

RIVERKEEPER[®]

February 5, 2010

VIA ELECTRONIC MAIL
Assistant Regional Administrator
Protected Resources Division
NMFS Northeast Regional Office
55 Great Republic Drive
Gloucester, MA 01930

Re: Riverkeeper, Inc. Comments to RIN-0648 XT28, 90 – Day Finding to List Atlantic Sturgeon

To whom it may concern:

I am submitting the following comments on behalf of Riverkeeper, Inc. (“Riverkeeper”) in response to the above-referenced notice and request for information, which was publicly noticed on January 6, 2010.¹ Riverkeeper supports the petition filed by Natural Resources Defense Council on October 6, 2009 requesting that the National Marine Fisheries Service (“NMFS”) list Atlantic Sturgeon as endangered, and that critical habitat be designated under the Endangered Species Act (“ESA”).

Riverkeeper is a member-supported non-profit organization whose mission is to protect the ecological integrity of the Hudson River and its tributaries, and to safeguard New York City’s drinking water supply.² For over forty years, Riverkeeper and its predecessor organization, the Hudson River Fisherman’s Association, have fought to protect and conserve Hudson River fish species from the effects of overfishing, habitat loss and the impacts of cooling water intake systems on the river which severely affect numerous key species through entrainment, impingement and the discharge of heated effluent.

The operation of the Indian Point nuclear power plant, located on the Hudson River just north of Haverstraw Bay, has resulted in the impingement of large numbers of Atlantic Sturgeon due to its use of once-through cooling. Indian Point’s withdrawal of 2.5 billion gallons of water a day from the Hudson River also may result in the entrainment of Atlantic sturgeon larvae, eggs and juvenile fish. The following is a brief summary of recent documentation describing the impacts of Indian Point’s once-through cooling system on Atlantic sturgeon in the Hudson River.

- According to the Nuclear Regulatory Commission’s Draft Supplemental Environmental Impact Statement for Indian Point, 3,935 Atlantic sturgeon were impinged in the years 1975-1988 at Indian Point 2 and 3.³ There is no data available on impingement of

¹ 75 FR 838, January 6, 2010.

² More detailed information on Riverkeeper’s mission and fisheries related work can be found on our website at www.riverkeeper.org, last accessed February 5, 2010.

³ *Generic Environmental Impact for License Renewal of Nuclear Plants, Supplement 38, Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Draft Report for Comment*, December 22, 2008, available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1437/supplement38/>, last accessed February 5, 2010,

sturgeon since 1988, but in addition there is no information to suggest that the historic rate of impingement has changed since monitoring ceased.⁴ Based on this significant data gap, Riverkeeper is very concerned that significant numbers of Atlantic sturgeon have been impinged at Indian Point from 1988 – present.

- Atlantic sturgeon eggs and larvae are assumed to be present in the Hudson River in the vicinity of Indian Point, and may be entrained by the plant’s cooling water intakes.⁵ Again, additional studies are urgently needed to determine the occurrence and level of entrainment of Atlantic sturgeon at Indian Point.
- The New York State Department of Environmental Conservation (“NYSDEC”) conducted a study of adult Atlantic sturgeon in 2006-2008 which involved capturing and radio - tagging adult sturgeon and tracking them in order to obtain better information on the specific locations of their spawning grounds. Information on this study can be found on the NYSDEC website at <http://www.dec.ny.gov/animals/37121.html>

Riverkeeper respectfully requests that NMFS review and consider the information referenced in this letter as it prepares to determine whether Atlantic sturgeon merit listing under the ESA. Atlantic sturgeon are magnificent, long-lived fish which have been an integral part of the Hudson River ecosystem for millennia. Every effort should be made to protect the remaining population and the critical habitat it needs to survive and prosper. I have included a photo of a juvenile sturgeon collected during the NYSDEC’s recent study as a coda to Riverkeeper’s request.

Sincerely,

s/
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Table 4-11, pg. 4-52. *See* also Letter from F. Dacimo (Entergy Nuclear Operations, Inc.) to U.S. Nuclear Regulatory Commission, Re: Transmission of Additional Requested Information Regarding Sturgeon Impingement Data, Indian Point Nuclear Generating Unit Nos. 2 & 3, Docket Nos. 50-247 and 50-286, License Nos. DPR-26 and DPR-64 (July 1, 2009), ADAMS Accession No. ML091950345, Table 2c., pgs. 24-37, Table 3c., pg. 40, Table 3d., pg. 42 and Table 4, pg. 42; Letter from F. Dacimo (Entergy Nuclear Operations, Inc.) to U.S. Nuclear Regulatory Commission, Re: Entergy Nuclear Operations Inc. Reply to Request for Additional Information (RAI) Environmental Report - Impingement Data, Indian Point Nuclear Generating Unit Nos. 2 & 3, Docket Nos. 50-247 and 50-286, License Nos. DPR-26 and DPR-64 (September 24, 2009), ADAMS Accession No. ML092810351.

⁴ *Id.* at 4-51.

⁵ Letter from M. Colligan, Assistant Regional Administrator for Protected Resources, National Marine Fisheries Service, to J.A. Thomas, Enercon Services, Inc., March 19, 2007 at 2.

