



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

JAN 28 2004

Proj 720
52-009

Pao-Tsin Kuo
Program Director, License Renewal and Environmental Impacts
Division of Regulatory Improvement Projects
Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Docket No. 52-009

Dear Mr. Kuo,

This responds to your letter dated January 6, 2004, requesting information on the presence of any federally listed threatened or endangered species and/or designated critical habitat for listed species under the jurisdiction of the National Marine Fisheries Service (NOAA Fisheries) in the vicinity of two sites for potential new nuclear power plants. The US Nuclear Regulatory Commission (NRC) is currently reviewing an application submitted by System Energy Resources Inc. (SERI) for an early site permit for the potential future construction of one or more new nuclear power plants. The preferred alternative for the location of the proposed new power plants is within the site boundaries of the existing Grand Gulf Nuclear Power Station (GGNS), site near the town of Port Gibson in Clairborne County, Mississippi. As part of the review of this application, the NRC is preparing an environmental impact statement (EIS). Three alternate sites will also be evaluated in the EIS. They are River Bend in West Feliciana County, Louisiana; FitzPatrick in Oswego County, New York; and Pilgrim in Plymouth County, Massachusetts.

The sites in Mississippi and Louisiana fall under the jurisdiction of NOAA Fisheries' Southeast Regional Office. It is our understanding that in a July 2002 letter, that office indicated that the Grand Gulf Site is within the historic range of the threatened Gulf sturgeon (*Acipenser oxyrinchus desotoi*). Biological information on federally protected sea turtles, sturgeon, Gulf sturgeon, Gulf sturgeon critical habitat, and other listed and candidate species potentially present near the River Bend site can be found at the following website address: NOAA Fisheries Southeast Regional Office (<http://caldera.sero.nmfs.gov/protect/protect.htm>). The Southeast Regional Office can be contacted at: 9721 Executive Center Drive North, St. Petersburg, Florida 33702 or (727)570-5333.

No federally listed or proposed threatened or endangered species under the jurisdiction of



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NOAA Fisheries are known to exist in the vicinity of the existing FitzPatrick Site. However, several threatened and endangered species are known to exist in Cape Cod Bay in the vicinity of the Pilgrim Site. Four species of federally threatened or endangered sea turtles and three species of endangered whales are found seasonally in Massachusetts waters. The sea turtles in northeastern nearshore waters are typically small juveniles with the most abundant being the federally threatened loggerhead (*Caretta caretta*) followed by the federally endangered Kemp's ridley (*Lepidochelys kemp*). Loggerhead turtles have been found to be relatively abundant off the Northeast coast (from near Nova Scotia, Canada to Cape Hatteras, North Carolina). From November to March in 1985 through 1988, 130 cold-stunned turtles were collected along the Long Island shoreline, including 97 Kemp's ridleys. Loggerheads and Kemp's ridleys have been documented in waters as cold as 11°C, but generally migrate northward when water temperatures exceed 16°C. As such, these species usually arrive in Southern New England in June. Green sea turtles may occur sporadically in Massachusetts waters, but those instances would be rare. Federally endangered leatherback sea turtles (*Dermochelys coriacea*) are located in near shore New England waters during the warmer months as well.

Federally endangered North Atlantic right whales (*Eubalaena glacialis*), humpback whales (*Megaptera novaeangliae*), and fin whales (*Balaenoptera physalus*) may all also be found seasonally in Massachusetts waters. North Atlantic right whales have been documented in the nearshore waters of New England from January through September. Humpback whales feed during the spring, summer, and fall over a range that encompasses the eastern coast of the United States. Fin whales are common in waters of the United States Exclusive Economic Zone, principally offshore from Cape Hatteras northward.

While not protected under the Endangered Species Act (ESA) of 1973, as amended, minke whales (*Balaenoptera acutorostrata*), gray seals (*Halichoerus grypus*), harbor seals (*Phoca vitulina*), harbor porpoises (*Phocoena phocoena*), and white-sided dolphins (*Lagenorhynchus acutus*) are common residents of Massachusetts waters and may be present in the vicinity of the Plymouth Site. All marine mammals receive protection under the Marine Mammal Protection Act of 1972 (MMPA).

Section 7(a)(2) of the Endangered Species Act (ESA) states that each Federal agency shall, in consultation with the Secretary, insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Because listed species may be present in the vicinity of several of the proposed sites and may be affected by the construction and operation of a new nuclear power project, an action at these sites would have to undergo Section 7 consultation. The federal action agency, in this case the NRC, would be responsible for initiating Section 7 consultation. If one of the sites where listed species are present is chosen, please submit a description of the project along with an assessment of the projects impacts on listed species to the appropriate NOAA Fisheries Regional Office. After reviewing this information, NOAA Fisheries will then be able to conduct a consultation under Section 7 of the ESA. If you have any questions or concerns about these comments or about

the consultation process in general, please contact Julie Crocker of my staff at (978) 281-9328 ext. 6530 (Northeast Region) or Dr. Stephania Bolden at (727)570-5312 (Southeast Region).

Sincerely,



Mary A. Colligan
Assistant Regional Administrator
for Protected Resources

Cc: Bolden, F/SER3

File Code: Sec 7 NRC Massachusetts
