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Craver, Patti

From: Balsam, Briana *NRK*  
Sent: Tuesday, May 22, 2012 10:45 PM  
To: Julie Crocker; andrew.imboden@nrc.gov  
Cc: Logan, Dennis  
Subject: RE: Pilgrim Informal Consultation Letter

Julie,

We are okay with you sharing the letter. NRC is processing it through our online document system, and it will be available within a few days to the public anyway, so please feel free to pass on a copy to the House Natural Resources Committee staff so that they have a copy sooner.

Briana

From: Julie Crocker [julie.crocker@noaa.gov] *NOA*  
Sent: Tuesday, May 22, 2012 10:38 AM  
To: [andrew.imboden@nrc.gov](mailto:andrew.imboden@nrc.gov)  
Cc: Logan, Dennis; Balsam, Briana  
Subject: Fwd: Pilgrim Informal Consultation Letter

Hi Andy -

We have received a request from the House Natural Resources Committee staff for a copy of the Pilgrim consultation letter. I've been asked to inform you of the request - we will wait to release it until we hear that you have no objections to our release. If you want to talk to someone here before it is released let me know and I'll find out who you should call!

Thanks,

Julie Crocker

----- Forwarded message -----

From: Julie Crocker <[julie.crocker@noaa.gov](mailto:julie.crocker@noaa.gov)<<mailto:julie.crocker@noaa.gov>>>  
Date: Mon, May 21, 2012 at 2:42 PM  
Subject: Pilgrim Informal Consultation Letter  
To: "Balsam, Briana" <[Briana.Balsam@nrc.gov](mailto:Briana.Balsam@nrc.gov)<<mailto:Briana.Balsam@nrc.gov>>>, "Logan, Dennis" <[Dennis.Logan@nrc.gov](mailto:Dennis.Logan@nrc.gov)<<mailto:Dennis.Logan@nrc.gov>>>, "Smith, Maxwell" <[maxwell.smith@nrc.gov](mailto:maxwell.smith@nrc.gov)<<mailto:maxwell.smith@nrc.gov>>>  
Cc: Julie Williams <[julie.williams@noaa.gov](mailto:julie.williams@noaa.gov)<<mailto:julie.williams@noaa.gov>>>, Mark Murray-Brown <[Mark.Murray-Brown@noaa.gov](mailto:Mark.Murray-Brown@noaa.gov)<<mailto:Mark.Murray-Brown@noaa.gov>>>

Hi all -

Attached is our signed informal consultation letter. We have concluded that the continued operation of Pilgrim is not likely to adversely affect any listed species and will have no effect to right whale critical habitat. It is my understanding that NMFS Headquarters has alerted Rep. Markey's office that the consultation has been completed and that they will provide a copy of the letter to his office if requested. Please let me know if you would prefer to transmit the letter to Entergy or would like us to. We will send a copy to EPA Region 1 for their files as well.

Thanks for all your help during the consultation process!

B144

Julie. . . .

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UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
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MAY 17 2012

Andrew S. Imboden, Chief  
Environmental Review and Guidance Update Branch  
Division of License Renewal  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
MS T-11 F1  
Washington, DC 20555-0001

Re: Pilgrim Nuclear Power Station

Dear Mr. Imboden,

The Nuclear Regulatory Commission (NRC) is proposing to issue a renewed Operating License to Entergy Corp. for their Pilgrim Nuclear Power Station (Pilgrim). Pilgrim is located on the western shore of Cape Cod Bay in the Town of Plymouth, Plymouth County, Massachusetts. The NRC prepared a Biological Assessment (BA) in 2006 which evaluates the effects of the proposed license renewal on whales and sea turtles listed as threatened or endangered by NOAA's National Marine Fisheries Service (NMFS). In 2012, in response to the listing of five Distinct Population Segments (DPS) of Atlantic sturgeon, you prepared a supplemental BA to consider effects of operations on Atlantic sturgeon. You have also considered effects to these species in your 2006 Draft Supplemental Environmental Impact Statement (SEIS) and your 2007 final SEIS. A conference call was held on March 22, 2012, to discuss the status of the consultation because we had significant confusion regarding NRC's determination of effects.

In the species by species discussion in the 2006 BA, NRC concludes that the continued operation of Pilgrim would have no effect on each of the ten species considered; the conclusion of the BA states, "staff has identified ten<sup>1</sup> Federally listed endangered or threatened species that are under full or partial NMFS jurisdiction, that have a reasonable potential to occur in the vicinity of PNPS, and, therefore, may be affected by continuing operations of PNPS... the staff has determined that continued operation of PNPS for an additional 20 years would not have any adverse impact on any threatened or endangered marine aquatic species" (NRC 2006 and NRC 2007 at E-73). The FSEIS states, "staff concludes that continued operation of PNPS during the license renewal term is not likely to adversely affect any Federally listed marine aquatic species" (NRC 2007 at p. 4-64). Your February 29, 2012, letter transmitting the supplemental BA and the supplemental BA itself state that you have determined the continued operation of Pilgrim will have no effect on Atlantic sturgeon.

<sup>1</sup> In the FEIS and 2006 BA, NRC considered loggerhead, green, leatherback and Kemp's ridley sea turtles and sei, fin, North Atlantic right, humpback and sperm whales and shortnose sturgeon.

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From NMFS

40 pages

B/44 Encl



On the March 22, 2012 conference call, your staff confirmed that NRC believes the continued operation of Pilgrim will have "no effect" on any NMFS listed species. As discussed with your staff on a March 22, 2012 conference call, we do not agree with your "no effect" determination. As we also discussed, informal consultation would be appropriate in this situation. Consultation is required when an action "may affect" listed species and/or critical habitat. Consultation may be concluded informally if the action "may affect, but is not likely to adversely affect" listed species and/or critical habitat. A "not likely to adversely affect" conclusion is appropriate when effects are wholly beneficial, insignificant or discountable. As explained in the joint U.S. Fish and Wildlife and NMFS Section 7 Handbook, "beneficial effects are contemporaneous positive effects without any adverse effects. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur."

We have reviewed the available information and do agree that the continued operation of Pilgrim may affect, but is not likely to adversely affect any species listed as threatened or endangered by NMFS. We have also considered whether the continued operation of Pilgrim may affect critical habitat designated for the Northern right whale in 1994 (herein after, right whale critical habitat). In this letter, we provide our justification for concluding consultation informally.

#### **Description of the Facility and Proposed Action**

You are proposing to issue a renewed Operating License for the Pilgrim facility. The plant was constructed and licensed in 1972, and the current license expires on June 8, 2012. The facility is currently owned and operated by the Entergy Corporation. The renewed license would authorize the continued operation of the facility until June 8, 2032. There would be no major construction, refurbishment or replacement activities associated with the license renewal. If the NRC approves the license renewal application, the reactor and support facilities would be expected to continue to operate and be maintained until the renewed license expires in 2032.

The Pilgrim facility operates a single reactor unit with a boiling water reactor and turbine generator. The cooling and service water systems operate as a once-through cooling system, with Cape Cod Bay being the water source. Seawater is withdrawn from the Bay through an intake embayment formed by two breakwaters. Two pumps provide a continuous supply of condenser cooling water.

In 1972, Congress assigned authority to administer the Clean Water Act (CWA) to the U.S. Environmental Protection Agency (EPA). EPA issues National Pollutant Discharge Elimination System (NPDES) permits for facilities in Massachusetts. Section 316(b) of the CWA requires that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impacts (33 USC 1326). EPA regulates impingement and entrainment under Section 316(b) of the CWA through the NPDES permit process. The EPA administers Section 316(b) in Massachusetts through the NPDES program.