



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

MAR 18 2011

Bo M. Pham, Chief
Projects Branch 1
Division of License Renewal
Office of Nuclear Reactor Program
US Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: Biological Assessment for License Renewal of the Hope Creek Generating Station and Salem Nuclear Generating Station Units 1 and 2

Dear Mr. Pham,

This correspondence responds to your letter dated December 13, 2010 (received December 29, 2010) regarding the initiation of formal consultation for the proposed renewal by the US Nuclear Regulatory Commission (NRC) of the operating licenses for Hope Creek Generating Station (HCGS) and Salem Nuclear Generating Station Units 1 and 2 (Salem) for a period of an additional 20 years pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended. Conference calls between NRC staff and staff from NOAA's National Marine Fisheries Service were held on February 7, 2011 and March 4, 2011 to clarify the scope of NRC's proposed action.

The current operating licenses for these units expire on April 11, 2026 (HCGS), August 13, 2016 (Salem 1) and April 18, 2020 (Salem 2). Consultation with NOAA's National Marine Fisheries Service (NMFS) regarding the proposed license renewal is appropriate as the action is likely to adversely affect the federally endangered shortnose sturgeon (*Acipenser brevirostrum*), loggerhead sea turtles (*Caretta caretta*), green sea turtles (*Chelonia mydas*), and Kemp's ridley sea turtles (*Lepidochelys kempii*). Accompanying your letter was a Biological Assessment (BA) evaluating the impact of the proposed renewal on these species. Under separate cover the NRC transmitted a copy of the *Draft Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 45 Regarding Hope Creek Generating Station and Salem Nuclear Generating Station Units 1 and 2* dated October 2010.

Consultation pursuant to Section 7 of the ESA between NRC and NMFS on the effects of the operation of these facilities has been ongoing since 1979. A Biological Opinions (Opinion) was issued by NMFS in April 1980 in which NMFS concluded that the ongoing operation of the facilities was not likely to jeopardize the continued existence of shortnose sturgeon. Consultation was reinitiated in 1988 due to the documentation of impingement of sea turtles at



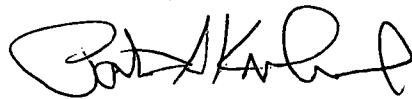
the Salem facility. An Opinion was issued on January 2, 1991 in which NMFS concluded that the ongoing operation was not likely to jeopardize shortnose sturgeon, Kemp's ridley, green or loggerhead sea turtles. Consultation was reinitiated in 1992 due to the number of sea turtle impingements at the Salem intake exceeding the number exempted in the 1991 Incidental Take Statement. A new Opinion was issued on August 4, 1992. Consultation was again reinitiated in January 1993 when the number of sea turtle impingements exceeded the 1992 ITS with an Opinion issued on May 14, 1993. In 1998 the NRC requested that NMFS modify the Reasonable and Prudent Measures and Terms and Conditions of the ITS, and, specifically, remove a sea turtle study requirement. NMFS responded to this request in a letter dated January 21, 1999. Accompanying this letter was a revised ITS which served to amend the May 14, 1993 Opinion.

Since monitoring of the intakes was initiated in 1978, 18 shortnose sturgeon and 99 sea turtles have been recovered from the Salem intakes. No shortnose sturgeon or sea turtles have been observed at the Hope Creek intakes. Based on the likelihood of continued take ("take" is defined by the ESA as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct) of shortnose sturgeon and listed sea turtles at Salem 1 and 2, NMFS does not concur with the NRC's determination that the continued operation the Salem Nuclear Generating Station is not likely to adversely affect these species. It is NMFS understanding, based on the telephone conversations noted above, that the NRC is seeking the initiation of formal consultation with NMFS, with the preparation by NMFS of a Biological Opinion and appropriate Incidental Take Statement. NMFS agrees that formal consultation is appropriate.

NMFS has reviewed the BA and draft EIS and has determined that all of the information required to initiate a formal consultation has been received. The date that your letter was received (December 29, 2010) will serve as the commencement of the formal consultation process. The ESA and the Section 7 regulations (50 CFR 402.14) require that formal consultation be concluded within 90 calendar days of initiation, and the biological opinion (Opinion) be delivered to the action agency within 45 days after the conclusion of formal consultation (i.e., May 13, 2011), unless extended. In the meantime, pursuant to Section 7(d) of the ESA, the NRC must not make any irreversible or irretrievable commitment of resources that would foreclose the formulation or implementation of any reasonable and prudent alternatives to avoid jeopardizing endangered or threatened species.

I look forward to continuing to work with you and your staff during the consultation process. If you have any questions or concerns about this letter or about the consultation process in general, please contact Julie Crocker at (978) 282-8480 or by e-mail (Julie.Crocker@noaa.gov).

Sincerely,



Patricia A. Kurkul
Regional Administrator

ec: Crocker - F/NER3
Greene - F/NER4
Perkins - NRC

File Code: Sec 7 NRC Salem and Hope Creek Nuclear Plant Relicensing
PCTS: F/NER/2010/06581