



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930

FEB 2 2001

Ms. Elinor G. Adensam, Director
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Ms. Adensam:

The National Marine Fisheries Service (NMFS) has received your January 23, 2001, letter submitting additional information for the reinitiation of formal consultation, pursuant to section 7 of the Endangered Species Act of 1973, as amended (ESA), on the effects of the Oyster Creek Nuclear Generating Station (OCNGS) on endangered and threatened species. Several species of endangered and threatened sea turtles are present in the vicinity of the OCNGS, located on the Forked River and Oyster Creek, New Jersey, and have the potential to be adversely affected by the facility operations.

The purpose of this letter is to reinitiate the formal consultation process for the OCNGS. The report titled "Assessment of the Impacts of the Oyster Creek Nuclear Generating Station on Kemp's ridley (*Lepidochelys kempii*), loggerhead (*Caretta caretta*), and Atlantic green (*Chelonia mydas*) sea turtles" dated July 2000, will be used as the Biological Assessment for this consultation. On October 6, 2000, NMFS requested additional information on the project before formal consultation could proceed. Your January 23, 2001, letter (received on January 29, 2001) provided additional information to supplement the Biological Assessment. Upon further review of the submitted information, it is NMFS' determination that all of the information required to initiate a formal consultation has been received.

NMFS will prepare a biological opinion analyzing whether or not the project is likely to jeopardize listed sea turtles. The date of this letter will serve as the commencement of the formal consultation process. The ESA and the section 7 regulations require that formal consultation be concluded within 90 calendar days of initiation, and the biological opinion be delivered to the action agency within 45 days after the conclusion of formal consultation. In the meantime, the ACOE must not make any irreversible or irretrievable commitment of resources that would prevent the NMFS from proposing or implementing any reasonable and prudent alternatives to avoid jeopardizing sea turtles.

The previous impacts of the OCNGS on sea turtles were addressed in a formal consultation and subsequent biological opinion dated September 21, 1995. As stated in the terms and conditions of the opinion, the existing biological opinion and incidental take statement were to expire five



years from the signature date. Thus, OCNGS coverage under the ESA expired on September 21, 2000. As any additional turtle takes that occur will not be covered under the ESA until the requested formal consultation is completed and the biological opinion is signed, the NMFS will attempt to expedite this formal consultation. Until the final biological opinion is completed and signed, NMFS recommends that the Nuclear Regulatory Commission continue to implement the requirements identified in the September 21, 1995, biological opinion.

If you have any questions concerning these comments or the section 7 consultation requirements, please contact Carrie McDaniel of my staff at (978) 281-9388.

Sincerely,

A handwritten signature in cursive script, reading "Mary Colligan".

Mary Colligan
Acting Assistant Regional Administrator
for Protected Resources

cc: Brewer/Johnson, F/PR3
Malcolm Browne, AmerGen
Collins, GCNE
Riportella, F/NER-SH

File code: 1514-05(A) NRC – Oyster Creek