



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
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AUG 10 2005

F/SER31:WW

Pao-Tsin Kuo
License Renewal and Environmental Impacts
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation
Washington, DC 20555-0001

Carol L. Bernstein
Department of the Army
Savannah District Corps of Engineers
P.O. Box 889
Savannah, GA 31402-0889

Dear Mr. Pao-Tsin Kuo and Ms. Bernstein:

This is in response to the Nuclear Regulatory Commission's (NRC) letter dated July 9, 2004, and attached biological assessment (BA) regarding the potential impact on shortnose sturgeon resulting from the continued operation of the Edwin I. Hatch Nuclear Power Plant for the next 20 years. This letter also responds to a letter from the Army Corps of Engineers (COE) dated May 19, 2005, regarding application number 940003870 submitted by the Southern Nuclear Operating Company Inc. for renewal of their permit to conduct periodic maintenance dredging in the Altamaha River at the Hatch Plant. In your letter and BA, you requested our concurrence with your determination that the continued operation of the Hatch Plant was not likely to adversely affect shortnose sturgeon. In their letter, the COE also requested our concurrence with their determination that periodic maintenance dredging at the plant was not likely to adversely affect shortnose sturgeon.

The NRC requested Endangered Species Act (ESA) section 7 consultation on re-licensing the Hatch plant in a letter dated March 5, 2002. In a letter dated May 24, 2002, NOAA's National Marine Fisheries Service (NMFS) requested additional information and indicated that maintenance dredging was an interrelated action with the operation of the plant, and, as such both actions should be consulted on as one action. The NRC sent additional information and a new BA on July 9, 2004. Subsequently, the COE sent a letter dated May 19, 2005, requesting ESA section 7 consultation on the issuance of a permit to conduct maintenance dredging at Hatch. Because NMFS believes that the periodic maintenance dredging is interrelated to the operation of the plant we are combining these two activities into one consultation.



The Hatch Plant is located on the Altamaha River at river kilometer 180 (river mile 112) approximately 11 miles northeast of Baxley, in Appling County, Georgia. The proposed action includes the use of a closed-cycle cooling system that takes water from the Altamaha River. The water intake structure is located on the southern bank of the river and is 150 feet long by 60 feet wide. The roof of the structure is approximately 60 feet above the water surface at normal river levels. The flow rate of water being taken into the plant has historically averaged 88 cubic feet per second (cfs). The intake structure is covered with trash racks for removal of large debris and a traveling vertical screen of 3/8-inch mesh for removing small debris. The plant discharges water that ranges from 62° F in winter to 94° F in summer into the river at a rate of 50 to 58 cfs. Maintenance dredging near the intake structure takes place as needed about once per year and only takes place during the summer. Each dredging event requires the use of a hydraulic, clamshell, or dragline type of dredge and will remove approximately 14,000 cubic yards of spoil material. This material is disposed in upland areas.

The shortnose sturgeon is the only species protected by the ESA under NMFS' purview that can be found in the vicinity of the Hatch Plant. The shortnose sturgeon recovery team indicated in 1998 that the Altamaha River population of shortnose sturgeon was the largest and most viable population south of Cape Hatteras, North Carolina. In the late winter and early spring spawning shortnose sturgeon utilize this area for transit to and from suspected upstream spawning areas, which are thought to be 40 river kilometers upstream from the plant. During the summer, Altamaha shortnose sturgeon are concentrated at or just upstream of the fresh/salt water interface in physiological refugia from warm upstream waters. Cooling water temperatures in the fall spur a movement of sturgeon to more saline waters. Some adult and most large juveniles move back to fresh tidewater near the end of autumn to overwinter with little movement or activity. In preparation for spawning in late winter-early spring, some adults will move upstream to locations near spawning sites. The majority of adults and large juveniles remain in oligihaline waters near the fresh/salt water interface. Juveniles are severely restricted to this habitat during summer months when water temperatures exceed 82.4° F.

Section 3.3 of your BA indicates that the activities that may affect shortnose sturgeon as a result of the operation of the Hatch Plant are impingement of adults or juveniles on the trash racks, entrainment of eggs or larvae in the cooling water intakes, discharge of heated effluents, and dredging operations. We have reviewed the BA and believe that the activities identified and the analysis of those activities on shortnose sturgeon are based on the best scientific and commercial data available and accurately analyze this project's effects on shortnose sturgeon. Based on the analysis in sections 3.3.1, 3.3.2, and 3.4 of the BA we believe that the chances of impinging juvenile and adult shortnose sturgeon on the intake trash racks or entraining shortnose sturgeon eggs or larvae in the cooling water intakes are discountable. Based on the analysis in sections 3.3.3 and 3.3.4 of the BA we believe that the effects of discharging heated effluent and dredging operation on shortnose sturgeon are insignificant. Therefore, we concur with the NRC's and COE's conclusions that the continued operation of the Hatch Plant with periodic maintenance dredging, as described in the BA, is not likely to adversely affect shortnose sturgeon.

This concludes the NRC's and COE's consultation responsibilities under the ESA for species under NMFS' purview. Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat in a manner or to an extent not previously considered, or if a new species is listed or critical habitat designated that may be affected by the identified action. We have enclosed additional information on NMFS' new mechanism to allow you to track the status of this and other ESA consultations, as well as other statutory requirements that may apply to this action.

Thank you for your continued cooperation in the conservation of threatened and endangered species under NMFS purview. If you have any questions about the information contained in this letter, please contact Mr. Walt Wilson, fisheries biologist at (727) 824-5327.

Sincerely yours,



Roy E. Crabtree, Ph.D.
Regional Administrator

Enclosure

cc: F/PR3
F/SER43 B Mark Thompson
COE Savannah District - Bernstein

File: 1514-22.F.1 GA
Ref: I/SER/2005/03512

Additional Considerations for ESA Section 7 Consultations

MMPA Recommendations: The ESA section 7 process does not authorize incidental takes of listed or non-listed marine mammals. If such takes may occur an incidental take authorization under Marine Mammal Protection Act (MMPA) Section 101 (a)(5) is necessary. Contact Ken Hollingshead of our Headquarters' Protected Resources staff at (301) 713-2323 for more information on MMPA permitting procedures.

EFH Recommendations: In addition to its protected species/critical habitat consultation requirements with NMFS' Protected Resources Division (PRD) pursuant to section 7 of the ESA, prior to proceeding with the proposed action the action agency must also consult with NMFS' Habitat Conservation Division (HCD) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act's requirements for essential fish habitat (EFH) consultation (16 U.S.C. 1855 (b)(2) and 50 CFR 600.905-.930, subpart K). The action agency should also ensure that the applicant understands the ESA and EFH processes; that ESA and EFH consultations are separate, distinct, and guided by different statutes, goals, and time lines for responding to the action agency; and that the action agency will (and the applicant may) receive separate consultation correspondence on NMFS letterhead from HCD regarding their concerns and/or finalizing EFH consultation.

PCTS Guidance: NMFS' Oracle-based Public Consultation Tracking System (PCTS) enables federal and non-federal users to inquire about the status of their section 7 Endangered Species Act (ESA) and/or Magnuson-Stevens Act essential fish habitat (EFH) consultations with NMFS. Access PCTS via: www.nmfs.noaa.gov/pcts.

PCTS Guidelines (U.S. Army Corps of Engineers): COE biologists and non-federal applicants should click on "Select Corps Permit Site." From the "Choose Agency Subdivision (Required)" list, pick and click on the appropriate entry (e.g., COE district). For "Enter Agency Permit Number" type in the COE's assigned 9-number permit application identifier, using no hyphens, commas, spaces, or letters. If the permit application number has less than 9 digits, insert the appropriate year-prefix and/or additional 0's after the year to make a total of 9 numbers: e.g., SAJ-2005-2393 (IP-VG) converts to 200502393. Some COE districts (e.g., Mobile) use a combination of letters, abbreviated years, and numbers to identify regulatory permit application numbers: simply convert these to 9 numbers. For example, Mobile District's permit application number AL05-982-F converts to a 9-number format by using the whole year (i.e., 2005 instead of 05) and inserting zeros after the year to complete the required 9 numbers. AL05-982-F would be typed into PCTS as 200500982.

PCTS Guidelines (other federal agencies): Other federal action agencies can also use PCTS to track ESA/EFH consultation status by assigning a unique 9-number identifier to each of their consultation requests (one 9-number identifier number for the ESA consultation request and one 9-number identifier number for the EFH consultation request, or one 9-number identifier for both). Identifier numbers are logged into PCTS immediately by NMFS upon receiving them, enabling the action agency to conduct its own PCTS queries at any time to ascertain consultation status. Click on the "Enter Federal Agencies Site" box. Username and password are required. PCTS questions and requests for username and password should be directed to April Wolstencroft (PCTSUsersupport@noaa.gov) at (503) 231-2377 or Eric Hawk at (727) 824-5312.