



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 2, 2016

Mr. William W. Stelle, Jr.
Regional Administrator
National Marine Fisheries Service
West Coast Region
1201 NE Lloyd Blvd., Suite 1100
Portland, OR 97232

SUBJECT: ENDANGERED SPECIES ACT SECTION 7 CONSULTATION NO. 2011/05286
FOR COLUMBIA GENERATING STATION LICENSE RENEWAL

Dear Mr. Stelle:

The U.S. Nuclear Regulatory Commission (NRC) is writing to you in response to your letters dated June 11, 2012,¹ and October 27, 2014,² as well as in response to more recent communications between the NRC and Mr. Richard Domingue in your office of the National Marine Fisheries Service (NMFS). The purpose of this letter is to communicate that the NRC desires to work with the NMFS to complete the Endangered Species Act of 1973, as amended, (ESA) consultation related to the application of Energy Northwest for the renewal of the Columbia Generating Station (CGS) operating license for an additional 20 years from 2023 to 2043.³

On August 23, 2011, the NRC transmitted a biological assessment to the NMFS as part of informal consultation under ESA section 7 on the then-pending application of Energy Northwest for the renewal of the CGS operating license for an additional 20 years.⁴ The NRC's biological assessment concluded that the CGS license renewal may affect, but is not likely to adversely

¹ National Marine Fisheries Service. Letter from W. W. Stelle, Jr., Regional Administrator, NMFS, to J. Susco, Branch Chief, NRC. Subject: Columbia Generating Station, Consultation No. I/NWR/2011/05286. June 11, 2012. Agencywide Documents Access and Management System (ADAMS) Accession No. [ML12172A377](#).

² National Marine Fisheries Service. Letter from W. W. Stelle, Jr., Regional Administrator, NMFS, to J. Susco, Branch Chief, NRC. Subject: Columbia Generating Station, Consultation No. 2011/05286. October 27, 2014. ADAMS Accession No. [ML14311A714](#).

³ In its October 27, 2014, letter, NMFS also appears to indicate that Essential Fish Habitat (EFH) consultation pursuant to the Magnuson-Stevens Fishery and Conservation Management Act, as amended, with the NRC for the CGS license renewal has not been completed. However, this consultation was completed before the NRC issued the renewed license. The NRC included a brief summary of the completed consultation on page 4-11 of the final supplemental environmental impact statement prepared for the CGS license renewal. U.S. Nuclear Regulatory Commission. NUREG-1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 47 Regarding Columbia Generating Station, Final Report, Vol. 1, at 4-11 (Apr. 2012). ADAMS Accession No. [ML12096A334](#).

⁴ U.S. Nuclear Regulatory Commission. Letter from D. Wrona, Branch Chief, NRC, to R. Domingue, Hydropower Division, NMFS. Subject: Biological Assessment for Informal Section 7 Consultation and Request to Initiate Abbreviated EFH Consultation for License Renewal of Columbia Generating Station (TAC No. ML3121). August 23, 2011. ADAMS Accession No. [ML11165A023](#).

affect (NLAA), listed salmonids in the Columbia River (the Upper Columbia River spring Chinook salmon (*Oncorhynchus tshawytscha*) and the Upper Columbia River steelhead (*O. mykiss*)). On October 24, 2011, NMFS responded that it did not concur with the NRC's NLAA determination because, according to NMFS, the CGS intake screening system design is not consistent with NMFS's screen criteria⁵ and, given the frequency of its operation and its location downstream of known spawning areas within the migration corridor of the listed salmonids, the NMFS cannot say that adverse effects from entrainment are extremely unlikely to occur.⁶

On December 20, 2011, the NRC provided NMFS with additional information in response to the concerns raised in its non-concurrence.⁷ First, the NRC stated that juvenile Upper Columbia River spring Chinook are too large to be entrained in the CGS cooling water intake system (CWIS) at the time that they migrate through the area and that there is no evidence of Upper Columbia River steelhead spawning in the area. Second, the NRC stated that, as an existing facility that is not undergoing a major upgrade, CGS is not required to modify its intake screen design to be consistent with the NMFS's screen criteria. Third, the NRC stated that the identification and implementation of best technology available for CWISs is under the authority of the U.S. Environmental Protection Agency (EPA) according to the Federal Water Pollution Control Act of 1972 (the Clean Water Act (CWA)) and, thus, that NMFS's concerns and modification suggestions regarding CGS's CWIS design would most appropriately be considered as part of the separate CGS national pollutant discharge elimination system (NPDES) permit renewal process.

On May 17, 2012, the NRC sent an e-mail to NMFS stating that the NRC intended to approve the renewed license application despite the pendency of the ESA consultation.⁸ The NRC also stated that, if NMFS, as a result of consultation, suggests modifications that the NRC and Energy Northwest could implement to avoid the likelihood of adverse effects to listed species, issuing the renewed operating license would not affect the NRC's authority to implement such modifications. Subsequently, on May 22, 2012, the NRC issued the renewed license for CGS with the understanding that its action was consistent with ESA section 7(d).

⁵ NMFS's intake screen criteria are available at http://www.westcoast.fisheries.noaa.gov/publications/hydropower/fish_passage_design_criteria.pdf.

⁶ National Marine Fisheries Service. Letter from W. W. Stelle, Jr., Regional Administrator, NMFS, to D. Wrona, Branch Chief, NRC. Subject: Letter of Non-Concurrence on U.S. Nuclear Regulatory Commission's proposed license renewal for Energy Northwest's Columbia Generating Station, Consultation No. F/NWR/2011/05286. October 24, 2011. ADAMS Accession No. [ML11307A393](#).

⁷ U.S. Nuclear Regulatory Commission. Letter from D. Wrona, Branch Chief, NRC, to W. W. Stelle, Jr., Regional Administrator, NMFS. Subject: Response to Letter of Non-Concurrence on Biological Assessment for Proposed License Renewal of Columbia Generating Station (TAC No. ME3121; NMFS Consultation No. F/NWR/2011/05286). December 20, 2011. ADAMS Accession No. [ML11335A127](#).

The NRC also sent additional information on May 9, 2012, and June 8, 2012 in response to a NMFS request. See National Marine Fisheries Service. E-mail from R. Domingue, NMFS, to D. Doyle, NRC. Subject: Columbia Generating Station Additional Information Request. February 10, 2012. ADAMS Accession No. [ML12044A329](#); U.S. Nuclear Regulatory Commission. E-mail from D. Logan, NRC, to R. Domingue, NMFS. Re: NRC response to NMFS additional information request. May 9, 2012. ADAMS Accession No. [ML12170A465](#); U.S. Nuclear Regulatory Commission. E-mail from D. Logan, NRC, to R. Domingue, NMFS. Re: NRC response to NMFS additional information request. June 8, 2012. ADAMS Accession No. [ML12163A017](#).

⁸ U.S. Nuclear Regulatory Commission. E-mail from J. Susco, NRC, to R. Graves, NMFS. Re: Continuation of section 7 consultation. May 17, 2012. ADAMS Accession No. [ML13189A213](#).

On September 30, 2014, the State of Washington Energy Facility Site Evaluation Council (EFSEC) issued Energy Northwest a NPDES permit for CGS.⁹ The NPDES permit requires, among other things, Energy Northwest to prepare and conduct an entrainment characterization study to be completed by May 1, 2019.¹⁰ Additionally, if the study or any other monitoring indicates significant entrainment or impingement of Federally listed species, then the NPDES permit requires Energy Northwest to prepare an engineering analysis, including costs and benefits associated with replacement of the intake structure with approvable design criteria, and to submit the final engineering analysis report to EFSEC. Therefore, the NPDES permit supports the NRC's previous determination that its licensing action of allowing CGS to operate for an additional 20 years from 2023 to 2043 may affect, but is not likely to adversely affect, listed salmonids in the Columbia River.

In your October 27, 2014, letter, you stated that NMFS will use the information in the NRC's final supplemental environmental impact statement (SEIS),¹¹ the information in the NPDES permit, and other information that constitutes the best scientific information currently available to NMFS in formulating a biological opinion. Pursuant to this statement and the NRC's recent communications with Mr. Domingue, the NRC requests the completion of ESA section 7 Consultation No. 2011/05286 through either NMFS's concurrence with the NRC's continuing NLAA determination or the completion of this biological opinion within 90 days of NMFS's receipt of this letter and the delivery of the biological opinion to the NRC and Energy Northwest within 45 days thereafter.¹² In the event that NMFS formulates a biological opinion, the NRC requests that NMFS also consider the information in the NRC's biological assessment and the NRC's correspondence with NMFS dated December 20, 2011, May 9, 2012, and June 8, 2012,¹³ and that NMFS make available to the NRC the draft biological opinion for the purpose of analyzing any reasonable and prudent alternatives such that the NRC may provide comments.¹⁴

⁹ Both NMFS and the EPA provided comments as part of the development of this permit. See Letter from Daniel D. Opalski, EPA, to Jim La Spina, EFSEC. Re: U.S. Environmental Protection Agency's Comments on the Draft National Pollutant Discharge Elimination System (NPDES) Permit for Columbia Generating Station, NPDES Number WA0025151. May 5, 2013. Available at <http://www.efsec.wa.gov/Columbia%20Generating%20Station/EFSEC/009EPA.pdf>.

¹⁰ Energy Northwest. Letter from Robert A. Dutton, Energy Northwest, to NRC Document Control Desk. Subject: Columbia Generating Station, Docket No. 50-397, Notification of NPDES Permit Reissuance. October 27, 2014. ADAMS Accession No. [ML14310A294](#).

¹¹ U.S. Nuclear Regulatory Commission. NUREG-1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 47 Regarding Columbia Generating Station, Final Report (Apr. 2012). ADAMS Accession No. [ML12096A334](#).

¹² See 50 C.F.R. § 402.14(e).

¹³ See *supra* note 7.

¹⁴ See 50 C.F.R. § 402.14(g)(5).

W. Stelle

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Thank you for your continuing support. If you have any questions regarding this letter, please contact Dr. Dennis Logan, Aquatic Ecologist, at 301-415-0490 or by e-mail at dennis.logan@nrc.gov or Ms. Briana Grange, Biologist, at 301-415-1042 or by e-mail at briana.grange@nrc.gov.

Sincerely,

/RA/

James G. Danna, Chief
Environmental Review
and Project Management Branch
Division of License Renewal
Office of Nuclear Reactor Regulation

W. Stelle

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Thank you for your continuing support. If you have any questions regarding this letter, please contact Dr. Dennis Logan, Aquatic Ecologist, at 301-415-0490 or by e-mail at dennis.logan@nrc.gov or Ms. Briana Grange, Biologist, at 301-415-1042 or by e-mail at briana.grange@nrc.gov.

Sincerely,

/RA/

James G. Danna, Chief
Environmental Review
and Project Management Branch
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-397

DISTRIBUTION: See next page

ADAMS Accession Nos.: ML16035A426 (letter) *concurred via e-mail

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FOR COLUMBIA GENERATING STATION LICENSE RENEWAL

DISTRIBUTION:

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