 2019, response to additional information requests ([ML19142A139](#)). The plan was also incorporated by hyperlink as Reference 5 on page 2 of the NRC's December 18, 2019, response to additional information requests ([ML19350B348](#)).
- To ensure an accurate and complete administrative record, we agreed that the NRC will submit a PDF copy of the plan to NMFS when the NRC submits its final response to NMFS's January 10 request.

#### Action Items

- **NMFS action:** NMFS will circle back with NRC per the "NMFS action item" above.
- **NRC action:** NRC will submit a final response to NMFS's January 10 request by January 31 (or other agreed upon date, if additional time is required to compile the necessary information).

Thank you,

Briana

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**Briana A. Grange**

Conservation Biologist & ESA Consultation Coordinator

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**From:** Audra Livergood - NOAA Federal <[audra.livergood@noaa.gov](mailto:audra.livergood@noaa.gov)>  
**Sent:** Friday, January 10, 2020 11:11 AM  
**To:** Grange, Briana <[Briana.Grange@nrc.gov](mailto:Briana.Grange@nrc.gov)>  
**Cc:** Jennifer Moore <[Jennifer.Moore@noaa.gov](mailto:Jennifer.Moore@noaa.gov)>; Elliott, Robert <[Robert.Elliott@nrc.gov](mailto:Robert.Elliott@nrc.gov)>; Eldridge, Jodie <[Jodie.Eldridge@nexteraenergy.com](mailto:Jodie.Eldridge@nexteraenergy.com)>; Eaton, Kristin <[Kristin.Eaton@fpl.com](mailto:Kristin.Eaton@fpl.com)>  
**Subject:** [External\_Sender] Re: St. Lucie, Request for Additional Information

Dear Briana,

I would like to clarify something in my last email. The statement at the end of the email requested a response within 45 days. However, we requested the draft annual environmental operating report and the monitoring and maintenance plan be provided by January 31, 2020, which is in 21 days. To clarify, the January 31, 2020 date supersedes the 45-day statement. Please let me know if you have any questions.

Thank you,

Audra

On Fri, Jan 10, 2020 at 10:48 AM Audra Livergood - NOAA Federal <[audra.livergood@noaa.gov](mailto:audra.livergood@noaa.gov)> wrote:

Dear Briana,

**NMFS's Response to the NRC's 12/18/19 email regarding FPL St. Lucie**

1) NMFS has deemed NRC's response to our first question complete. However, we would like to note that we do not recall being contacted by telephone regarding the loggerhead nest that was discovered by FPL on 7/8/19. We were notified via email, but in the future, we request notification by phone and email of significant events such as this one.

2) NMFS has deemed NRC's response to our second question incomplete. We requested the 2019 annual environmental operating report be provided to [Audra.Livergood@noaa.gov](mailto:Audra.Livergood@noaa.gov). NRC stated that they do not expect the report to be available until April 2020, and suggested NMFS refer to the 2019 monthly reports. NMFS believes this suggestion to be overly burdensome.

At this time, in lieu of a final 2019 annual environmental operating report, we **reiterate our request and ask the NRC/FPL to compile the information from their 2019 monthly reports into one 2019 annual draft report that supplements information provided in the Biological Assessment. We expect the NRC to provide the draft report to NMFS by January 31, 2020 and the final report to NMFS by March 31, 2020. Please submit both reports by the requested due dates via email (as a pdf attachment) to [Audra.Livergood@noaa.gov](mailto:Audra.Livergood@noaa.gov).** Our headquarters office located in Silver Spring, MD and referenced in Term and Condition 16 (of RPM 1) in the 2016 BO is no longer overseeing the Section 7 consultation; thus, it would be prudent to send these reports to Ms. Livergood's attention via the email address provided herein.

Until we receive the draft report, we will not have sufficient information to draft a Biological Opinion.

#### Activities Under the Proposed Action

In the NRC's 12/18/19 response, the NRC states that FPL has developed a monitoring and maintenance plan, in accordance with Term and Condition 2 of RPM 2. NMFS notes that we provided comments on the draft plan on 3/1/17. However, we did not receive a response to our comments nor did we receive the final monitoring and maintenance plan.

**Please submit the Monitoring and Maintenance Plan to [Audra.Livergood@noaa.gov](mailto:Audra.Livergood@noaa.gov) by January 31, 2020.**

Concerning Activity 4 of the Proposed Action, the NRC stated that it "agrees, in part, with the NMFS's opinion that T&C 6 of RPM 2 requires FPL to perform Activity 4. The T&C requires FPL to inspect the intake canal banks for evidence of turtle nesting during the nesting season. Although such inspections are part of Activity 4 of the proposed action, the proposed action would further include FPL's submittal of written inspection results to the NMFS in the Annual Environmental Report. FPL is not required to report results of canal bank inspections or to otherwise maintain such records under the current biological opinion. The reporting portion of Activity 4 of the proposed action is a new activity that FPL would not otherwise undertake."

NMFS notes that while reporting may not be required in the 2016 BO, FPL does report this information to NMFS in their monthly sea turtle reports. Thus, we do not consider the reporting to be a new activity.

In summary, the NRC's response to our December 13, 2019 request for additional information is incomplete. In support of the Section 7 consultation, please provide the information requested herein by the requested due dates.

If no response to this request is received within 45 days, we will assume the consultation is no longer active. We will then close out the consultation request. Please note this 45-day period has been established as a national policy.

Sincerely,

Audra Livergood

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Audra Banks  
NOAA National Marine Fisheries Service  
SERO Protected Resources Division  
Coral Conservation Branch

Looking at them, Jesus said, "With people it is impossible, but not with God; for all things are possible with God." (*Mark 10:27*)

For since the creation of the world, God's invisible qualities - His eternal power and divine nature - have been clearly seen, being understood from what has been made, so that people are without excuse (Romans 1:20)