



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

JUL - 7 2006

Frank Gillespie, Director
Division of License Renewal
Office of Nuclear Reactor Program
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Gillespie,

This is in response to your letter dated June 9, 2006 regarding a request for formal consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended, for the US Nuclear Regulatory Commission's (NRC) proposed renewal of the operating license for the Oyster Creek Nuclear Generating Station (OCNGS). The facility's current license expires on April 9, 2009 and the NRC proposes to renew the license for an additional 20 years.

The OCNGS is operated by AmerGen Energy Company, LLC (AmerGen) and is located in Lacey Township, New Jersey. Section 7 consultation was last completed with NOAA's National Marine Fisheries Service in 2005 with a Biological Opinion (Opinion) dated September 22, 2005 concluding that continued operation of the OCNGS through the end of its current license period was not likely to jeopardize the continued existence of listed sea turtles.

The sea turtles in northeastern nearshore waters are typically small juveniles with the most abundant being the federally threatened loggerhead (*Caretta caretta*) followed by the federally endangered Kemp's ridley (*Lepidochelys kempi*). Loggerheads and Kemp's ridleys have been documented in waters as cold as 11°C, but generally migrate northward when water temperatures exceed 16°C. Sea turtles are typically present in New Jersey waters from May 1 – November 15, with the majority of sea turtles in the area from late May to early November. Concentrations of the federally endangered leatherbacks (*Dermochelys coriacea*) have been observed during the summer off New Jersey. While leatherbacks are predominantly pelagic, they may occur close to shore, especially when pursuing their preferred jellyfish prey. Green sea turtles (*Chelonia mydas*) may also occur in New Jersey waters in warmer months.

The OCNGS began commercial operation in 1969. A Biological Opinion on the effects of the operation of the facility on listed species under NMFS jurisdiction was issued on September 21, 1995. Consultation was reinitiated in 2000 with an Opinion being issued by NMFS on July 18, 2001. In 2004, the number of Kemp's ridleys impinged at the facility's intake exceeded the number exempted by the Incidental Take Statement issued with the 2001 Opinion. Consultation was reinitiated in early 2005 with an Opinion issued by NMFS on September 22, 2005. The ITS



accompanying this Opinion exempts the annual take of two loggerheads (one lethal), eight Kemp's ridleys (four lethal), and one lethal take of a green sea turtle.

From the information provided in the Environmental Impact Statement (EIS) for the facility, the June 9, 2006 letter as well as the documented effects of the facility on sea turtles, NMFS has concluded that the proposed license renewal may affect listed sea turtles. The purpose of this letter, therefore, is to concur with the need for the initiation of formal consultation on the issuance of a license renewal by NRC to allow the continued operation of the OCNGS past April 9, 2009 when the current license expires. All of the information required to initiate a formal consultation has been received. The correspondence with your office, the EIS dated June 2006, the 2005 biological assessment and available commercial and scientific data will be used to prepare the Opinion.

The date your June 9, 2006 letter was received (June 15, 2006) will serve as the commencement of the formal consultation process. The ESA and the Section-7 regulations (50 CFR 402.14) 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 (i.e., October 28, 2006), unless extended. In the meantime, pursuant to Section 7d of the ESA, the NRC must not make any irreversible or irretrievable commitment of resources that would foreclose the formulation or implementation of any reasonable and prudent alternatives to avoid jeopardizing endangered or threatened species. We look forward to working with your office during the formal consultation process. If you have any questions or concerns about the consultation, please contact Julie Crocker at (978) 281-9300 ext. 6530 or by e-mail (julie.crocker@noaa.gov).

Sincerely,



Patricia A. Kurkul
Regional Administrator

cc: Scida, F/NER3
Williams, GCNE
Greene, F/NER4

File Code: Section 7 NRC New Jersey – Oyster Creek NGS 2006 consultation

PCTS: F/NER/2006/02883