



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

September 13, 2016

Ms. Kimberly Damon-Randall
Assistant Regional Administrator for Protected Resources
National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930-2276

SUBJECT: REQUEST FOR SECTION 7 CONFERENCE FOR INDIAN POINT NUCLEAR
GENERATING UNIT NOS. 2 AND 3 DUE TO PROPOSED RULE TO LIST
ATLANTIC STURGEON CRITICAL HABITAT IN THE HUDSON RIVER

Dear Ms. Damon-Randall:

With this letter, the U.S. Nuclear Regulatory Commission (NRC or the staff) is forwarding you an evaluation the staff has prepared to support NRC's review of Entergy Nuclear Operation, Inc.'s (Entergy) application for renewal of facility operating licenses DPR-26 and DPR-64 for an additional 20 years at Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and IP3) and to comply with the provisions of section 7 of the Endangered Species Act of 1973, as amended (ESA). The enclosed evaluation addresses proposed critical habitat of the Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*).

The NRC and National Marine Fisheries Service (NMFS) have previously engaged in formal section 7 consultation for IP2 and IP3, which most recently resulted in a biological opinion for the Atlantic sturgeon and shortnose sturgeon (*Acipenser brevirostrum*) dated January 30, 2013. At this time, NMFS remains engaged in Entergy's development of a sturgeon monitoring plan pursuant to the terms and conditions of the biological opinion.

On June 3, 2016, the NMFS published a proposed rule to list critical habitat for the Atlantic sturgeon. If listed as proposed, the entire portion of the Hudson River affected by IP2 and IP3 operations will be designated as critical habitat for the New York Bight distinct population segment (DPS) of Atlantic sturgeon. The enclosed evaluation considers the impacts of continued IP2 and IP3 operations under the terms of the original licenses and under the terms of renewed licenses, if granted by the NRC, and concludes that continued operation "may affect, but is not likely to destroy or adversely modify" proposed critical habitat for the New York Bight DPS of Atlantic sturgeon.

The NRC requests a conference under the provisions of Section 402.10 of Title 50 of the *Code of Federal Regulations* (50 CFR 402.10) for IP2 and IP3 and your concurrence with the staff's effect determination within 30 days of receipt of this letter. If your staff believes that the conference should be conducted in accordance with the formal consultation procedures in 50 CFR 402.14, please let me or Ms. Briana Grange of my staff know so that the NRC can

K. Damon-Randall

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request that the NMFS prepare a conference opinion. Should you need to discuss the project before making a determination, please contact Briana Grange, Biologist, by phone at 301-415-1042 or by e-mail at briana.grange@nrc.gov.

Sincerely,

/RA/

Kevin T. Folk, Acting Chief
Environmental Review and Project Branch
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 50-286

Enclosure:
As stated

K. Damon-Randall

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Letter to K. Damon-Randall from K. Folk dated September 13, 2016

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