

January 25, 2008

Mr. David Bernhart
Assistant Regional Administrator
for Protected Resources
National Marine Fisheries Service
263 13th Avenue South
St. Petersburg, FL 33701

SUBJECT: BIOLOGICAL ASSESSMENT FOR THE SHORTNOSE STURGEON FOR THE
VOGTLE ELECTRIC GENERATING PLANT EARLY SITE PERMIT
APPLICATION

Dear Mr. Bernhart:

The U.S. Nuclear Regulatory Commission (NRC) has prepared the enclosed biological assessment (BA) to evaluate whether the proposed action of the Vogtle Electric Generating Plant (VEGP) Early Site Permit (ESP) would have adverse effects on the shortnose sturgeon. The Plant Vogtle ESP Site is located in Burke County, GA., within the existing boundaries of the current Vogtle Electric Generating Plant (VEGP) and adjacent to the Savannah River. The proposed Federal action is the issuance under provisions of Title 10, Part 52 of the *Code of Federal Regulations* of an ESP for the Plant Vogtle ESP Site for postulated additional nuclear power facilities and to conduct site preparation and limited construction activities. The site preparation and limited construction activities allowed by 10 CFR 52.25 include clearing, grading, and constructing non-safety-related facilities. The proposed action does not include approval to construct and operate new units; therefore, only impacts to protected species resulting from site-preparation activities are considered in this BA. Impacts associated with actual facility construction and operation will be assessed during the NRC staff's review of an application for a combined license or construction permit should the applicant choose to go forward with the project.

In a letter dated October 12, 2006, the NRC requested that the National Marine Fisheries Service (NMFS), Southeast Regional Office provide information regarding federally listed species at the proposed Vogtle ESP Site and along the route of the proposed new 500-kilovolt (kV) transmission lines. The NMFS responded with a list of federally protected species under the jurisdiction of the NMFS for the State of GA. This list included six species of whales, five marine turtles, and the small-tooth sawfish (*Pristis pectinata*), none of which would be expected to be affected by the construction and operation of the two additional units at the VEGP Site. The only listed species indicated that occurs in the Savannah River that may be affected by the proposed action is the shortnose sturgeon (*Acipenser brevirostrum*). No designated or proposed critical habitats were identified in the vicinity of the VEGP Site. There were no candidate species or species proposed for listing. There were seven species of concern, six of which occur in coastal areas but not in the Savannah River. The seventh species of concern is the Atlantic sturgeon (*Acipenser oxyrinchus*), which also occurs in the Savannah River and resembles the shortnose sturgeon. Species of concern are not protected under the Endangered Species Act.

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We are placing this BA in our project files and are requesting your concurrence with our determinations. In reaching this conclusion, the NRC staff relied on information provided by the applicant on research performed by NRC staff and information from NFWS (i.e., current listings of species provided by the NFWS, Field Office, St. Petersburg, FL).

If you have any questions regarding this BA or the staff's request, please contact Mr. Mark D. Notich, Environmental Project Manager at 301-415-3053 or by e-mail at mdn@nrc.gov.

Sincerely,

/RA/

William Burton, Branch Chief
Environmental Projects Branch 1
Division of Site and Environmental Reviews
Office of New Reactors

Docket No.: 52-011

Enclosure: As stated

cc w/encl: See next page

D. Bernhart

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Environmental Projects Branch 1
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Office of New Reactors

Docket No. 52-011

Enclosure: As stated

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(Revised 01/23/08)

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