



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

June 11, 2012

Jeremy Susco
Acting Branch Chief
Environmental Review and Guidance Update Branch
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Columbia Generating Station, Consultation No. I/NWR/2011/05286.

Dear Mr. Susco:

National Marine Fisheries Service (NMFS) understands that the Nuclear Regulatory Commission (NRC) issued a renewal of the operating license for the Columbia Generating Station on May 22, 2012. This development requires a reassessment of the Endangered Species Act (ESA) consultation concerning your regulatory action since an ESA consultation is completed before the action under consultation is taken.

By your letter of August 23, 2011, NRC initiated an informal consultation with NMFS pursuant to Section 7(a)(2) of the ESA, based on NRC's determination that renewing the operating license for this plant 'may affect' two ESA listed species. NRC also determined that its license renewal action was 'not likely to adversely affect' (NLAA) the listed salmonids in the Columbia River. NMFS responded by our letter of October 24, 2011, that, pursuant to our ESA consultation regulations, 50 C.F.R. § 402.14(a), NMFS did not concur with NRC's NLAA determination, largely because the current cooling water intake configuration is likely to cause adverse effects, including impingement and entrainment, to ESA listed species. NMFS cannot concur with an action agency's NLAA determination if it determines that adverse effects are likely. As we mentioned in our letter, NMFS can provide NRC with design guidance for such an intake structure. The consequence of our inability to concur with NRC's NLAA determination is that informal consultation is not permitted for this license renewal action. As provided in our regulations, a formal consultation resulting in a biological opinion is required.

At our request, following our October 24, 2011 letter, you provided NMFS with additional information concerning the cooling water intake structure for seeking reconsideration of our position that we could not concur with NRC's NLAA determination. We have considered this information and continue to find that issuance of a renewed license for the Columbia Generating Station' operation, in part due to its continued use of the existing cooling water intake structure, is likely to adversely affect listed salmonid species.

To determine the significance of NRC's decision to issue the license renewal despite the pendency of the ESA consultation, NMFS now requires additional procedural information. The



only opportunity for continuing the ESA consultation for the renewed license for the Columbia Generating Station under ESA's Section 7 would depend on NRC's basis for deciding to proceed with its action. ESA Section 7(d) provides that an action agency, such as NRC, can proceed with its action while the ESA consultation continues, provided it makes a determination that by doing so NRC is not making "any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would" avoid jeopardizing listed species or adversely modifying critical habitat.

Please advise NMFS of any determinations NRC has made under ESA § 7(d) and the basis for such a determination. Assuming NRC made an ESA § 7(d) determination, NMFS will need to understand the nature and scope of NRC's continuing discretion regarding the configuration and operation of the Columbia Generating Station. Once NMFS receives this information we can better assess the appropriate next steps in this ESA consultation.

Sincerely,

A handwritten signature in blue ink, appearing to read "William W. Stelle, Jr.", is written over a faint, illegible typed name.

William W. Stelle, Jr.
Regional Administrator

cc: Dennis Logan, Division of License Renewal