



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

March 23, 2017

Mr. Barry A. Thom
Regional Administrator
National Marine Fisheries Service
West Coast Region
1201 NE Lloyd Blvd, Suite 1100
Portland, OR 97232-1274

SUBJECT: RESPONSE TO ESSENTIAL FISH HABITAT CONSERVATION
RECOMMENDATIONS FOR COLUMBIA GENERATING STATION

Dear Mr. Thom:

The U.S. Nuclear Regulatory Commission (NRC) and the National Marine Fisheries Service (NMFS) concluded formal consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA) on March 10, 2017, with the NMFS's issuance of a biological opinion regarding renewing the operating license for the Columbia Generating Station (CGS).⁽¹⁾ With the biological opinion, the NMFS also transmitted its review of the likely effects of renewing the CGS operating license on essential fish habitat (EFH), pursuant to section 305(b) of the Magnuson–Stevens Fishery Conservation and Management Act (MSA). This review concluded that the action of renewing the CGS operating license would adversely affect the EFH of two species of Pacific Coast salmon—Chinook salmon (*Oncorhynchus tshawytscha*) and coho salmon (*O. kisutch*)—and included two conservation recommendations to avoid, minimize, or otherwise offset potential adverse effects on the EFH. Pursuant to MSA section 305(b)(4)(B), the NRC is providing this letter in response to the NMFS's conservation recommendations.

EFH Consultation History

On May 3, 2010, the NRC requested information from the NMFS on EFH designated within the vicinity of CGS.⁽²⁾ The NMFS replied to this request by letter dated June 23, 2010.⁽³⁾ The NMFS indicated that the Upper Columbia River Chinook and coho salmon have EFH in the Columbia River and that the NRC should analyze potential adverse impacts of the proposed CGS license renewal on these species' EFH. The NRC evaluated the potential impacts to designated EFH of these species and documented its findings in a combined biological assessment and EFH assessment, which appears in Appendix D–1 of Supplement 47 to NUREG–1437, *Generic Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Columbia Generating Station* (herein referred to as "SEIS").⁽⁴⁾ In the EFH assessment portion of the SEIS, the NRC considered Upper Columbia River Chinook salmon (spring, summer, and fall runs) and coho salmon EFH and concluded that the CGS license renewal would have minimal adverse effects on the EFH of these species.

The NRC forwarded its draft SEIS containing the combined biological assessment and EFH assessment to the NMFS by letter dated August 23, 2011.⁽⁵⁾ The NRC requested that the

NMFS respond in writing to the EFH assessment within 30 days in accordance with the abbreviated EFH consultation timeline specified at 50 CFR 600.920(h)(4).^a

The NRC issued a renewed operating license to Energy Northwest for CGS on May 22, 2012. At that time, the NMFS had neither sent the NRC EFH conservation recommendations nor sent the NRC a written request for expanded EFH consultation. Because the NMFS did not provide the NRC with EFH conservation recommendations or a request for expanded EFH consultation within the 30-day timeframe established at 50 CFR 600.920(h)(4), the NRC considered its obligations under the MSA fulfilled and the EFH consultation concluded for the CGS license renewal. The NRC staff documented this position on page 4-11 of the SEIS. Additionally, the NMFS acknowledged this consultation history on page 97 of its March 10, 2017, EFH response.

EFH Conservation Recommendations

In its March 10, 2017, EFH response, the NMFS concluded that the continued operations of CGS under the renewed operating license will have adverse effects on EFH designated for Chinook and coho salmon. Specifically, the NMFS found that the action will continue to cause minor increases in ammonia, chlorine, copper, zinc, and selenium to levels that may be harmful; will continue to cause a minor increase in the amount of water taken from the Columbia River; and will continue to create an artificial obstruction based on the risk of entrainment through or impingement on the screens of the CGS water withdrawal structures. Accordingly, the NMFS recommended that the NRC amend the CGS renewed operating license, as requested by Energy Northwest, to require Energy Northwest's compliance with the terms and conditions of the biological opinion's incidental take statement. The NMFS stated that two EFH conservation recommendations were necessary to avoid, mitigate, or offset the impact of the action on EFH and that these conservation recommendations were a subset of the incidental take statement's terms and conditions. Specifically, the NMFS stated as conservation recommendations:

- Water Quality. Minimize adverse effects on water quality by monitoring and reporting as stated in term and condition #1 in the accompanying opinion.
- Artificial Obstructions. Minimize the risk of artificial obstruction by conducting the entrainment and impingement studies as stated in term and condition #2 in the accompanying opinion.

EFH Conservation Recommendation Response

Section 305(b)(4)(B) of the MSA requires that federal agencies provide a detailed response in writing within 30 days after receiving EFH conservation recommendations. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on the EFH. In the case of a response that is inconsistent with the recommendations, the federal agency shall explain its reasons for not following the

^a Abbreviated consultation is appropriate when the federal action does not have the potential to cause substantial adverse effects on EFH (50 CFR 600.920(h)(1)). In response to such a request, the NMFS must either (1) notify the federal agency either informally or in writing of its determination that the action would not adversely affect EFH or that no EFH conservation recommendations are needed; (2) request in writing that the federal agency initiate expanded consultation if NMFS believes that the action may result in substantial adverse effects on EFH or that additional analysis is needed to assess the effects of the action; or (3) provide the federal agency with EFH conservation recommendations, if appropriate, pursuant to section 305(b)(4)(A) of the MSA if expanded consultation is not necessary (50 CFR 600.920(h)(3)). The federal agency must submit its EFH assessment to NMFS as soon as practicable, but at least 60 days prior to a final decision on the action, and NMFS must respond in writing within 30 days (50 CFR 600.920(h)(4)).

recommendations. Additionally, in its March 10, 2017, EFH response, the NMFS asked that, in the NRC's statutory reply to the EFH response, it clearly identify the number of conservation recommendations accepted. Although the NRC's position is that its obligations under the MSA have already been fulfilled for the CGS license renewal, the NRC is nonetheless providing a response to the NMFS's March 10, 2017, EFH response, in the format specified by the MSA and as requested by the NMFS.

The NMFS's March 10, 2017, EFH response provides that its two conservation recommendations would be satisfied by the NRC's amending of the CGS renewed operating license, as requested by Energy Northwest, to require Energy Northwest's compliance with the terms and conditions of the incidental take statement and that this would protect, by avoiding or minimizing the adverse effects described in the EFH response, approximately 170 acres of designated EFH for Pacific Coast salmon, equivalent to an area of the mainstem Columbia River that is 1,400 feet wide by 1 mile long.

The NRC accepts both of the NMFS's EFH conservation recommendations and will implement them as follows.

By letter dated March 23, 2017,⁽⁶⁾ the NRC formally transmitted the NMFS's biological opinion to Energy Northwest. In that letter, the NRC stated that

...if Energy Northwest wishes to take advantage of the protective coverage of ESA section 7(o)(2) that compliance with the ITS contained in the enclosed March 10, 2017, biological opinion would afford, Energy Northwest should submit to the NRC a license amendment request requesting appropriate changes to the Environmental Protection Plan (EPP) contained in Appendix B of the CGS renewed operating license. For instance, Energy Northwest could request to change the EPP so that it states that Energy Northwest shall adhere to the specific requirements within the ITS in the currently applicable biological opinion.

If Energy Northwest submits a license amendment request as described above, the NRC staff will determine whether to issue the amendment according to 10 CFR 50.92 by considering such factors as whether there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, whether there is reasonable assurance that such activities will be conducted in compliance with the NRC's regulations, and whether the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. In this manner, the NRC will implement the NMFS's conservation recommendations and will avoid, mitigate, or offset the impact of the activity on the EFH.

B. Thom

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Conclusion

If you have any questions regarding this letter, please contact Ms. Briana Grange, Biologist, at 301-415-1042 or by e-mail at briana.grange@nrc.gov.

Sincerely,

/RA/

Jeffrey J. Rikhoff, Acting Chief
Environmental Review and Project
Management Branch
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-397

References

Documents with Agencywide Documents Access and Management System (ADAMS) accession numbers can be accessed through the NRC's Web-based ADAMS at <http://adams.nrc.gov/wba/>.

- (1) NMFS. Letter to NRC, Endangered Species Act Section 7(a)(2) Biological Opinion, and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for Renewing the Operating License for the Columbia Generating Station, Richland, Washington. March 10, 2017. ADAMS Accession No. ML17072A036.
- (2) NRC. Letter to NMFS, Request for List of Protected Species and Essential Fish Habitat within the Area Under Evaluation for the Columbia Generating Station License Renewal Application Review. May 3, 2010. ADAMS Accession No. ML100980161.
- (3) NMFS. Letter to NRC, Columbia Generating Station license renewal, request for species list for consultation. June 23, 2010. ADAMS Accession No. ML101830405.
- (4) NRC. NUREG–1437, Supplement 47, Generic Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Columbia Generating Station Final report. April 2012. ADAMS Accession Nos. ML12096A334, ML12097A239, ML12097A258, ML12097A264, and ML12097A271.
- (5) NRC. Letter to NMFS, Biological Assessment for Informal Section 7 Consultation and Request to Initiate Abbreviated EFH Consultation for License Renewal of Columbia Generating Station. August 23, 2011. ADAMS Accession No. ML11165A023.
- (6) NRC. Letter to Energy Northwest, Transmittal of the National Marine Fisheries Service's March 10, 2017, Final Biological Opinion for Columbia Generating Station. March 23, 2017. ADAMS Accession No. ML17072A265.

Letter from J. Rikhoff to B. Thom dated March 23, 2017.

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ADAMS Accession No.: ML17073A113

*concurred via e-mail

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