



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

December 12, 2022

Refer to NMFS No: WCRO-2021-02641

Amy Snyder
Senior Project Manager
United States Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852

Re: Endangered Species Act Section 7(a)(2) Concurrence Letter for Decommissioning of the
San Onofre Nuclear Generation Station

Dear Ms. Snyder:

This letter responds to your November 30, 2022 request for concurrence from the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) for the subject action. Originally, a request for ESA consultation on the decommissioning of the San Onofre Nuclear Generation Station was submitted on September 30, 2021. The consultation request was paused while additional information was collected, which has now been provided through the November 30, 2022 request. Your consultation request qualified for our expedited review and concurrence because it contained all required information on your proposed action and its potential effects to listed species and designated critical habitat.

This response to your request was prepared by NMFS pursuant to section 7(a)(2) of the ESA and implementing regulations at 50 CFR 402. On July 5, 2022, the U.S. District Court for the Northern District of California issued an order vacating the 2019 regulations that were revised or added to 50 CFR part 402 in 2019 ("2019 Regulations," see 84 FR 44976, August 27, 2019) without making a finding on the merits. On September 21, 2022, the U.S. Court of Appeals for the Ninth Circuit granted a temporary stay of the district court's July 5 order. As a result, the 2019 regulations are once again in effect, and we are applying the 2019 regulations here. For purposes of this consultation, we considered whether the substantive analysis and conclusions articulated in the letter of concurrence would be any different under the pre-2019 regulations. We have determined that our analysis and conclusions would not be any different.

We reviewed the Nuclear Regulatory Commission's consultation request document and related materials. Based on our knowledge, expertise, and your action agency's materials, we concur with the action agency's conclusions that the proposed action is not likely to adversely affect the NMFS ESA-listed species and/or designated critical habitat.

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The concurrence letter will be available through NMFS' Environmental



Consultation Organizer [<https://appscloud.fisheries.noaa.gov>]. A complete record of this consultation is on file at the NMFS Long Beach office.

Reinitiation of consultation is required and shall be requested by the Nuclear Regulatory Commission or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) the proposed action causes take; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) 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 written concurrence; or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA consultation.

Please direct questions regarding this letter to Chiharu Mori at Chiharu.Mori@noaa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dan Lawson', is positioned above the printed name.

Dan Lawson
Long Beach Office Branch Chief
Protected Resource Division

cc: Briana Arlene, NRC, briana.arlene@nrc.gov
Chiharu Mori, NMFS, WCR
Administrative File: 151422WCR2021PR00208