



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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50-266/301

Mr. A.J. Cayia
Site Vice President
Point Beach Nuclear Plant
Nuclear Management Company, LLC
6590 Nuclear Road
Two Rivers, Wisconsin 54241

Dear Mr. Cayia:

We received your letter notifying the U.S. Fish and Wildlife Service (FWS) of the Nuclear Management Company's intent to seek renewals of the operating licenses for Units 1 and 2 at the Point Beach Nuclear Plant (Plant). You solicited our input regarding the potential impact of license renewal and continued operations at the Project (the Plant, its associated lands, and four transmission corridors) on species listed as endangered or threatened under the Endangered Species Act of 1973 (ESA), as amended. In addition to providing comments regarding threatened and endangered species, we also have identified some additional issues that should be addressed during the license renewal process.

Federally-listed Threatened and Endangered Species

Since licensing the Project involves a federal action, the federal agency [the Nuclear Regulatory Commission (NRC)], or its designated agent, is responsible for contacting the FWS regarding that agency's determination as to whether the selected Project alternative may affect federally-listed threatened or endangered species, or adversely modify designated critical habitat. Section 7 of the ESA directs federal agencies to consult with the FWS on such matters. The FWS would respond as to whether we concur with the determination of the federal agency or its designated agent. If the proposed project may adversely affect federally-listed threatened or endangered species or adversely modify designated critical habitat, the federal action agency should initiate formal consultation with the FWS in accordance with section 7 of the ESA. Information on the section 7 consultation process can be obtained by contacting the staff person identified at the end of this letter.

Your letter states a belief that no federally-listed species occur on the Project lands (page 2). The information provided with your letter is insufficient for us to complete our evaluation of species occurrence or effects. An evidentiary basis for the determination of Project effects and other conclusions should be provided by the Nuclear Regulatory Commission when the NRC contacts us to initiate consultation under section 7 of the ESA. Information such as the results of species

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surveys and habitat evaluations conducted within the Project area would be appropriate. In addition, a detailed map should be provided that depicts precise, geo-referenced Project boundaries. Such a map will be necessary for overall project review including threatened and endangered species consultation. The Wisconsin Department of Natural Resources (DNR), Bureau of Endangered Resources is one potential source of existing information on species that may be found in the Project area. The Bureau manages the Natural Heritage Inventory Program in Wisconsin, that includes a data base with information regarding the locations and distributions of rare or declining species (including federally-listed, threatened or endangered species), and high quality or rare natural communities.

It should be recognized that fish, wildlife or plant species occurring within the project area may, in the future, become federally-listed as threatened or endangered, or proposed for listing; it also is possible that critical habitat could be proposed or designated for a species. It may also be that, in the future, habitats within or near the Project may be used by listed or proposed species that are not present at this time. Therefore, it is important to reassess the impact of the Project on federally-listed or proposed species or designated critical habitat prior to completion of the final Project licensing.

Your letter indicates there are no plans to alter current operations over the license renewal period, that maintenance activities would be limited to previously disturbed areas, and no expansion of existing facilities is planned. As a consequence, you believe operation of the Plant over the license term, including maintenance of transmission lines, will not adversely affect any threatened or endangered species (page 3). We do not agree that a preliminary "no adverse effect" determination can be a consequence of plans to remain at or near baseline conditions over the license term. Rather, a determination (e.g., "no effect," "not likely to adversely affect," "likely to adversely affect," etc.) should rest on the results of species and habitat assessments, coupled with evaluations of potential Project influences. The existing (baseline) conditions at the Project must be evaluated, whether or not any future changes are planned or occur. Your letter states that regulations of the U.S. Nuclear Regulatory Commission require you to assess past effects on resources, such as those that may have occurred during the original construction of the Project (p. 2). Therefore, evaluations should not be limited to the potential impacts under current license conditions or future operations.

Your letter briefly discusses the threatened bald eagle (*Haliaeetus leucocephalus*), endangered piping plover (*Charadrius melodus*), threatened Pitcher's thistle (*Cirsium pitcheri*), threatened dwarf lake iris (*Iris lacustris*), and threatened prairie white-fringed orchid (*Plantanthera leucophaea*). At the present time, our office is unaware of any bald eagle nests within the Project lands. However, bald eagle nesting territories currently exist in Brown and Manitowoc Counties, and populations in northeastern Wisconsin are expanding. Nesting may occur on or near Project lands over the license term. Regardless of whether nesting occurs on or near Project lands over the license term, eagles may be temporary occupants. For example, they may forage adjacent to the Plant, especially during winter where Lake Michigan waters remain ice-free due to thermal discharges. Eagles may also perch on Project facilities, so the four, high-voltage transmission lines and their terminations at the Plant should be evaluated to determine the potential for electrocutions. Activities required to maintain the transmission corridors, including tree-trimming or other vegetation removal, should be evaluated as well.

The piping plover is currently rare along the Wisconsin shore of Lake Michigan. However, given the historically low lake levels, the shoreline location of the Plant, and the restricted public beach access, this species may occupy or nest on Project lands over the term of the new license. Therefore, the suitability of physical habitat near the Plant should be evaluated for this species, and potential measures described to control the levels of human disturbance in any habitats deemed suitable.

Regarding the Pitcher's thistle, dwarf lake iris, and prairie white-fringed orchid, surveys of occurrence and of appropriate habitats should be conducted within the Project area, with effects conclusions based on the results of the investigations. The transmission corridors span over 70 miles and may cross several habitat types. Complete species surveys of all Project areas may not be necessary for these plants, but analyses of likely habitat for each should be undertaken, with follow-on species surveys conducted in habitats deemed suitable.

The species-specific examples discussed above only briefly discuss the types of investigations the Nuclear Management Company should consider in evaluating the Project; they should not be interpreted as a complete list of the studies that may be needed to fully evaluate the potential effects of the Project on federally-listed species.

Other Fish and Wildlife Resource-related License Renewal Issues

The FWS also anticipates that the license renewal process will require evaluations of potential adverse effects upon fish and wildlife that are not federally-listed threatened or endangered species. For example, the FWS expects thorough evaluation of current and past entrainment of birds, fish, and other aquatic organisms occurring due to the Plant's water intake structures. The FWS anticipates proposals to prevent or minimize future losses of these species, and to mitigate for future unavoidable losses, particularly because there are continuing reports of such losses due to the Plant's water intake structures.

If you have any questions regarding this matter, please call Larry Thompson of my staff at (920) 866-1736 or you may contact me at (920) 866-1725.

Sincerely,



Janet M. Smith
Field Supervisor

✓cc: U.S. NRC, Rockville, MD Attn: William Dam