

**From:** [Eric Hawk](#)  
**To:** [Lopas, Sarah](#)  
**Cc:** [Stephania Bolden](#); [Cathy Tortorici](#)  
**Subject:** Re: Lee Nuclear Station consultation requirements  
**Date:** Monday, May 21, 2012 2:17:27 PM

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Hello Ms. Lopas,  
Having read your letter, it appears to me that NRC has a proper basis for making a no-effect determination for sturgeon species, and thus meet their ESA Section 7 consultation responsibilities with NMFS. However, should the fish passage program be successfully implemented (as you mentioned, and is discussed in the Santee River Basin Accord for Diadromous Fish Protection, Restoration, and Enhancement of 2008), then the possibility of sturgeon presence at the Lee Nuclear Station site should be re-addressed. At that time I would recommend that you reinitiate consultation and seek our concurrence that thermal, chemical, and physical impacts from the plant on any life stages of sturgeon present would be minimal. Thank you for your correspondence. If you wish to prepare a letter stating the above, we would be pleased to receive it.

Eric Hawk

On Mon, May 21, 2012 at 11:55 AM, Lopas, Sarah <[Sarah.Lopas@nrc.gov](mailto:Sarah.Lopas@nrc.gov)> wrote:

Hi Mr. Hawk,

I thought it might be a good idea to send you letters related to the Lee Nuclear Station project - - so you have a little background, and then we can set up a time for a quick phone call.

Back in April 2008 (see attached), we sent NMFS a scoping letter requesting:

*To support the EIS preparation process and to ensure compliance with Section 7 of the*

*Endangered Species Act, the NRC requests a list of endangered, threatened, candidate, and*

*proposed species, and designated and proposed critical habitat that may be in the vicinity of the*

*Lee site, which are under the jurisdiction of the National Marine Fisheries Service. In support of*

*the Magnuson-Stevens Fishery Conservation and Management Act, the NRC also requests a*

*list of federally managed species that have designated essential fish habitat in the vicinity of the*

*Lee site. Additionally, please provide any information you consider appropriate under the*

*provisions of the Fish and Wildlife Coordination Act.*

In May, NMFS replied with a list of Federally protected species under the jurisdiction of NMFS for South Carolina (attached). The NRC aquatic biologists determined that there was no historical presence of Sturgeon at the Lee Nuclear Station site. Our EIS does speak to Diadromous Fish Species Potentially Available in the Future (see page 2-114 of Volume 1 of the EIS – located here: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr2111/>). We also discuss this briefly in Chapter 5, where we discuss operational impacts of the plant - - page 5-37 of Volume 1. We conclude that American eel and American shad could eventually be found in waters near the proposed Lee Nuclear Station,

And finally, the U.S. Army Corps of Engineers, a cooperating agency on the Lee Nuclear Station environmental impact statement, received a comment from NMFS dated March 6, 2012, on their Joint Public Notice (which was issued in December 2011). In the letter (attached), it states:

*Finally, in accordance with section 7 of the Endangered Species Act of 1973, as amended, it is the*

*responsibility of the lead federal agency to review and identify any proposed activity that may affect*

*endangered or threatened species and their habitat. Shortnose and Atlantic sturgeon may be present*

*within the action area during the life of the project. Determinations involving species under NMFS*

*jurisdiction should be reported to our Protected Resources Division at the letterhead address.*

The NRC is the lead agency on the Lee Nuclear Station environmental review. Essentially, I am wondering what else, if anything, we need to do to complete our consultation? I took this project over about half-way through, and I'm guessing that after our aquatic ecologists determined there were no diadromous fish present in the vicinity of the Lee Nuclear Station, and furthermore, no historical presence, it was determined we did not have to pursue consultation. Perhaps we need to finalize our conclusions in a letter to you to formalize this?

Let me know a good time to discuss this. With the exception of being tied up in meetings for most of today, I am free for a call most anytime this week.

Thank you for your help!

-Sarah

Sarah L. Lopas  
Environmental Project Manager

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Eric G. Hawk  
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ESA Section 7 Coordinator