



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Nebraska Field Office
203 West Second Street
Grand Island, Nebraska 68801

October 2, 2003

Mr. Pao-Tsin Kuo
Program Director
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Kuo:

On December 16, 2002, the U.S. Fish and Wildlife Service (Service) received a letter dated December 9, 2002, from the U.S. Nuclear Regulatory Commission (NRC) requesting comments from the Service on a Biological Assessment (Assessment) of the Potential Impacts to Threatened and Endangered Species Resulting from an Additional 20 Years of Operation of the Fort Calhoun Station (FCS), Unit 1, Nuclear Power Plant (TAC No. MB3402), located in Washington County, Nebraska. The Assessment determined that the proposed action was not likely to adversely affect the federally listed endangered pallid sturgeon (*Scaphirhynchus albus*) or the threatened bald eagle (*Haliaeetus leucocephalus*). In addition, the Assessment stated that the proposed action would have no effect on the federally listed threatened western prairie fringed orchid (*Platanthera praeclara*) and piping plover (*Charadrius melodus*), or the endangered least tern (*Sterna antillarum*). The December 9 letter requested concurrence from the Service.

After reviewing the Assessment, the Service concurred that the proposed action was not likely to adversely affect the bald eagle, and would have no effect on the western prairie fringed orchid, piping plover, or least tern. However, the Service concluded that additional information was required before an evaluation could be completed to determine whether the Service would be able to concur with a not likely to adversely affect determination for the pallid sturgeon. The Service was concerned about the impact of heated water, which is released from the facility, on pallid sturgeon spawning, and the potential for impingement or entrainment of pallid sturgeon larvae. The Service requested the additional information in a letter to NRC dated January 13, 2003.

NRC provided the additional information in a letter dated May 30, 2003. After reviewing the additional information, the Service concluded that pallid sturgeon larvae may potentially be taken under the proposed action, and did not concur with NRC's not likely to adversely affect

determination for the pallid sturgeon. In a letter dated July 2, 2003, the Service requested that NRC undertake one of the following conservation measures, as part of the federal action, to minimize or compensate for, project effects on the pallid sturgeon:

Measure 1: Conduct a 3-year larval monitoring study at FCS to determine the impacts of the facility on pallid sturgeon larvae.

Measure 2: Forgo the larval monitoring study (Measure 1), and pursue structural modifications at FCS, using the best available technology, which would either minimize or avoid the take of pallid sturgeon larvae.

If NRC chose not to commit to either Measure 1 or 2, the Service requested that NRC request initiation of formal section 7 consultation with the Service.

On August 8, 2003, the Service met with representatives from the Omaha Public Power District (OPPD) to discuss the Service's July 2 letter. At the meeting, OPPD officials stated that they were not willing to do a larval monitoring study or make structural modifications at FCS, other than modifications required by the pending Environmental Protection Agency 316(b) regulations. However, OPPD was willing to consider funding a pallid sturgeon habitat restoration project on the Missouri River that would be beneficial to and contribute toward the recovery of the pallid sturgeon. The Service agreed to provide OPPD with options for potential habitat restoration projects. The enclosed item conceptually describes three potential project ideas that the Service provided to OPPD for consideration under cover of an August 29, 2003, E-mail message. The potential projects were discussed with OPPD during a September 10, 2003, meeting, and OPPD agreed to provide one-time funding to accomplish a modified version of the Service's Option 1 (Outside Bend Revetment Notching), henceforth referred to as a conservation measure.

In a September 23, 2003, letter to the Service, OPPD documented the conservation measure which was agreed upon at the September 10 meeting. OPPD's September 23 letter states "Under the conservation measure, OPPD will provide one-time funding (up to a maximum of \$100,000) to be used for a pallid sturgeon habitat restoration/conservation project on the Missouri River. A priority project proposed at the September 10th meeting involves the notching of revetments and wing dikes along the Missouri River within the boundaries of the DeSoto National Wildlife Refuge. This project will be designed and implemented by the FWS and NGPC, in cooperation with the U.S. Army Corps of Engineers. This OPPD funding commitment, however, may include other pallid sturgeon habitat restoration/conservation projects as mutually agreed upon by OPPD, FWS, and NGPC. Transfer of the funding to a mutually agreeable account will fulfill all OPPD responsibilities under this agreement. It was also mutually agreed that periodic reporting of project progress and expenditures will be provided to OPPD." During a September 26, 2003, telephone conversation, Mr. Thomas Matthews (OPPD Nuclear Licensing Supervisor) concurred with the Service's request that OPPD provide one-time funding in the amount of \$100,000. OPPD has agreed to deposit \$100,000 into a DeSoto National Wildlife Refuge (NWR) Government or Friends Group holding account by October 22, 2003. In an October 2, 2003,

letter to OPPD, the Service affirmed that the deposit of \$100,000 into a holding account, to be used to complete the aforementioned conservation measure, would minimize or compensate for the potential adverse impacts of the proposed federal action on the pallid sturgeon.

Therefore, based on the OPPD's agreement to complete the conservation measure, the Service concurs that the proposed federal action is not likely to adversely affect the pallid sturgeon. Reinitiation of consultation with the Service will be required under section 7(a)(2) of the Endangered Species Act of 1973, as amended if the proposed action is changed in any way. The Service understands that this letter will be included in the FCS docket, and that NRC will provide a docketed response acknowledging this letter and closing the informal consultation process.

If you or members of your staff have any questions regarding this matter, please contact Mr. Wally Jobman within our office at (308)382-6468, extension 16.

Sincerely,



Steve Anschutz
Nebraska Field Supervisor

Enclosure

- cc: AES, R-6, MS 60120 (Attn: Bob McCue)
- FWS; Bismarck, ND (Attn: Steve Krentz)
- NRC; Washington, D.C. (Attn: Jack Cushing)
- EPA; Kansas City, KS (Attn: John Dunn)
- NGPC; Lincoln, NE (Attn: Frank Albrecht)
- NDEQ; Lincoln, NE (Attn: Mike Linder)
- OPPD; Omaha, NE (Attn: Bill Neal)