

November 19, 2003

AGENCY: SOUTHEAST REGIONAL OFFICE OF NOAA FISHERIES

FACILITY: EDWIN I. HATCH NUCLEAR PLANT

SUBJECT: SUMMARY OF MEETING HELD ON NOVEMBER 3, 2003, BETWEEN NOAA FISHERIES, U.S. CORPS OF ENGINEERS, AND U.S. NUCLEAR REGULATORY COMMISSION TO DISCUSS SECTION 7 CONSULTATIONS UNDER THE ENDANGERED SPECIES ACT

On November 3, 2003, a meeting was held at the Southeast Regional Office (SERO) of NOAA Fisheries in St. Petersburg, Florida. Representatives from the U.S. Nuclear Regulatory Commission (NRC), the Savannah District of the U.S. Army Corps of Engineers (USACE), and NOAA Fisheries met to discuss several topics related to Section 7 reviews under the Endangered Species Act (ESA). A list of attendees is attached (Enclosure 1). The NRC distributed a handout which included an agenda for the meeting. A copy of the handout is also attached (Enclosure 2).

The meeting began with an explanation of the NRC's regulatory oversight of the nuclear industry. Particular emphasis was placed on license renewal reviews for power reactors. The NRC staff provided a description of the safety and environmental reviews conducted along with an explanation of schedule constraints on the length of the overall review.

The principal meeting agenda item was the status of the Edwin I. Hatch Nuclear Plant (HNP) informal Section 7 consultation initiated by the NRC under the provisions of the ESA. HNP is located in the State of Georgia and is owned and operated by the Southern Nuclear Operating Company (SNOC). The NRC staff made the determination that the continued operation of the plant "may affect" but is "not likely to adversely affect" the shortnose sturgeon, *Acipenser brevirostrum*. The NRC staff's determination was part of the NRC's environmental review for SNOC's license renewal application, and was documented in a Biological Assessment (BA) prepared by the staff. The BA was submitted to NOAA Fisheries SERO for concurrence in August 2000.

NRC staff summarized the chronology of the informal consultation subsequent to the submission of the BA to SERO for the meeting attendees. SERO expressed concern that the August 2000 BA did not address several issues, principally the issues of routine maintenance dredging and the licensee's recent request for a permit to expand the footprint of the dredged area of river bottom. Dredging is confined to the Altamaha River in the vicinity of the intake structure and dredging permits are granted by the USACE. The NRC staff, along with the USACE personnel present at the meeting, proposed that the HNP BA be updated with more current information about the shortnose sturgeon, provide more details about plant operations and include a discussion and evaluation of the impacts of dredging on the species. The updated BA would then be submitted jointly by the NRC and USACE to SERO for concurrence. SERO agreed with the proposal and felt that they could inform the NRC and the USACE as to whether or not they concur with a determination of "not likely to adversely affect" within 90 days of receipt of the BA. The NRC staff committed to submitting the revised BA by the end of

February 2004 provided that the licensee submitted to the NRC updated information on site specific impacts to the shortnose sturgeon by the end of the calendar year.

The second topic of discussion was the NRC's proposal to informally review the Incidental Take Statement and Conservation Recommendations contained in future Biological Opinions (BO) for nuclear facilities in advance of issuance of the BO by SERO. The NRC staff felt that such a review would assist SERO staff in preparing a BO that clearly stated the requirements for species protection by eliminating ambiguity in the requirements and tailoring the specific requirements to the individual facilities. SERO agreed with the NRC's proposal that such an informal review in advance of issuance of a BO would be beneficial.

The third agenda item was to discuss a mechanism for the NRC to propose changes to a BO after the issuance of the BO short of reinitiating consultation. The NRC staff proposed submitting a written request for minor changes to SERO for approval. SERO agreed that submitting the request in writing was the proper method for requesting minor changes. The NRC staff inquired about the request for minor changes to the Crystal River BA submitted to SERO in a letter dated June 24, 2003. Bob Hoffman, SERO, replied that he agreed with the proposed changes and that a letter to the NRC confirming his decision would be forthcoming.

The meeting concluded with a discussion of near term NRC licensing activities that may require NOAA Fisheries consultation. The NRC staff identified four actions, license renewal applications for Farley - Unit 1, Arkansas Nuclear One - Unit 2, Browns Ferry - Units 1,2, and 3, and an early site permit application for up to two additional units at the Grand Gulf site.

Sincerely,

/RA/

Michael T. Masnik, Senior Project Manager
License Renewal and Environmental Impacts
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Docket No. 50-321, 50-366

Enclosures: 1. Combined List of Attendees
2. Presentation Slides

cc w/enclosures: See next page

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Accession nos:

- 1) Note to: Agency: Southeast Regional Office of NOAA Fisheries, Re: E. Hatch w/Encl. 1 **ML033300329**
- 2) Pkg w/Note, Encl. 1, Enl. 2 (Slides): **ML033300323**

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LIST OF ATTENDEES AT THE NOVEMBER 3, 2003, MEETING AT NOAA FISHERIES
SOUTHEAST REGIONAL OFFICE

<u>NAME</u>	<u>AGENCY</u>	<u>PHONE NUMBER</u>
Richard Morgan	USACE*	912-652-5139
Carol Bernstein	USACE	912-652-5503
Georgia Cranmore	NOAA Fisheries	727-570-5312
Eric Hawk	NOAA Fisheries	727-570-5312
Bob Hoffman	NOAA Fisheries	727-570-5312
Cheryl Scannell	NOAA Fishereis	727-570-5365
Roy Crabtree	NOAA Fisheries	727-570-5301
David Bernhart	NOAA Fisheries	727-570-5312
Antonio Fernandez	USNRC**	301-415-8339
Michael Masnik	USNRC	301-415-1191
John Tappert	USNRC	310-415-2236
David Matthews	USNRC	301-415-1199

* United States Army Corps of Engineers, Savannah District

** Headquarters United States Nuclear Regulatory Commission