



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

June 12, 2020

Pamela B. Cowan  
Senior Vice President  
and Chief Operating Officer  
Holtec Decommissioning International, LLC  
Krishna P. Singh Technology Campus  
1 Holtec Blvd.  
Camden, NJ 08104

SUBJECT: TRANSMITTAL OF THE NATIONAL MARINE FISHERIES SERVICE'S  
MAY 29, 2020 BIOLOGICAL OPINION FOR OYSTER CREEK NUCLEAR  
GENERATING STATION OPERATION, SHUTDOWN, AND  
DECOMMISSIONING

Dear Ms. Cowan:

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 May 29, 2020. Upon concluding consultation, the NMFS issued a biological opinion for Oyster Creek Nuclear Generating Station (Oyster Creek) operation, shutdown, and decommissioning.<sup>1,2</sup> The biological opinion is enclosed. The biological opinion considers the effects of decommissioning activities on three species of sea turtles (*Lepidochelys kempii*, *Chelonia mydas*, and *Caretta caretta*) and on five distinct population segments (DPSs) of the Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) through 2035, at which time all decommissioning activities are anticipated to be complete. The biological opinion takes effect immediately and replaces the NMFS's previous biological opinion for Oyster Creek dated November 21, 2011.<sup>3</sup>

Pursuant to Section 7(a)(2) of the ESA, the NRC requested to reinitiate consultation with the NMFS in April 2019.<sup>4</sup> The NRC's reinitiation request addressed two events: (1) Exelon Generation Company, LLC's (Exelon) exceedance in July 2018 of the incidental take limit for loggerhead sea turtles specified in the biological opinion and (2) Exelon's permanent cessation of power generation at Oyster Creek in September 2018. In its request, the NRC concluded that the shutdown and decommissioning of Oyster Creek may affect but is not likely to adversely

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<sup>1</sup> NMFS. Letter from J. Anderson to K. Erwin, NRC. Subject: Reinitiation of Formal Consultation for Oyster Creek Nuclear Generating Station. GAR-2019-01287. May 29, 2020. Agencywide Documents Access and Management System (ADAMS) Accession No. ML20153A227.

<sup>2</sup> NMFS. Endangered Species Act Section 7 Consultation Biological Opinion; Nuclear Regulatory Commission; Reinitiation – Continued Operations of Oyster Creek Nuclear Generating Station pursuant to a License issued by the NRC in April 2009, shutdown, and ongoing decommissioning. GAR-2019-01287. May 29, 2020. ADAMS Accession No. ML20153A228.

<sup>3</sup> NMFS. Endangered Species Act Section 7 Consultation Biological Opinion; Nuclear Regulatory Commission; Reinitiation – Continued Operation of Oyster Creek Nuclear Generating Station pursuant to a License issued by the NRC in April 2009. November 21, 2011. ADAMS Accession No. ML2006A217.

<sup>4</sup> NRC. Email from B. Grange to NMFS Greater Atlantic Regional Field Office. Subject: Request to Reinitiate Endangered Species Act Section 7 Consultation for Oyster Creek Nuclear Generating Station. April 30, 2019. ADAMS Accession No. ML19113A252.

affect listed species. Consultation between the NRC and the NMFS continued until the NMFS's issuance of the enclosed biological opinion.

After reviewing and analyzing the best available information on the status of endangered and threatened species under NMFS jurisdiction, the environmental baseline for the action area, the effects of the proposed action, and the cumulative effects, the NMFS concluded in the biological opinion that the shutdown and decommissioning of Oyster Creek may adversely affect but is not likely to jeopardize the continued existence of the Northwest Atlantic DPS of loggerhead sea turtles, Kemp's ridley sea turtles, or the North Atlantic DPS of green sea turtles. The NMFS also concluded that no critical habitat is designated in the action area and that, therefore, none will be affected by the proposed action. Finally, the NMFS concluded that the proposed action is not likely to adversely affect any DPS of Atlantic sturgeon because the species does not occur in the action area.

While the incidental take of sea turtles occurred while Oyster Creek was operational, the NMFS anticipates no additional take of any sea turtles during the shutdown and decommissioning period. As such, the biological opinion does not include an incidental take statement or associated reasonable and prudent measures or terms and conditions. In its transmittal letter, the NMFS instructs Holtec Decommissioning International, LLC (HDI) to contact the Marine Mammal Stranding Center in Brigantine, New Jersey, if a dead, injured, or impaired sea turtle is observed. Trained responders from the stranding center will provide appropriate instructions for response.

The NMFS's May 29, 2020 biological opinion replaces the NMFS's November 21, 2011 biological opinion. Condition 2.C.(17) of the Oyster Creek renewed facility operating license requires HDI's compliance with the biological opinion "in effect or as subsequently issued" by the NMFS. With this letter, the NRC affirms that the biological opinion that is now in effect with respect to Oyster Creek is the May 29, 2020 biological opinion. HDI does not need to take any action for this change to apply.

Should you need to discuss the information in this letter or any other matters related to ESA Section 7 consultation for Oyster Creek, please contact Ms. Briana Grange, Conservation Biologist & ESA Section 7 Coordinator, at 301-415-1042 or at [briana.grange@nrc.gov](mailto:briana.grange@nrc.gov).

Sincerely,



Bruce A. Watson, CHP, Chief  
Reactor Decommissioning Branch  
Division of Decommissioning, Uranium Recovery  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 50-219

Enclosure: Biological Opinion

cc: Listserv

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MAY 29, 2020 BIOLOGICAL OPINION FOR OYSTER CREEK NUCLEAR  
GENERATING STATION OPERATION, SHUTDOWN, AND  
DECOMMISSIONING **DATE JUNE 12, 2020**

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Andrea Sterdis, Holtec ([a.sterdis@holtec.com](mailto:a.sterdis@holtec.com))

Jeff Dostal, Holtec ([j.dostal@holtec.com](mailto:j.dostal@holtec.com))

Julie Crocker, NMFS ([julie.crocker@noaa.gov](mailto:julie.crocker@noaa.gov))

**ADAMS Accession Nos.: Package: ML20163A648, Letter: ML20163A641,  
Enclosure: ML20153A226**

<b>OFFICE</b>	DUWP	REFS	OGC:NLO	REFS	DUWP
<b>NAME</b>	ZCruz	BGrange	JWacutka	RElliott	BWatson
<b>DATE</b>	6/3/20	6/12/20	6/12/20	6/11/20	6/12/20

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