

**From:** [Penny Ruvelas - NOAA Federal](#)  
**To:** [Arlene, Briana](#)  
**Cc:** [Elliott, Robert](#); [Snyder, Amy](#); [Watson, Bruce](#); [Robert Clapp \(Robert.Clapp@noaa.gov\)](#); [Dan Lawson \(Dan.Lawson@noaa.gov\)](#); [Mark E Morgan](#); [Albert Bates](#)  
**Subject:** [External\_Sender] Re: Request to Reinitiate Endangered Species Act Section 7 Consultation for Decommissioning of San Onofre Nuclear Generating Station, Units 2 and 3  
**Date:** Thursday, September 30, 2021 6:43:44 PM

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Briana-

receipt of this request is acknowledged. I know you have coordinated with Dan Lawson previously on this coming request for consultation and he may remain our primary POC for the action, but I will need to assess workload capacities next week and will confirm for you our POC. They will review the materials and we will let you know if more information is needed or if we have any questions. I see your request for an expedited response and if our review indicates all needed information has been provided we should be able to proceed with that track.

Best,  
Penny

On Thu, Sep 30, 2021 at 6:45 AM Arlene, Briana <[briana.arlene@nrc.gov](mailto:briana.arlene@nrc.gov)> wrote:



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

Dear Ms. Ruvelas,

With this email, 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), related to San Onofre Nuclear Generating Station, Units 2 and 3 (SONGS) in San Clemente, California. This email includes information explaining and supporting this request. The NRC has also prepared a biological assessment, which is attached to this request.

#### Background

On September 18, 2006, NMFS issued a biological opinion for the continued operation of SONGS under the terms of NRC Facility Operating License Nos. NPF-10 and NPF-15. The opinion considers the effects to four species of sea turtles resulting from interactions with the station's once-through cooling water intake and discharge systems. These systems withdraw and discharge water from the Pacific Ocean. The opinion's incidental take statement exempts from the prohibitions of ESA Section 9 the capture or impingement of specified numbers of loggerhead sea turtles (*Caretta caretta*), green sea turtles (*Chelonia mydas*), leatherback sea turtles (*Dermochelys coriacea*), and olive ridley sea turtles (*Lepidochelys olivacea*) subject to compliance with reasonable and prudent measures and terms and conditions.

Two circumstances prompt the NRC's current request to reinitiate consultation. First, Southern California Edison Company (SCE) permanently ceased power operations at SONGS on June 12, 2013, and began the active decommissioning of SONGS in February 2021 and will continue to undertake activities to decommission the facility and to restore the site through December 2051. The ESA Section 7 regulations at Title 50 of the *Code of Federal Regulations* (50 CFR) Section 402.16 require Federal agencies to reinitiate consultation where discretionary Federal involvement or control over the action has been retained or is authorized by law and, among other things, the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence. With respect to SONGS, reinitiation of consultation is required because the activities associated with the decommissioning of this facility were not considered in the 2006 biological opinion. Second, the 2006 biological opinion will soon expire. In Section III, "Description of the Proposed Action," of the biological opinion, NMFS states that the opinion is valid through 2022 to coincide with the expiration of the NRC licenses.<sup>[1]</sup>

### Proposed Action

The proposed action for the requested reinitiated consultation is the shutdown and decommissioning of SONGS under its existing NRC licenses. SONGS is located on the Pacific coast of southern California in San Clemente in northern San Diego County. The site is entirely within the boundaries of the Marine Corps Base Camp Pendleton near the northwest end of its 18-mile shoreline. The facility's cooling system withdraws water from and discharges effluent to the Pacific Ocean. During the decommissioning period, SONGS will continue to withdraw water from and discharge water to the Pacific Ocean at reduced volumes through 2035. Other decommissioning activities that would affect the aquatic environment involve the removal of offshore components, including intake and discharge structure components, the fish return system, and navigational and environmental monitoring buoys. Section 3.0 of the NRC's biological assessment describes the proposed action in detail.

### Effects of the Proposed Action

In Section 5.0 of the biological assessment, the NRC staff considers the effects that sea turtles could experience from water withdrawal, water discharge, and offshore activities associated with the shutdown and decommissioning of SONGS under its existing NRC licenses, which include vessel collisions, vessel-related pollution, dredging and seabed disturbance, underwater noise, and the discharge of hydrogen sulfide (H<sub>2</sub>S) gas. The NRC staff finds that all effects of decommissioning would be insignificant or discountable and, therefore, concludes that the proposed action *may affect but is not likely to adversely affect* (NLAA) the four species of sea turtles.

### Diablo Canyon Nuclear Power Plant

NMFS's 2006 biological opinion applies to both the continued operation of SONGS as well as the continued operation of Diablo Canyon Nuclear Power Plant, Units 1

and 2 (Diablo Canyon). Diablo Canyon is in Avila Beach, California, approximately 200 miles northwest of SONGS. Diablo Canyon is authorized to operate under NRC Facility Operating License Nos. DPR-80 and DPR-82 through November 2, 2024 (Unit 1), and August 26, 2025 (Unit 2). Pacific Gas and Electric Company (PG&E), the owner and operator of Diablo Canyon, plans to permanently cease power operations at this facility on the license expiration date of each unit. The NRC will address the potential impacts of the shutdown and decommissioning of Diablo Canyon under its existing NRC licenses on federally listed species in a separate biological assessment, and the NRC will submit a separate request to reinstate ESA Section 7 consultation with NMFS for this facility.

#### Request for Reinitiated Consultation and Concurrence with NLAA Determination

With this e-mail, the NRC requests to reinstate ESA Section 7 consultation with NMFS related to the proposed action of the shutdown and decommissioning of SONGS under its existing NRC licenses. As part of this consultation, the NRC requests NMFS's concurrence with its determination that the proposed action is NLAA loggerhead, green, leatherback, and olive ridley sea turtles. If NMFS determines that concurrence with the NRC's NLAA determination is appropriate, then the NRC also requests that NMFS clarify in its response that the 2006 biological opinion is no longer in effect for SONGS.

In speaking with Mr. Dan Lawson of your staff, I understand that your office is piloting a process for expedited concurrence responses for consultation requests that provide adequate information and meet certain criteria. Mr. Lawson provided the NRC with recommendations for preparing such a request, and the NRC has incorporated Mr. Lawson's recommendations into the enclosed biological assessment. Accordingly, the NRC asks that you consider this request for expedited response.

I look forward to working with you on this consultation. Please reach out to me by phone or email with any questions.

Thank you,

Briana

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**Briana S. Arlene**

Conservation Biologist & ESA Consultation Coordinator

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[1] The NRC's regulations at 10 CFR 50.51, "Continuation of license," state, in part, that each license for a facility that has permanently ceased operations continues in effect beyond the expiration date to authorize ownership and possession of the facility until the Commission notifies the licensee in writing

that the license is terminated. During such period of continued effectiveness the licensee shall take actions necessary to decommission and decontaminate the facility and continue to maintain the facility in a safe condition.

Docket Nos.: 50-361 and 50-362

**ADAMS Accession No.:** ML21242A057

CONCURRENCE				
OFFICE	PM:DUWP:RDB:NMSS	BC:ELRB:REFS:NMSS	OGC(NLO)	CB:ELRB:REFS:NMSS
NAME	ASnyder	RElliott	JWachutka	BArlene
DATE	8/30/2021	9/19/2021	9/29/2021	9/30/2021
OFFICIAL RECORD COPY				

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[1] The NRC's regulations at 10 CFR 50.51, "Continuation of license," state, in part, that each license for a facility that has permanently ceased operations continues in effect beyond the expiration date to authorize ownership and possession of the facility until the Commission notifies the licensee in writing that the license is terminated. During such period of continued effectiveness the licensee shall take actions necessary to decommission and decontaminate the facility and continue to maintain the facility in a safe condition.

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**Penny Ruvelas**

*Long Beach Office Branch Chief - Protected Resources Division*

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*U.S. Department of Commerce*

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