



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

JUN 19 2012

Ralph W. Abele
Water Quality Branch, Office of Ecosystem Protection
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: New Bedford Harbor-South Terminal Project

Dear Mr. Abele,

Your letter, dated May 25, 2012, requested information about the presence of federally listed species in the vicinity of the New Bedford Harbor-South Terminal Project, in New Bedford, Massachusetts, under the jurisdiction of NOAA's National Marine Fisheries Service (NMFS). Your proposed project is a multiple use marine terminal, capable of supporting offshore renewable energy development and other future uses. Additionally, the facility would provide a site for the disposal of navigational dredged material associated with the construction and operation of the facility. We offer the following comments on the presence of listed species in your area of interest.

Listed Species in the Action Area

Currently, there are no records of any federally listed species under our jurisdiction in New Bedford Harbor. However, Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) are known to use the nearby Taunton River as part of their estuarine/riverine habitat, and could be present anywhere within coastal waters as part of their marine habitat. As discussed below, Atlantic sturgeon in the area of the proposed action could belong to any of the five distinct population segments (DPS) (Gulf of Maine – threatened; New York Bight, Chesapeake Bay, Carolina, and South Atlantic – endangered).

Shortnose sturgeon (*Acipenser brevirostrum*) are generally found within their spawning rivers. The Connecticut and Merrimack Rivers are the closest spawning rivers to New Bedford Harbor. However, shortnose sturgeon have been known to make coastal migrations, and may be found within the coastal waters of southern New England.

Humpback whales (*Megaptera novaeangliae*), and Kemp's ridley (*Lepidochelys kempi*), leatherback (*Dermochelys coriacea*), and loggerhead (*Caretta caretta*) sea turtles are occasionally observed in Buzzards Bay and throughout coastal areas.



Atlantic Sturgeon

The Atlantic sturgeon is a subspecies of sturgeon distributed along the eastern coast of North America from Hamilton Inlet, Labrador, Canada to Cape Canaveral, Florida, USA (Scott and Scott, 1988; ASSRT, 2007; T. Savoy, CT DEP, pers. comm.). We have delineated U.S. populations of Atlantic sturgeon into five DPSs (77 FR 5880 and 77 FR 5914). These are: the Gulf of Maine, New York Bight, Chesapeake Bay, Carolina, and South Atlantic DPSs. The results of genetic studies suggest that natal origin influences the distribution of Atlantic sturgeon in the marine environment (Wirgin and King, 2011). However, genetic data as well as tracking and tagging data demonstrate sturgeon from each DPS and Canada occur throughout the full range of the subspecies. Therefore, sturgeon originating from any of the 5 DPSs can be affected by threats in the marine, estuarine and riverine environment that occur far from natal spawning rivers.

Within the New York Bight, Atlantic sturgeon historically spawned in the Connecticut, Delaware, Hudson, and Taunton Rivers (Murawski and Pacheco 1977; Secor 2002; ASSRT, 2007). Spawning still occurs in the Delaware and Hudson Rivers, but there is no recent evidence (within the last 15 years) of spawning in the Connecticut and Taunton Rivers (ASSRT 2007). Atlantic sturgeon that are spawned elsewhere continue to use habitats within the Connecticut and Taunton Rivers as part of their overall marine range (ASSRT 2007; Savoy 2007; Wirgin and King 2011). Because Atlantic sturgeon undertake large-scale marine migrations and will forage where any available habitat exists, this species may be present in the vicinity of New Bedford Harbor.

Shortnose Sturgeon

Shortnose sturgeon are listed as endangered range-wide; however, in the final recovery plan NMFS recognized 19 separate populations occurring throughout the range of the species. These populations include one in Massachusetts (Merrimack River) and one in Connecticut (Connecticut River).

While shortnose sturgeon do not often undertake the significant marine migrations seen in Atlantic sturgeon, telemetry data indicates that shortnose sturgeon do make localized coastal migrations. This is particularly true within certain areas such as the Gulf of Maine and among rivers in the Southeast. Interbasin movements have been documented among rivers within the Gulf of Maine and between the Gulf of Maine and the Merrimack, between the Connecticut and Hudson rivers, the Delaware River and Chesapeake Bay, and among the rivers in the Southeast. However, it is unlikely that they would be found in New Bedford Harbor, which is a shallow embayment and is inconsistent with shortnose sturgeon preferred habitat.

Sea Turtles

Several species of sea turtles are known to be present off the coast of Massachusetts, and may be occasionally present in Buzzards Bay, including Kemp's ridley, loggerhead, and leatherback sea turtles. These species tend to frequent waters between 16-49 feet and are unlikely to be present in New Bedford Harbor.

Marine Mammals

Humpback whales are known to be present off the Atlantic coast of Massachusetts, and may be occasionally present in Buzzards Bay. Sightings are most frequent from mid-March through November between 41°N and 43°N, from the Great South Channel north along the outside of

Cape Cod to Stellwagen Bank and Jeffreys Ledge (CeTAP 1982) and peak in May and August. Small numbers of individuals may be present in the region, including the waters of Stellwagen Bank, year-round. However, the shallow nature of New Bedford Harbor makes it unlikely that these species would be in the vicinity of the project site.

Conclusions

As you may know, any discretionary federal action, such as the approval or funding of a project by a Federal agency, that may affect a listed species must undergo consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended. If the proposed project has the potential to affect listed species and it is being approved, permitted or funded by a Federal agency, the lead Federal agency, or their designated non-Federal representative, is responsible for determining whether the proposed action is likely to affect this species. The Federal agency would submit their determination along with justification for their determination and a request for concurrence, to the attention of the Section 7 Coordinator, NMFS Northeast Regional Office, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930. After reviewing this information, we would then be able to conduct a consultation under section 7 of the ESA.

Should you have any questions regarding these comments, please contact Liz Sullivan at 978-675-2181 or by email at Liz.Sullivan@noaa.gov.

Sincerely,



Mary Colligan
Assistant Regional Administrator
for Protected Resources