



United States Department of the Interior

FISH AND WILDLIFE SERVICE



In Reply Refer to:

ES-04/618

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JAN 25 2005

Michael P. Gallagher, Director
AmerGen Energy Company, LLC
Licensing and Regulatory Affairs
200 Exelon Way
Kennett Square, Pennsylvania 19348

Dear Mr. Gallagher:

This responds to your October 20, 2004 letter to the U.S. Fish and Wildlife Service (Service) requesting information on federally listed species in the vicinity of the Oyster Creek Generating Station located in Ocean County, New Jersey. The Service understands that you are preparing an application to the U.S. Nuclear Regulatory Commission to renew the operating license, which expires in April 2009, for the Oyster Creek Generating Station.

AUTHORITY

This response is provided pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) (ESA) to ensure the protection of federally listed endangered and threatened species. These comments do not address all Service concerns for fish and wildlife resources and do not preclude separate review and comments by the Service pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401; as amended; 16 U.S.C. 661 *et seq.*) if project implementation requires a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Appropriation Act (30 Stat. 1151, as amended; 33 U.S.C. 403 *et seq.*) and/or Section 404 of the Clean Water Act (33 U.S.C. 1341), or pursuant to the December 22, 1993 Memorandum of Agreement (MOA) among the U.S. Environmental Protection Agency, New Jersey Department of Environmental Protection (NJDEP), and the Service, if project implementation requires a permit from the NJDEP pursuant to the New Jersey Freshwater Wetlands Protection Act (N.J.S.A. 13:9B *et seq.*). The following remarks do not preclude comments on any forthcoming environmental documents pursuant to the National Environmental Policy Act of 1969 as amended (83 Stat. 852; 42 U.S.C. 4321 *et seq.*).

FEDERALLY LISTED SPECIES

There is a known occurrence of the federally listed (threatened) plant Knieskern's beaked-rush (*Rhynchospora knieskernii*) within 1.5 miles of the project site. Knieskern's beaked-rush occurs

in early successional wetland habitats, often on bog-iron substrate or mud deposits adjacent to slow-moving streams in the Pinelands region of New Jersey. This species is also found in man-disturbed wet areas including abandoned borrow pits, clay pits, ditches, rights-of-way, and unimproved roads. The species is intolerant of shade and competition, and is generally found on relatively bare substrate with sparse vegetation. Threats to Knieskern's beaked-rush include habitat loss from development, agriculture, hydrologic modification, and other wetland alterations; excessive disturbance from vehicle-use, trash dumping, and other activities; and natural vegetative succession of the open, sparsely-vegetated substrate preferred by this species. Additional information is enclosed regarding Knieskern's beaked-rush and its habitat.

There are two known occurrences of the federally listed (threatened) plant swamp pink (*Helonias bullata*) within 2.8 miles of the project site. Swamp pink is a perennial, shade-tolerant, obligate wetland plant found in forested freshwater wetlands, such as Atlantic white-cedar (*Chamaecyparis thyoides*) and red maple (*Acer rubrum*) swamps. The species usually occurs along small meandering streamlets, in headwater wetlands, or in spring seepage areas. Swamp pink habitat can have a variable canopy, and tends to have mucky substrates. Specific hydrologic requirements of swamp pink limit its occurrence to areas with lateral ground-water movement that are perennially saturated, but not inundated by floodwaters. The species also requires a water table at or near the surface, with only slight fluctuations in water levels throughout the year. Swamp pink often grows on hummocks formed by trees, shrubs, and sphagnum moss. The primary threats to swamp pink are the indirect effects of off-site activities and development, such as pollution and subtle changes in groundwater and surface water hydrology. Hydrologic changes include increased sedimentation from off-site construction; and increases in the frequency, duration, and volume of flooding, and subsequent erosion, caused by direct discharges to wetlands (such as stormwater outfalls) and by increased runoff from upstream development. Other threats to this species include direct destruction of habitat from wetland clearing, draining and filling; collection; and trampling. Additional information is enclosed regarding swamp pink and its habitat.

CANDIDATE SPECIES

There is a known occurrence of the federal candidate plant species, bog asphodel (*Narthecium americanum*), located within the Oyster Creek Generating Station site boundary and several additional locations within 1.3 miles of the project site. Bog asphodel is a perennial herb found in open bogs, wet savannahs, lowland oxbow meanders, iron ore streamlet seeps, and sunny borders of Atlantic white-cedar (*Chamaecyparis thyoides*) swamps. The species often forms clumps in mucky soil along small channels of cold seepage water. Bog asphodel favors areas influenced by slow-moving groundwater, and cannot tolerate heavy shade or extended periods of flooding or dessication. Threats to bog asphodel include long-term hydrologic change, habitat loss, and natural vegetation succession.

SERVICE COMMENTS AND RECOMMENDATIONS

Based upon a review of the information provided, the Service understands that there would be no expansion of the existing facilities, no additional land disturbance is anticipated in support of license renewal, and any maintenance activities necessary to support license renewal would be

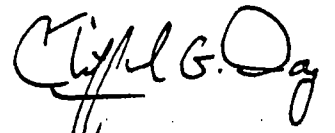
limited to previously disturbed areas. Therefore, the Service concurs with your determination that operation of the plant, including maintenance of the transmission line, over the license renewal period would not adversely affect federally listed threatened and endangered species. No further consultation pursuant to Section 7 of the ESA is required by the Service. If additional information on federally listed species becomes available, or if project plans change, this determination may be reconsidered.

A review of the Service's National Wetlands Inventory maps indicates that wetlands occur within the project site. Many areas of New Jersey, including the project site, have not been thoroughly surveyed for endangered and threatened plant and animal species. Therefore, occurrences of Knieskern's beaked-rush and swamp pink, as well as several State-listed plants and animals, could be located within wetlands on or adjacent to the project site. Although the Service understands that these wetlands will not be affected by the license renewal, it is recommended (not required) that a qualified botanist conduct a survey within the project site to determine the absence or presence of rare plants, particularly Knieskern's beaked-rush and swamp pink. Please forward the results of any survey, whether showing presence or absence, to this office. Please include the survey method used and the qualifications of the surveyor.

Candidate species are under consideration by the Service for possible inclusion on the List of Endangered and Threatened Wildlife and Plants. Although these species receive no substantive or procedural protection under the Endangered Species Act, the Service encourages federal agencies and other planners to consider candidate species in project planning. If field surveys are conducted for Knieskern's beaked rush or swamp pink, the Service recommends the survey also include bog asphodel.

The Service appreciates your efforts to address federally listed species concerns early in the planning process. Lisa Arroyo of my staff is available at (609) 646-9310, extension 49, to provide further assistance if you have any questions concerning the above information or require further assistance regarding federally listed endangered or threatened species.

Sincerely,

A handwritten signature in black ink, appearing to read "Clifford G. Day". The signature is stylized with a large, looped "C" and a long, sweeping underline.

Clifford G. Day
Supervisor