



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

JAN 23 2007

Dr. Pao-Tsin Kuo, Acting Director
Division of License Renewal
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulator Commission
Washington, DC 20555-0001

Dear Dr. Kuo:

The National Marine Fisheries Service (NMFS) has reviewed the Generic Environmental Impact Statement (GEIS) Supplement 29 and Essential Fish Habitat (EFH) assessment regarding the proposed renewal of the operating license for the Pilgrim Nuclear Power Station in Plymouth, MA. The proposed action by the US Nuclear Regulatory Commission (NRC) is to renew the operating license for the facility, with no physical alterations or construction proposed. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act (FWCA) require federal agencies to consult with one another on projects such as this. As stated in your December 8, 2006 letter, the NRC is requesting initiation of EFH consultation with NMFS.

Based on our review of the GEIS, NMFS concurs with the NRC's determination that adverse impacts on living marine resources and habitats will occur as a result of the operation of the facility. Specific issues of concern include the impingement and entrainment of fishery resources resulting from the intake of water for cooling purposes as well as the discharge of heated effluent into Cape Cod Bay. The GEIS states that operational impacts will result in adverse effects to winter flounder (*Pseudopleuronectes americanus*) and rainbow smelt (*Osmerus mordax*). Furthermore, the NRC states that additional mitigation for the cooling system components and operations may further reduce impingement and entrainment impacts.

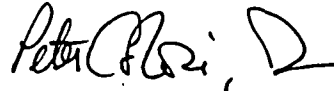
We note the NRC's position that operational activities including the intake of cooling water, the discharge of heated effluent, and/or mitigation conditions are under the sole authority of the US Environmental Protection Agency (EPA) through their National Pollutant Discharge Elimination System (NPDES) permitting process, pursuant to Section 316(a)(b) of the Federal Clean Water Act. As such, the NRC does not intend to incorporate any mitigation conditions to offset impacts on NMFS trust resources. As noted within the GEIS, the EPA is currently in the process of developing a demonstration document for the reissuance of the NPDES permit. Based on this information, NMFS has determined that our issues of concern relative to living marine resources and EFH would be most appropriately addressed through the EPA's NPDES permit renewal process. As such, NMFS will not be providing the NRC with EFH conservation recommendations regarding the License Renewal for the Pilgrim Nuclear Power Plant. Rather, NMFS will



perform a detailed review of the proposed project within the NPDES permit renewal process and potentially provide EFH conservation recommendations at that time.

Although NMFS is concluding the EFH consultation without providing conservation recommendations, we strongly encourage the NRC to continue to characterize and evaluate impacts on EFH and other living marine resources as part of its National Environmental Policy Act review process. Please note that these comments refer to the NRC's consultation with NMFS relative to the MSA and the FWCA. Comments relative to the Section 7 Endangered Species Act consultation will be provided by NMFS Protected Resources Division under separate cover. Should you have questions regarding these comments, please contact Christopher Boelke at (978) 281-9131. Thank you for your continued coordination with our agency on this important project.

Sincerely,



Peter D. Colosi, Jr.
Assistant Regional Administrator
for Habitat Conservation

Cc: David Webster, US EPA
John Nagle, US EPA
Alicia Williamson, NRC
Colligan, Crocker, PRD

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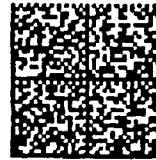
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