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**FOIA/PA REQUEST**

Case No.: 2008-0043  
Date Rec'd: 11-14-07  
Specialist: WINTERS  
Related Case: \_\_\_\_\_

August 6, 2007

Chief  
Freedom of Information Division and Publications  
National Oceanographic and Atmospheric Administration  
1315 East-West Highway  
Silver Spring, MD 20910

By email: [foia@noaa.gov](mailto:foia@noaa.gov)

**Freedom of Information Act Request for St. Lucie Nuclear Power Station and  
Requirements under the Endangered Species Act**

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA); 5 U.S.C. 552(b), et seq., Beyond Nuclear at the Nuclear Policy Research Institute (NPRI) hereby requests information for the subject matter described as follows. This request covers but is not limited to all draft and final reports, correspondence, memoranda, notes, records of telephone contacts, electronic communications including fax transmissions and Email, or other written records, whether in paper or computer files, preserved via the use of any medium (e.g., paper documents, final notes, or word processors or computer discs, diskettes, hard drives, or network systems.) In addition, this request includes studies, analyses, work papers, internal or external communications of any sort, testimony, press releases, reports, memoranda of the like concerning, recording or in any way related to:

- 1) All communications between National Marine Fisheries Service (NMFS) and Florida Power and Light's (FPL) St. Lucie nuclear power station and the Nuclear Regulatory Commission (NRC) and the pertaining to reports of "incidental capture" of threatened and endangered species (including Kemp's ridley, Loggerhead, Leatherback or Hawksbill and Atlantic Green sea turtles and West Indian manatees and any other federally listed species) for the years 2003, 2004, 2005, 2006 to the current date in 2007. These documents include actual reports not publicly filed, documents referencing reports and reporting requirements for both live and dead captures of species. "Incidental captures" shall include, but not be limited to incidental captures, unintentional or intentional captures, causal or non-causal deaths,

**detainment, maiming, injuries, killings, and/or explained or unexplained death.**

**2) All correspondence and documents pertaining to proposed limits for incidental taking, capturing and/or killing of endangered and threatened species for the years 2003, 2004, 2005, 2006 to the current date in 2007.**

**3) All documents between NMFS, FPL, NRC and a representative or employee of the State of Florida pertaining to the reports or communications of incidental captures of threatened or endangered species for 2003, 2004, 2005, 2006 to the current date in 2007 that are in the possession of any employee of the NRC.**

**4) All documents pertaining to control and mitigation of incidental captures of threatened or endangered species for the years 2003, 2004, 2005, 2006 to the current date in 2007 at St. Lucie nuclear power station.**

**5) All documents and correspondence for the stated time concerning the number of permitted takes under any federal law or statute allocated to FPL.**

Pursuant to this request, please provide all documents and communications prepared or utilized by, in the possession of, or routed through the NMFS related to items 1-5.

For any portion of the request that you deem appropriate to deny, Beyond Nuclear requests that you describe the information that is denied, identify the exception to the FOIA on which you rely, and explain how that exception applies to the withheld information.

Pursuant to federal regulations at 10 CFR 9.41, Beyond Nuclear requests that any searching and copying fees incurred as a result of this search be waived, and provides the following information in response to the eight criteria listed in Section 9.41(b):

**1) Purpose of request:**

The purpose of the request is to gather information on the oversight of and industry compliance with the Endangered Species Act. The requested information is currently not publicly available through the agency's public document room.

**2) Extent to which Beyond Nuclear will extract and analyze the substantive content of the records:**

The staff of Beyond Nuclear at NPRI is qualified to make use of the requested information. The staff has demonstrated the ability to interpret information and communicate that information in a form comprehensible to the general public. The staff at Beyond Nuclear at NPRI is quoted as a reliable source of information on nuclear

power issues in newspapers across the country, including the New York Times, the Los Angeles Times and Nature Magazine.

Beyond Nuclear at NPRI has a working relationship with Endangered Species Act attorneys, marine biologists, nuclear engineers and other respected professionals who contribute to the full understanding of the oversight of and compliance with the Endangered Species Act.

**3) Nature of the specific activity or research in which the records will be used and Beyond Nuclear qualifications to utilize the information for the intended use in such a way that it will contribute to public understanding:**

Beyond Nuclear at NPRI seeks the requested information solely to contribute to and help shape the public debate on the oversight and industry compliance with the Endangered Species Act. Beyond Nuclear at NPRI intends to use the information in order to advance the concerns for public understanding of NMFS oversight and industry compliance with the Endangered Species Act.

**4) Likely impact on the public understanding of the subject as compared to the level of understanding of the subject prior to disclosure:**

The public understanding of the issues regarding on oversight and industry compliance with the Endangered Species Act will be enhanced by the contribution of this information.

**5) Size and nature of the public to whose understanding a contribution will be made:**

Beyond Nuclear at NPRI has an active subscribing membership of over 7000 plus throughout the United States. Beyond Nuclear at NPRI provides resource material to electronic and print media outlets with very broad outreach to our constituency and interested public. Additionally, Beyond Nuclear at NPRI has a website at > <http://www.beyondnuclear.org> < where postings on this issue in report form will be made publicly available.

**6) Means of distribution of the requested information:**

Beyond Nuclear at NPRI will use its extensive media contacts in both the electronic and print media outlets to provide very broad outreach to the public. Beyond Nuclear at NPRI will also share information with other interested parties concerned about oversight of and industry compliance with the Endangered Species Act. Additionally, Beyond Nuclear at NPRI will post information on its web site at <http://www.beyondnuclear.org>.

**7) Whether free access to information will be provided:**

Beyond Nuclear at NPRI will provide the information without charge to all members of the public. Information prepared from the FOIA requested will be posted on the web site for downloading free of charge. Beyond Nuclear will also provide a copy of information to all interested parties without charge.

**8) No commercial interest by Beyond Nuclear or any other party:**

Beyond Nuclear has no commercial interest in obtaining the requested information. This information is provided to all public requests without charge. The sole interest of Beyond Nuclear is to promote a policy debate on oversight and industry compliance with the Endangered Species Act.

Sincerely,

Paul Guntor  
Director of Reactor Oversight  
Beyond Nuclear  
Email: paul@beyondnuclear.org