

From: NRC Cynthia Sochor NRC (DWP) Barry, please assign
To: -Andrew Kugler; Dino Scaletti; Duke Wheeler; James Wilson; John Goshen; Kimberly Leigh; Michael Masnik
Date: 3/23/01 12:54PM
Subject: CREC-3 turtle problems

Guys:

on Tues + 2 Wed + 2 Thur / 19 live takes - C
CR-3 has had a recent rash of turtle takes. The PM, John Goshen, was informed this week that the licensee has had 15 takes, 2 of which were lethal this year. According to the PM the counting period started again in January 2001. The total allowable takes are 40 live, 6 lethal not-related, and 3 lethal related to plant operation every two years according to the BO transmitted to the NRC by letter dated June 16, 1999. I think this is the latest ITS. Since the licensee is rapidly approaching their ITS limits, they are questioning what actions they need to take.

Section X of the BO states that reinitiation of consultation should take place in the event one of 4 criteria are met. As far as I can tell, none of the criteria are met except for maybe criteria 2 which reads:

2. new information reveals effects of the action that may affect listed species or critical habitat (when designated) in a manner or to an extent not previously considered

One could argue that the action hasn't changed, therefore the effects of the action haven't changed. But in light of criteria 3 which specifically deals with changes in the action, this argument would make Criteria 2 redundant. I think the intent of Criteria 2 is to require reinitiation of consultation when new information brings to light an impact to a listed species which is different in nature or in severity and is related to the effects of the action, even if it results in a less severe impact (because NMFS might want to lower the #s). Since the rate of turtle takes appears to be increasing substantially, I would consider this new information and a reason to reinitiate consultation as soon as possible. If the rate really isn't increasing substantially, then it appears that the ITS numbers weren't reflective of past data and are too low, but in either case it looks like we need to re-initiate consultation. It appears that the licensee will go over their limits this year, and if they do, then the requirements for reporting are much more stringent. The licensee would have 5 days to report the exceedance of the limit in any of the three categories and the usual 30 day report to NMFS would change to 24 hour report for each turtle take.

I also have John Goshen looking into the reporting requirements of 50.72(b)(2)(vi), as I don't think the licensee has notified us of any of the turtle takes.

Any other thoughts?

Thanks,
Cynthia

This message will self-destruct 5 minutes after it is opened. That one is for you Barry.

CC: Barry Zalcman; Ira Dinitz

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