

From: [Audra Livergood - NOAA Federal](#)
To: [Grange, Briana](#)
Cc: [Jennifer Moore](#); [Elliott, Robert](#); [Eldridge, Jodie](#); [Eaton, Kristin](#)
Subject: [External_Sender] Re: St. Lucie, Request for Additional Information
Date: Friday, January 10, 2020 10:48:57 AM

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. 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.** 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 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

On Wed, Dec 18, 2019 at 1:00 PM Grange, Briana <Briana.Grange@nrc.gov> wrote:

Audra,

With this email, I am transmitting to you the NRC’s response to your December 13, 2019, request for additional information concerning the NRC’s request to reinstate Endangered Species Act Section 7 consultation for the St. Lucie Plant, Unit Nos. 1 and 2.

Please note that the NRC’s response also addresses the NMFS’s position, as stated in your email, that Activities 2 and 4 of the proposed action are already required under the current biological opinion. The NRC disagrees. The biological opinion does not require FPL to perform Activity 2 or to perform all aspects of Activity 4. These additional activities are new and differ from the activities of the previous consultation’s action. Please see the section titled, “Activities Under the Proposed Action,” in the attached response for a detailed explanation of the differences between the current biological opinion’s requirements and the new activities being proposed as part of this consultation.

Thank you,

Briana

Briana A. Grange

Conservation Biologist & ESA Consultation Coordinator

Division of Rulemaking, Environmental, and Financial Support
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U.S. Nuclear Regulatory Commission
(301) 415-1042
briana.grange@nrc.gov

From: Audra Livergood - NOAA Federal <audra.livergood@noaa.gov>
Sent: Friday, December 13, 2019 11:02 AM
To: Grange, Briana <Briana.Grange@nrc.gov>
Cc: Jennifer Moore <Jennifer.Moore@noaa.gov>
Subject: [External_Sender] St. Lucie, Request for Additional Information

Dear Briana,

The National Marine Fisheries Service (NMFS) has reviewed the Nuclear Regulatory Commission's (NRC) November 18, 2019 request to reinstate Endangered Species Act Section 7 consultation with NMFS for the continued operation of Units 1 and 2 at Florida Power and Light's (FPL) nuclear power plant located in St. Lucie County, Florida.

In addition to the November 18, 2019 request, NMFS also reviewed the NRC's Biological Assessment (BA) that was received by NMFS via email on April 22, 2019. The NRC stated in their November 18, 2019 request that the BA remains relevant to this consultation.

The Proposed Action is described on page 2 of NRC's BA as follows:

The proposed action is the continued operations of St. Lucie and its ocean intake system under the terms of NRC Renewed Facility Operating License Nos. DPR-67 and NPF-16, which authorize operations through March 1, 2036 (Unit No. 1) and April 6, 2043 (Unit No. 2), assuming FPL's implementation of Option 2, "Maintain Programs and Identify and Minimize Negative Impacts Associated with Entrainment and Travel through the Intake Piping," as described in FPL's December 6, 2018, final excluder device test report. In Section 2 of NMFS's 2016 biological opinion, NMFS includes a detailed discussion of St. Lucie operations. This discussion remains relevant to the present reinstated consultation. In addition to operations as described in the biological opinion, FPL proposes to implement the following actions to reduce or minimize the take of and harm to listed species:

1. Perform initial detailed inspection of interior of intake pipes and velocity caps to identify conditions that may cause injury to large marine animals that may travel through the pipes.
2. Perform maintenance and modifications to address adverse conditions, to include creation of a smooth transition at the base of the Unit No. 1 velocity caps where the horizontal pipe enters the vertical section of the velocity cap.
3. Perform periodic inspections of interior of intake pipes and velocity caps to identify potential conditions that may cause injury to large marine animals.
4. Require biologists to inspect and record observations of the intake canal banks for potential turtle nesting and document inspection results in the Annual Environmental Report.

We note that activity #2 (above) is already required in Term and Condition 2 of Reasonable and Prudent Measure 2 in NMFS's 2016 Biological Opinion. Moreover, we note that activity #4 (above) is already required in Term and Condition 6 of Reasonable and Prudent Measure 2 in NMFS's 2016 Biological Opinion. Thus, we respectfully disagree with the NRC's characterization of these activities as additional activities in the BA. NMFS considers these activities to be ongoing as part of the continued operations at the power plant. We do not believe these activities represent a change in operations.

NMFS requests the following information to continue our evaluation:

1) Page 16 of the BA states FPL has not observed any sea turtle nesting attempts on the intake canal bank since the 2006 event. Please confirm that this statement is still true.

2) Please provide NMFS with FPL's 2019 annual environmental operating report when it becomes available. Please email a pdf of the report to Audra.Livergood@noaa.gov

NMFS reserves the right to request additional information based on our review of the information requested herein.

We look forward to hearing from you in **45 days**. If we do not receive a response within 45 days from the date of this email, we will assume the consultation is no longer active, and we will close out the consultation. Please note this 45-day period has been established as a national policy.

Kind regards,

Audra

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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)

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