April 27, 2016

Mr. Louis A. Chiarella
Assistant Regional Administrator
Habitat Conservation Division
National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

SUBJECT: RESPONSE TO ESSENTIAL FISH HABITAT CONSERVATION RECOMMENDATIONS REGARDING EARLY SITE PERMIT FOR THE PSEG SITE

Dear Mr. Chiarella:

The U.S. Nuclear Regulatory Commission (NRC) received your letter, dated November 3, 2015, providing the National Marine Fisheries Service's (NMFS) comments and conservation recommendations in response to the supplemental essential fish habitat (EFH) assessment for an Early Site Permit (ESP) at the PSEG Site located adjacent to the existing Hope Creek Generating Station and Salem Generating Station, Units 1 and 2, in Lower Alloways Creek Township, Salem County, New Jersey. As cooperating agencies, the NRC and the U.S. Army Corps of Engineers (USACE) have conducted a joint EFH consultation with the NMFS in association with reviews of the applications submitted by PSEG Power, LLC, and PSEG Nuclear, LLC (PSEG), for an ESP for the PSEG Site from the NRC and a Department of the Army permit from the USACE, respectively. The joint EFH consultation was initiated pursuant to Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act (Public Law 94-265, December 1996) (the "Act"). The initial EFH assessment (June 2014) is included in Appendix F of both the draft environmental impact statement (EIS) issued in August 2014 and the final EIS issued in November 2015. Also included in Appendix F of the final EIS is the supplemental EFH assessment (August 2015) that addresses information requested by NMFS in a letter dated November 12, 2014, and further clarified in a December 15, 2014, conference call. This letter focuses on responding to the EFH conservation recommendations for the purpose of concluding the EFH consultation by the NRC, as required by Section 305(b)(4)(B) of the Act. It is our understanding that the USACE will respond to the NMFS by separate letter in accordance with the Act.

In the supplemental EFH assessment, the NRC and USACE determined that site-preparation activities (e.g., pile installation, dredging, and causeway development) at the PSEG Site would have minimal adverse effects on EFH for managed species and their prey within the Delaware River Estuary and the wetland habitat areas associated with the causeway development. NMFS's EFH conservation recommendations from your November 3, 2015, letter are reproduced below:

1. In-water work should be prohibited March 1 to June 30 to minimize impacts to early life stages of winter flounder and anadromous fish that serve as prey species for summer flounder, windowpane, bluefish and other federally managed species.

2. Compensatory mitigation should be provided for unavoidable impacts. A compensatory mitigation plan should be required that documents avoidance and minimization of the loss of intertidal and subtidal shallow water habitats and mudflats, full remediation of any contamination and provides sufficient acreage to offset the habitat losses.

3. Reinitiate EFH consultation if PSEG decides to seek approval of the construction and operation license for the new NGS [nuclear generating station] so that changes in the environmental conditions and aquatic resources of the estuary and technology can be evaluated, and impacts to aquatic resources can be minimized as the final site design and facility technology is selected.

The ESP application that PSEG submitted to the NRC does not include a request to perform any ground-disturbing activities that require NRC authorization. To construct and operate a nuclear power plant at the PSEG site, PSEG would be required to apply for and receive a separate NRC authorization, which would be a separate major Federal action requiring its own environmental review in accordance with 10 CFR Part 51. As the November 3, 2015, NMFS letter notes, although an NRC-issued ESP does not authorize the construction and operation of a nuclear plant at the PSEG site, a number of dredging and filling activities in jurisdictional waters could be completed by an ESP holder, provided the activities are authorized by the USACE. Because these activities would be subject to regulation by the USACE and the New Jersey Department of Environmental Protection (NJDEP), the NRC encourages that, with respect to conservation recommendations 1 and 2, NMFS coordinate with the USACE and NJDEP on including appropriate in-water work time-of-year restrictions and compensatory mitigation for unavoidable impacts to aquatic habitats in the applicable permits. Regarding conservation recommendation 3, if an applicant subsequently applies to the NRC for authorization to construct and operate a plant at the PSEG site, the NRC will take appropriate consultative action under Section 305 of the Act for the new major Federal action.

This response letter concludes the NRC's portion of the joint EFH consultation regarding the ESP for the PSEG Site. The USACE will complete its consultation with the NMFS through a separate letter. If you have any questions concerning this response to the NMFS's EFH conservation recommendations, please contact Dr. Allen Fetter, NRC Environmental Project Manager, by phone at 301-415-8556, or via e-mail to Allen.Fetter@nrc.gov.

Sincerely,
/RA/

Jennifer Dixon-Herrity, Chief
Environmental Projects Branch
Division of New Reactor Licensing
Office of New Reactors

This response letter concludes the NRC's portion of the joint EFH consultation regarding the ESP for the PSEG Site. The USACE will complete its consultation with the NMFS through a separate letter. If you have any questions concerning this response to the NMFS's EFH conservation recommendations, please contact Dr. Allen Fetter, NRC Environmental Project Manager, by phone at 301-415-8556, or via e-mail to Allen.Fetter@nrc.gov.

Sincerely,
/RA/

Jennifer Dixon-Herrity, Chief
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Docket No.: 52-043

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