

April 28, 2008

Ms. Robyn Niver  
New York Field Office  
U.S. Fish and Wildlife Service  
3817 Luker Road  
Cortland, NY 13045

SUBJECT: BIOLOGICAL ASSESSMENT FOR JAMES A. FITZPATRICK NUCLEAR  
POWER PLANT LICENSE RENEWAL APPLICATION REVIEW

Dear Ms. Niver:

By letter dated July 31, 2006, Entergy Nuclear Operations, Inc. (Entergy), submitted to the U.S. Nuclear Regulatory Commission (NRC) a license renewal application for the James A. Fitzpatrick Nuclear Power Plant (JAFNPP). The NRC staff evaluated the environmental impacts of the proposed action, which were published in January 2008 in Supplement 31 to the Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants.

As part of its environmental review, the NRC staff issued a Biological Assessment (BA) on May 21, 2007 (ML071160167). Subsequently, the NRC staff responded to requests for information from your office, summarized in a letter from the U.S. Fish and Wildlife Service (FWS) dated November 15, 2007 (ML073200011). In its November 15, 2007, letter, the FWS concurred with the NRC's determination that continued operation of JAFNPP may affect, but is not likely to adversely affect, the bog turtle or Indiana bat. However, the FWS requested Phase I surveys to assess the potential for a suitable bog turtle habitat along the transmission line rights-of-way (ROWs) in order to determine if transmission line maintenance activities are likely to affect the species. The FWS also requested a copy of the New York Power Authority (NYPA) System Right-of-Way Management Plan.

On November 26, 2007, the NRC staff conducted a teleconference with you to discuss these requests. During the call, you described the process by which Phase I surveys are conducted by a qualified bog turtle surveyor and requested that NYPA conduct these surveys within any wetland habitat along the 41 miles of in-scope transmission line ROWs within their care. The NRC staff explained during the conference call that it has no authority over NYPA and that its regulatory oversight is limited to Entergy. However, the NRC staff agreed to discuss the FWS's request with both NYPA and Entergy. With respect to the NYPA System Right-of-Way Management Plan, you acknowledged during the teleconference that you had received this document.

The NRC staff subsequently approached NYPA and Entergy with the FWS's request. A representative of NYPA suggested that NYPA's regularly scheduled vegetation surveys, which identify wetland areas, should fulfill the needs of the FWS to evaluate the potential effects to the bog turtle; further, he agreed to discuss the FWS's request for Phase I surveys with the appropriate NYPA staff. The NRC staff is of the understanding that Entergy and NYPA have been in discussions on how best to respond to this request. Any decision to conduct surveys rests with NYPA, not the NRC or its licensee (Entergy). As such, the NRC staff encourages the FWS to pursue its request for surveys with NYPA.

R. Niver

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In summary, the NRC staff considers its obligations under the National Environmental Policy Action of 1969 with respect to this proposed action (license renewal of JAFNPP) complete. If you have further questions concerning the BA for JAFNPP, please contact me at 301-415-1458 or by e-mail to [ngoc.le@nrc.gov](mailto:ngoc.le@nrc.gov).

Sincerely,

**/RA/**

Ngoc Le, Senior Project Manager  
Projects Branch 2  
Division of License Renewal  
Office of Nuclear Reactor Regulation

Docket No. 50-333

cc: See next page

R. Niver

- 2 -

In summary, the NRC staff considers its obligations under the National Environmental Policy Action of 1969 with respect to this proposed action (license renewal of JAFNPP) complete. If you have further questions concerning the BA for JAFNPP, please contact me at 301-415-1458 or by e-mail to [ngoc.le@nrc.gov](mailto:ngoc.le@nrc.gov).

Sincerely,

**/RA/**

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Division of License Renewal  
Office of Nuclear Reactor Regulation

Docket No. 50-333

cc: See next page

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**ADAMS Accession Nos.: (package) ML080780077; (letter) ML080780070**

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|--------|---------------------------|-------------|---------|-----------|-------------|
| OFFICE | *PM:NRO:RAP2              | PM:DLR:RERB | LA:DLR  | OGC (NLO) | BC:DLR:RPB2 |
| NAME   | JMuir*/NLe<br>*w/comments | B. Balsam   | IKing   | LSubin    | RFranovich  |
| DATE   | *4/8/08:4/28/08           | 3/20/08     | 3/20/08 | 4/28/08   | 4/28/08     |

OFFICIAL RECORD COPY

Letter to R. Niver from T. Le, dated April 28, 2008

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SUBJECT: SUMMARY OF CORRESPONDENCE CONCERNING THE BIOLOGICAL  
ASSESSMENT FOR JAMES A. FITZPATRICK NUCLEAR POWER PLANT  
LICENSE RENEWAL APPLICATION REVIEW

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FitzPatrick Nuclear Power Plant

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