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**From:** "Stephania Bolden" <Stephania.Bolden@noaa.gov>  
**To:** <JXC9@nrc.gov>  
**Date:** 12/11/03 10:44AM  
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Dear Mr. Cushing,

This is in response to your December 9, 2003 letter requesting confirmation from NMFS regarding jurisdiction for the aforementioned project. As stated in our June 21, 2002, letter, consultation regarding Gulf sturgeon and their designated critical habitat for this project area falls within the purview of FWS. Therefore, NMFS would support FWS consultation recommendations. However, if the FWS is not able to consult on the project impacts relative to the Gulf sturgeon and its designated critical habitat, then NMFS would become involved in the ESA section 7 consultation.

Sincerely,  
Stephania Bolden

Project: I/SER/2002/00498

**CC:** Eric Hawk <Eric.Hawk@noaa.gov>, jerry ziewitz <Jerry\_Ziewitz@fws.gov>



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
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F/SER3:SKB

JUN 21 2002

Mr. C.R. Pierce  
License Renewal Services Manager  
Southern Nuclear Operating Company, Inc.  
P.O. Box 1295  
Birmingham, Alabama 35201-1295

Dear Mr. Pierce:

This is in response to your May 7, 2002, letter regarding the renewal of the operating licenses for the Farley Nuclear Plant (FNP) Units 1 and 2. Thank you for giving us the opportunity to comment on the project so early in the application process. We have considered the project and submit the following with respect to possible effects on the threatened Gulf sturgeon (*Acipenser oxyrinchus desotoi*), listed September 30, 1991 under the Endangered Species Act (ESA).

The FNP is located on the Chattahoochee River which is a part of the Apalachicola-Chattahoochee-Flint river system. The Chattahoochee and the Flint rivers join near the Florida/Georgia state borders and form Lake Seminole which then drains through the Jim Woodruff Lock and Dam (JWLD) into the Apalachicola River. Although there are numerous reports of Gulf sturgeon in the Chattahoochee and Flint rivers prior to the construction of the JWLD, no evidence exists that Gulf sturgeon pass through the JWLD system. Therefore it is likely that the JWLD precludes any passage of the Gulf sturgeon from the Apalachicola River into Lake Seminole and contiguous rivers.

Critical habitat was proposed for the Gulf sturgeon on June 6, 2002, (67 FR 39105). The Apalachicola River (from its mainstem beginning at the JWLD downstream to its discharge at Apalachicola Bay, Florida, including all Apalachicola River distributaries) was included in the proposed Gulf sturgeon critical habitat designation. This inclusion as proposed critical habitat demonstrates the Apalachicola's essential role in the conservation of the Gulf sturgeon.

Riverine spawning sites were identified as a constituent element (essential for conservation) in the proposed Gulf sturgeon critical habitat designation. Gulf sturgeon require specific substrate suitable for egg deposition and development such as limestone outcrops and cut limestone banks, bedrock, large gravel or cobble beds, marl, soapstone or hard clay. Because the Gulf sturgeon were abundant in the Chattahoochee prior to construction of the JWLD, suitable habitat was



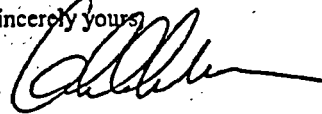
evidently available in the river. Currently the distribution and availability of appropriate Gulf sturgeon spawning habitat in the Chattahoochee River is unknown.

We recommend FNP initiate a reconnaissance study to investigate the availability and distribution of appropriate Gulf sturgeon spawning habitat in the lower Chattahoochee River. NMFS would be happy to participate in the design of such a study and the results would immediately assist in our efforts to conserve the Gulf sturgeon.

NMFS also recommends that you contract the U.S. Fish and Wildlife Service (FWS) for their concurrence with your determination that license renewal would not effect listed species, and that formal consultation in the license renewal application would not be necessary. Although the Gulf sturgeon is jointly managed by FWS and NMFS, division of jurisdictional responsibilities was proposed in the June 6 critical habitat designation. In the proposed rule (67 FR 39105, June 6, 2002), consultation coordination was proposed as follows: FWS is responsible for all riverine actions, consultations for estuarine activities are to be directed to either FWS or NMFS based on action agency, and NMFS is responsible for all consultations in marine areas. Therefore, because of location, section 7 consultation for the FNP is likely to fall within FWS jurisdiction.

We look forward to working with the Southern Nuclear Operating Company, Inc. and the FNP in conserving our endangered and threatened resources. If you have any questions, please contact Dr. Stephania Bolden, fishery biologist, at (727) 570 - 5312 or by e-mail at stephania.bolden@noaa.gov.

Sincerely yours,



Georgia Cranmore  
Assistant Regional Administrator  
for Protected Resources

cc: F/PR3  
FWS - Panama City

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