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Subject: Request to Reinitiate Endangered Species Act Section 7 Consultation for Salem Nuclear Generating Station
Date: Thursday, July 2, 2020 8:59:00 AM
Attachments: [July 2020 Salem Biological Assessment ML20156A068.pdf](#)



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

Good morning Ms. Crocker:

The U.S. Nuclear Regulatory Commission (NRC) requests to reinitiate consultation with the National Marine Fisheries Service (NMFS) under the provisions of Section 7 of the Endangered Species Act of 1973, as amended (ESA), concerning Salem Nuclear Generating Station, Unit Nos. 1 and 2 (Salem) in Lower Alloways Creek Township, New Jersey. This email includes information explaining and supporting this request. The NRC has also prepared a biological assessment, which is attached to this email.

Proposed Action

Salem is a two-unit nuclear power plant located on the southern end of Artificial Island along the eastern shore of the Delaware Estuary approximately 50 river miles upstream of the river's confluence with the Delaware Bay. PSEG Nuclear, LLC (PSEG) operates and maintains the plant. The NRC issued facility operating licenses for Salem in December 1976 (Unit No. 1) and May 1981 (Unit No. 2), and commercial power operations began in June 1977 and October 1981, respectively. In 2011, the NRC issued renewed facility operating licenses authorizing each reactor an additional 20 years of operation through August 2036 (Unit No. 1) and April 2040 (Unit No. 2).

With respect to the current NRC request to reinitiate consultation, the proposed action is the continued operation of Salem under the terms of its renewed facility operating licenses. The NMFS previously contemplated this action in its 2014 biological opinion, as described below.

2014 Biological Opinion

On [July 17, 2014](#), the NMFS issued a biological opinion for the continued operation of Salem. The NMFS subsequently clarified the incidental take statement of its opinion on [November 23, 2018](#). The incidental take statement exempts from the prohibitions of ESA Section 9 the take of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), shortnose sturgeon (*Acipenser brevirostrum*), and three species of sea turtles (*Caretta caretta*, *Chelonia mydas*, and *Lepidochelys kempii*) subject to compliance with certain reasonable and prudent measures and terms and conditions.

The biological opinion applies to both the continued operation of Salem as well as the continued operation of Hope Creek Generating Station (Hope Creek), which is also located on Artificial Island. However, Hope Creek remains within the incidental take statement limits established in the biological opinion. Therefore, this reinitiation request does not address Hope Creek.

Exceedance of Atlantic Sturgeon Incidental Take Statement Limits

In accordance with 50 CFR 402.16, reinitiation of consultation is required because Salem has exceeded the incidental take statement limits for both total impingement mortality and total causal impingement mortality at Salem's cooling water intake structure trash bars. Salem is also approaching the incidental take statement limit for Atlantic sturgeon captures during bottom trawl sampling, which PSEG conducts annually pursuant to its Updated Biological Monitoring Work Plan, a requirement of its New Jersey Pollutant Discharge Elimination System permit issued by the New Jersey Department of Environmental Protection.

Biological Assessment

In support of this reinitiation request, the NRC staff prepared a biological assessment that evaluates the potential impacts of the proposed action on Atlantic sturgeon and its designated critical habitat. The biological assessment is attached to this email and is also available online at [ML20156A067](#).

ESA "Likely to Adversely Affect" and "Not Likely to Destroy or Adversely Modify" Determinations

In its biological assessment, the NRC staff concludes that the proposed action *is likely to adversely affect* the Atlantic sturgeon and *may affect but is not likely to destroy or adversely modify* the designated critical habitat of the New York Bight distinct population segment (DPS) of Atlantic sturgeon.

With respect to the Atlantic sturgeon, the NRC staff makes the above conclusion because the proposed action will result in incidental take of the species. Impingement at the Salem trash bars and traveling screens will result in both lethal and non-lethal take of sturgeon. Capture of sturgeon during biological sampling will also result in take, although all individuals are expected to be captured alive and make a full recovery upon their release. All other effects of the proposed action on Atlantic sturgeon, including thermal effects, exposure to radionuclides and non-radiological contaminants, and reduction in available food resources from effects to prey species, would be insignificant or discountable.

With respect to designated critical habitat, the NRC staff makes the above conclusion because the proposed action will result in habitat alterations that may affect physical or biological features (PBFs) 2, 3, and 4 of the New York Bight Critical Habitat Unit 4. These habitat alterations will primarily result from continued discharge of thermal effluent. However, any effects on the value of the habitat to the conservation of the Atlantic sturgeon, including its ability to support juvenile foraging and development; allow for upstream and downstream passage of juveniles, subadults, and adults; and otherwise support growth, development, recruitment, and survival of the life stages of the species present in the action area are either extremely unlikely to occur or would be so small that they could not be meaningfully measured, detected, or evaluated. Therefore, all effects to the designated critical habitat of the Atlantic sturgeon resulting from the continued operation of Salem would be insignificant or discountable.

Request for Reinitiated Consultation

With this email, the NRC requests to reinitiate ESA Section 7 consultation with the NMFS concerning the proposed action (i.e., Salem's continued operation).

The NRC staff asks that the NMFS work with the NRC staff to complete the reinitiated consultation and issue a new or revised biological opinion on or before November 1, 2020, when Atlantic sturgeon are likely to return to the action area. The NRC staff recognizes that

this timeline abbreviates the 135-day formal consultation timeframe set forth at 50 CFR 402.14(e), and, as such, the staff offers its assistance and collaboration in expediting the completion of the consultation.

Conclusion

Should you need to discuss the request made in this email or any other matters related to Salem and ESA Section 7 consultation, please reach out to me by phone at 301-415-1042 or email at briana.grange@nrc.gov.

Briana

Briana A. Grange

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Docket Nos.: 50-272 and 50-311

Enclosure: Biological Assessment of Impacts to Atlantic Sturgeon and Its Designated Critical Habitat for Salem Nuclear Generating Station, Unit Nos. 1 and 2, Continued Operation Under Renewed Facility Operating License Nos. DPR-70 and DPR-75

ADAMS Accession Nos.: Package: [ML20156A068](#); Email: [ML20156A066](#); Enclosure: [ML20156A067](#)

CONCURRENCE				
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