

From: [Julie Crocker - NOAA Federal](#)
To: [Grange, Briana](#)
Cc: [Elise N.](#); [Gray, Dara F.](#); [Julie Williams](#)
Subject: [External_Sender] Indian Point Sturgeon Monitoring
Date: Saturday, April 11, 2020 8:57:06 AM

Hi Briana,

On March 26, 2020, Entergy notified us by email (from Elise Zoli) that limits to site access at the Indian Point facility put in place in response to the COVID-19 pandemic will make carrying out the sturgeon monitoring protocol described in the February 2018 amended Incidental Take Statement (ITS) infeasible at this time. The ITS contains a provision for rescheduling monitoring days that are missed due to an outage or emergency (see Term and Condition 1). As such, we expect that missed monitoring days will be rescheduled as provided for in the 2018 ITS. If NRC disagrees with this determination about rescheduling the missed monitoring days, please let us know within 5 business days so that we can determine appropriate next steps.

Please note that we have also received the March 17, 2020, proposal for a revised monitoring program at Indian Point Unit 3. RPM #2 of the ITS requires that:

“The IP3 fish return sluice must be monitored for the presence of shortnose and Atlantic sturgeon in a manner that allows a reasonably accurate and precise estimate of the total number of shortnose and the total number of Atlantic sturgeon impinged on the Ristroph screens each year prior to permanent cessation of electric-generating operations. This monitoring is required until Entergy submits a certification of Permanent Cessation of Power Operations to NRC for IP3 stating that power generation has in fact stopped Permanently.”

A single daily visual inspection of the Ristroph screens and fish return sluice as proposed in the March 17, 2020, proposal is not consistent with the requirements of this RPM. We are not opposed, however, to considering an alternative monitoring strategy that could be determined to “allow a reasonably accurate and precise estimate of the total number of shortnose and the total number of Atlantic sturgeon impinged” and encourage NRC to work with Entergy to ensure that any alternative monitoring plan that may be proposed is consistent with the requirement of this RPM.

The final Biological Opinion (BiOp) and revised ITS predicted incidental take levels based on the best available scientific information, which demonstrated annual variability in sturgeon impingement. That variability is reflected in the annual estimates of take of shortnose and Atlantic sturgeon that are exempted in the ITS (i.e., “for Unit 3, we expect 0-32 juvenile or adult shortnose sturgeon and 0-41 juvenile New York Bight DPS Atlantic sturgeon to be impinged at IP3 each year.”) The report of zero takes during 2019 sampling, assuming such sampling yielded representative results, is consistent with the BiOp and ITS. However, it does not necessarily mean that take (e.g., capture, collection, injury, death) is not likely to occur in 2020 and beyond. Furthermore, Entergy’s attribution of past injury and mortality of sturgeon to Hudson River fisheries is speculation and, nevertheless, fails to account for the capture/collection of sturgeon-- regardless of their condition-- caused by the operation of Indian Point’s facilities.

We expect Entergy to continue to monitor and report any incidental take as required by the 2013

Biological Opinion and amended ITS unless and until they are changed through the reinitiation process. If it is NRC's position that take of ESA listed species is not reasonably certain to occur, then NRC should provide its rationale to us and request reinitiation of consultation.

Thanks,

Julie

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