

IPRenewal NPEmails

From: Stuyvenberg, Andrew
Sent: Wednesday, June 29, 2011 2:33 PM
To: Gray, Dara F
Cc: Julie.Williams@Noaa.Gov; Zoli, Elise N; Sutton, Kathryn M.; Dacimo, Fred R.; Mark Mattson; Imboden, Andy; BUCKLEY, RICKY N; Dowell, Kelli; pbessette@morganlewis.com; IPRenewal NPEmails; Julie Crocker; Turk, Sherwin; Balsam, Briana; Logan, Dennis
Subject: RE: Schedule for BO (revised proposal)

Dara –

This e-mail contains the revised schedule that NRC has proposed to NMFS in response to your comments in your June 28 e-mail. Julie Crocker has reviewed the revised schedule and indicated that it is acceptable to NMFS.

Please review the schedule at your earliest convenience.

In response to your indication that Entergy would like a teleconference at 4:00p today, I am currently working to establish a bridgeline and call-in information. It appears, however, that Julie Crocker will not be available until 4:30p, so please advise me as to whether 4:30p works for Entergy's participants. NRC staff members from the Division of License Renewal are available and plan to participate.

The revised schedule proposal is as follows (my apologies for any date-related accounting errors):

- **July 1** – NMFS provides NRC and Entergy a list of questions related to the information on the thermal discharge made available on June 17, particularly the Swanson et al. (2011) report and will provide an outline for the type of analysis NMFS believes is necessary in the supplemental BA related to the effects of the thermal plume on shortnose sturgeon, their habitat, and their prey. **(Old Schedule (OS) plus 2 days)**
- **Trigger Date (T)** (July 15, tentatively, based on Entergy's projection; no earlier than July 5. All successive dates are predicated on meeting this date; other dates shift with this date.) – Entergy is to provide information on benthic resources in the action area as discussed on the June 22 teleconference (i.e., information on the biofouling community at the IP intakes, information on the entrainment of amphipods and published studies related to the distribution of the benthic community in the Hudson River). Entergy is also to provide to NRC any relevant thermal information for NRC's revised BA. **(OS plus 16)**
- **T plus 20** (August 4) – NRC provides its supplemental BA to NMFS focusing on the assessment of the thermal discharge on shortnose sturgeon. **(OS plus 36)**
- **T plus 63** (Sept 16; must ensure 30 working days for NMFS. If T plus 20 occurs on a Friday, then this milestone is T plus 65, and subsequent dates shift by two days) – NMFS provides a draft Biological Opinion (BO) to NRC. In completing its BO, NMFS will: (a) review the information provided in the supplemental BA, (b) incorporate the new information on the thermal plume (Swanson et al. 2011, and other sources of information as appropriate) into the draft Opinion, (c) incorporate additional technical information provided by Entergy on the June 22 conference call, (d) make a draft determination as to whether the proposed action is likely to jeopardize the continued existence of shortnose sturgeon and provide justification for this determination, (e) prepare a draft Incidental Take Statement with draft Terms and Conditions and Reasonable and Prudent Measures, as appropriate. Following receipt of the BO, it is NMFS understanding that NRC will distribute the draft BO to Entergy and request that Entergy's comments be submitted to NRC for transmittal to NMFS pursuant to 50 CFR 402.14(g)(5). **(OS plus 79)**

- **T plus 73** (September 26) – NRC provides comments on the draft BO to NMFS at the end of this 10-calendar day period. It is anticipated that it may be necessary to schedule a conference call during this period to discuss any questions that NRC may have related to the draft BO. **(OS plus 89)**
- **T plus 80** (October 3) – NMFS determines whether any additional time is necessary to respond or incorporate comments provided by NRC. If additional time is necessary then a further extension of the consultation period would be discussed during the week of October 10. **(OS plus 96)**
- **T plus 90** (October 13) – provided that no additional time is necessary to review and incorporate comments provided by NRC, NMFS will produce a final BO on October 13. **(OS plus 106)**

As you'll likely notice, the schedule will shift if Entergy submits its data on a date other than July 15. This will potentially allow the consultation to conclude earlier than October 13, as I understand Entergy may be able to submit its data before July 15.

Please contact me if you have any questions.

Best regards,
Drew

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From: Gray, Dara F [mailto:DGray@entergy.com]
Sent: Tuesday, June 28, 2011 1:07 PM
To: Julie Crocker; Stuyvenberg, Andrew
Cc: Julie.Williams@Noaa.Gov; Zoli, Elise N; Sutton, Kathryn M.; Dacimo, Fred R.; Mark Mattson; Imboden, Andy; BUCKLEY, RICKY N; Dowell, Kelli
Subject: Schedule for BO

Julie and Drew:

After discussing the tentative schedule for the BO extension, as I understood it from Drew, with Entergy management, I would like to offer the following questions/comments:

- (1) In order for us to knowledgeably agree to an extension timeframe, NMFS committed to get us an explanation for what information was required; it has not been provided, and we continue to look forward to receiving it.
- (2) NMFS' timeframe of six months, is not in line with our expectations or appropriate under the circumstances. As tentatively agreed to during our call, we are willing to consider a 60 to 90 extension at this time, with Entergy's timelines for providing informational responses abbreviated. This is what is appropriate given the fact that NMFS has had the BA before them for a substantial period of time, and -- as we understand it from our discussion with NMFS last week -- the outstanding questions are limited to thermal information.
- (3) We expect to get NMFS information on mussels next week, which we hope can expedite their review.
- (4) As for thermal tolerances, Mark has done some research on shortnose sturgeon temperature tolerances and we were wondering what tolerance you had in mind and what the basis would be. We did note that although the NMFS profile for shortnose sturgeon states that the temperature tolerance is unknown, it also goes on to say that shortnose sturgeon were frequently found in the Connecticut River (right next door) in <1m of water, at temperatures of 27-30 C (indicating they more than tolerate waters of 30 C.).

Also for your information, here again is the link to the NYSDEC webpage which contains the latest documents regarding our thermal studies. <http://www.dec.ny.gov/permits/57609.html>

For those which were not previously sent to the NRC Document Control Center, we will be sending them shortly so that they can all be docketed.

I are looking forward to hearing back from you and please let me know if you have any questions.

Thanks

Dara Gray, REM
Chemistry/Environmental

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Email Number: 2694

Mail Envelope Properties (AF843158D8D87443918BD3AA953ABF782B680FF10A)

Subject: RE: Schedule for BO (revised proposal)
Sent Date: 6/29/2011 2:32:32 PM
Received Date: 6/29/2011 2:32:34 PM
From: Stuyvenberg, Andrew

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