

ORIGINAL



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

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FEDERAL ENERGY  
REGULATORY COMMISSION

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SECRETARY OF THE  
COMMISSION

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

P-2485

RE: Supplemental Comments on Firstlight's Proposed Study Plan dated June 28, 2013 for  
Turners Falls (P-1889) and Northfield Mountain Pumped Storage (P-2485)

Dear Ms. Bose:

We submitted comments on Firstlight's June 28, 2013, Study Plan in letters filed with you on July 15, 2013 and August 28, 2013. In our July 15 letter, we indicated that a consultation, pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended, may be necessary to consider effects of the *Fish Assemblage Assessment* (P-1889 Study 3.3.11) on endangered shortnose sturgeon. We recommended that the study be modified to eliminate the potential for effects or that FERC initiate formal consultation pursuant to section 7 with us. In recent conversations with Firstlight, we have become aware of the potential for additional studies to adversely affect shortnose sturgeon including study 3.3.6 *Impact of Project Operations on Shad Spawning, Spawning Habitat and Egg Deposition in the Area of the Northfield Mountain and Turners Falls Projects* and study 3.6.3 *Whitewater Boating Evaluation* (Revised Study Plan for the Turners Falls Hydroelectric Project (P-1889) and Northfield Mountain Pumped Storage Project (P-2485)). If possible, these studies should be designed or modified to avoid effects to shortnose sturgeon; however, if such modification is not possible, section 7 consultation is necessary.

Section 7(a)(2) of the ESA, states that each Federal agency shall, in consultation with the Secretary, insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Any discretionary federal action that may affect a listed species must undergo Section 7 consultation. It is our understanding that the approval of study plans is a discretionary action taken by FERC that is subject to section 7 consultation. As the lead Federal agency, you must initiate section 7 consultation with us on any action that may affect listed species. If you determine that the studies are "not likely to adversely affect" any listed species (i.e., when direct or indirect effects of the proposed project or its interdependent and/or interrelated actions on listed species are expected to be discountable, insignificant or completely beneficial), you should submit this determination to us in writing, along with a justification, and request our concurrence. If we concur with this determination, we will reply in a letter that will convey the concurrence, thus completing Section 7 consultation. If you determine that a study or



studies are “likely to adversely affect” any listed species (i.e., if any adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effects are not: discountable, insignificant, or beneficial) or we do not concur with your “not likely to adversely affect” determination, formal Section 7 consultation, resulting in the issuance of a Biological Opinion with an appropriate Incidental Take Statement, may be required. Any effects that amount to the take of a listed species (defined by the ESA as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct”) are not discountable, insignificant or entirely beneficial. Therefore, if any take, including non-lethal capture and release and/or exposure to electric current during electrofishing, is anticipated, formal consultation is required. My staff is available to discuss the effects of the proposed studies on shortnose sturgeon and assist you and Firstlight in determining the likely effects of the proposed studies. If you have designated Firstlight as your non-Federal representative for purposes of informal section 7 consultation, you must indicate this in writing to us. In that event, Firstlight, representing FERC, would be able to request our concurrence for any “not likely to adversely affect” determinations. However, if formal consultation is necessary, the request must come from FERC.

This letter supplements the comments filed by us in July and August 2013; the comments presented in those letters regarding our Federal Power Act authorities as well as impacts to other NMFS trust resources remain valid. If you have any questions or need additional information, please contact Jessica Pruden in our Protected Resources Division ([Jessica.Pruden@noaa.gov](mailto:Jessica.Pruden@noaa.gov) or 978-282-8482).

Sincerely,



Mary A. Colligan  
Assistant Regional Administrator  
for Protected Resources

EC: Crocker, F/NER3  
McDavitt, F/NER4

File Code: Sec 7 FERC Turners Falls Relicensing