



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

FEB 11 2010

Bo Pham, Chief  
Project Branch 1, Division of License Renewal  
Office of Nuclear Reactor Regulation  
US Nuclear Regulatory Commission  
Washington, DC 20555-0001

Re: Salem and Hope Creek Nuclear Generating Stations License Renewal Review

Dear Mr. Pham,

This is in response to your letter dated December 23, 2009 regarding the Nuclear Regulatory Commission's ongoing review of an application submitted by PSEG Nuclear, LLC for the renewal of the operating licenses for Salem Nuclear Generating Station, Units 1 and 2 and Hope Creek Nuclear Generating Station, Unit 1. Salem and Hope Creek are located in Salem County, New Jersey on the eastern bank of the Delaware River. The NRC is currently preparing a supplemental environmental impact statement (SEIS) under the provisions of the National Environmental Policy Act of 1969, as amended. In your letter you requested information on the presence of species listed as threatened or endangered by NOAA's National Marine Fisheries Service (NMFS) that may occur in the vicinity of the Salem and Hope Creek generating stations.

*NMFS Listed Species in the Action Area*

Four species of sea turtles occur seasonally (May – November) in the Delaware River estuary, including the threatened loggerhead (*Caretta caretta*), and endangered Kemp's ridley (*Lepidochelys kempi*), green (*Chelonia mydas*), and leatherback (*Dermochelys coriacea*) sea turtles. Additionally, a population of endangered shortnose sturgeon (*Acipenser brevirostrum*) occurs in the Delaware River. Shortnose sturgeon, loggerhead, Kemp's ridley and green sea turtles have all been documented in the Delaware River near or at the project site. Leatherback sea turtles are less likely to occur near the facility. At this time there is no critical habitat as designated by NMFS in the vicinity of either facility.

Any discretionary federal action that may affect a listed species must undergo consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended. Consultation



pursuant to Section 7 of the ESA between NRC and NMFS on the effects of the operation of the existing Salem and Hope Creek facilities has been ongoing since 1979. Most recently, a Biological Opinions (Opinion) was issued by NMFS on May 14, 1993 in which NMFS concluded that the ongoing operation was not likely to jeopardize shortnose sturgeon, Kemp's ridley, green or loggerhead sea turtles. This Opinion was amended by a letter dated January 21, 1999 which made certain modifications to the Incidental Take Statement.

The relicensing of the Salem and Hope Creek Generating Stations by the NRC would be a federal action that will require section 7 consultation. If it is determined through consultation between the NRC and NMFS that the action is likely to adversely affect any listed species (i.e., if any adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effects are not: discountable, insignificant, or beneficial) then a formal consultation, resulting in the issuance of a Biological Opinion and accompanying Incidental Take Statement would be required.

Any NEPA documentation prepared by NRC relating to the relicensing of these facilities should contain an assessment of the facility's impact on listed shortnose sturgeon and sea turtles. As shortnose sturgeon and sea turtles have been impinged at the intakes of the existing Salem facility, in the draft SEIS the NRC should consider the potential for future impingement of these species. Additional effects that should be considered by NRC include impingement or entrainment of prey resources, discharge of pollutants, including heated effluent, and effects of the maintenance of shoreline facilities, including dredging.

#### *Technical Assistance for Candidate Species*

Candidate species are those petitioned species that are actively being considered for listing as endangered or threatened under the ESA, as well as those species for which NMFS has initiated an ESA status review that it has announced in the *Federal Register*.

Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) occur in the Delaware River. In 2006, NMFS initiated a status review for Atlantic sturgeon to determine if listing as threatened or endangered under the ESA is warranted. The Status Review Report was published on February 23, 2007. NMFS is currently considering the information presented in the Status Review Report to determine if any listing action pursuant to the ESA is warranted at this time. If it is determined that listing is warranted, a final rule listing the species could be published within a year from the date of publication of the listing determination or proposed rule. Currently, NMFS expects to publish a finding as to whether any listing action is appropriate by the Fall of 2010. As a candidate species, Atlantic sturgeon receive no substantive or procedural protection under the ESA; however, NMFS recommends that project proponents consider implementing conservation actions to limit the potential for adverse effects on Atlantic sturgeon from any proposed project. Please note that once a species is proposed for listing the conference provisions of the ESA apply (see 50 CFR 402.10). As the listing status for this species may change, NMFS recommends that NRC obtain updated status information from NMFS prior to the publication of the draft SEIS.

My staff looks forward to working with PSEG and NRC as you move forward with the relicensing process. Should you have any questions regarding this correspondence or would like to arrange a meeting to discuss the effects of the proposed action on listed and candidate species, please contact Julie Crocker of my staff at (978)282-8480 or by e-mail ([Julie.Crocker@noaa.gov](mailto:Julie.Crocker@noaa.gov)). Questions specific to the status of Atlantic sturgeon should be directed to Lynn Lankshear of my staff at (978)282-8473 or by e-mail ([Lynn.Lankshear@noaa.gov](mailto:Lynn.Lankshear@noaa.gov)). It is my understanding that correspondence from NMFS' Habitat Conservation Division regarding Essential Fish Habitat as designated under the Magnuson-Steven Fisheries Management and Conservation Act as well information related to the Fish and Wildlife Conservation Act will be provided to NRC under separate cover.

Sincerely,



Mary A. Colligan  
Assistant Regional Administrator for  
Protected Resources

CC: Greene, F/NER4 SH

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