



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Northwest Region  
7600 Sand Point Way N.E., Bldg. 1  
Seattle, WA 98115

Refer to NMFS No.:  
2007/01605

January 27, 2010

Kimberly D. Bose  
Secretary, Federal Energy Regulatory Commission  
888 First St., N.E., Room 1A  
Washington, D.C. 20426

Re: Initiation of Endangered Species Act Section 7 Formal Consultation and Magnuson-Stevens Act Essential Fish Habitat Consultation for the Bradwood Landing LNG Import Terminal and Pipeline Project, Columbia River, Clatsop County, Oregon (FERC Docket Nos. CP06-365-000, CP06-366-000, CP06-376-000, and CP06-377-000)

Dear Ms. Bose:

This letter acknowledges the National Marine Fisheries Service's (NMFS) January 6, 2010, receipt of a letter dated December 29, 2009, from Lauren H. O'Donnell, Director of the Federal Energy Regulatory Commission's (FERC) Division of Gas – Engineering and Environment, requesting initiation of formal consultation under section 7(a)(2) of the Endangered Species Act.<sup>1</sup>

The consultation regards FERC's proposed authorization of the Bradwood Landing Liquefied Natural Gas (LNG) Import Terminal and Pipeline Project (Bradwood Landing LNG Project) on 27 species under NMFS' jurisdiction that are listed or proposed for listing under the ESA and their critical habitat, where designated or proposed, in the action area. This process will also serve as consultation on essential fish habitat pursuant to section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act.

#### Summary of Consultation Correspondence

March 19, 2007 - FERC requested formal consultation and submitted a biological assessment (BA).

May 11, 2007 – NMFS requested additional information to initiate consultation.

June 24, 2009 – FERC requested formal consultation and submitted a revised BA.

July 24, 2009 – NMFS agreed that formal consultation was warranted for the 16 species that FERC determined were likely to be adversely affected by the action, but due to the amount of information provided for review<sup>2</sup> was unable at that time to concur that informal consultation was appropriate for the remaining 11 species. Similarly, since NMFS had not completed its review of the submitted information, the agency was unable to determine the adequacy of the consultation initiation package (CIP).

<sup>1</sup> On January 6, 2010, Paul Friedman (FERC) faxed to Rob Markle (NMFS) a signed copy of FERC's December 29, 2009, letter regarding "Initiation of Section 7 Formal Consultation" for the Bradwood Landing LNG Project.

<sup>2</sup> Six binders of information reported by FERC to consist of approximately 5,000 pages.



- August 21, 2009 – NMFS had sufficiently reviewed the provided information regarding the 11 species that FERC determined were not likely to be adversely affected (NLAA) by the project to determine that formal consultation was warranted for all 27 species occurring in the project action area.
- November 16, 2009 – NMFS completed its review of the CIP and found it insufficient to initiate formal consultation as outlined in the regulations governing interagency consultation (50 CFR 402.14) and requested FERC provide additional information. NMFS indicated two options by which FERC might proceed if the requested information was not available: (1) With FERC's agreement, the consultation could be discontinued until sufficient information is available for a complete analysis; or (2) NMFS could complete its analysis with the available information, resolving any remaining uncertainties in a precautionary manner to best protect the species.
- January 6, 2010 – NMFS received the subject correspondence from FERC dated December 29, 2009, declining to provide the additional information NMFS requested for consultation and requesting that NMFS complete formal consultation based on the information provided in the BA dated June 24, 2009. The letter indicated that during consultation FERC would provide written guidance for locating the requested material in the revised BA and identify those items that cannot be provided.
- January 20, 2010 – NMFS received an additional correspondence of the same date from FERC. The letter included a matrix of FERC's responses to the additional information requested by NMFS on November 16, 2009, and notice that this matrix constituted the written guidance referenced in FERC's letter dated December 29, 2009. The letter also indicated the information filed by the applicant with FERC on December 31, 2009, and January 19, 2010, constituted supporting information for use during formal consultation.

Based on the letter received on January 6, 2010, NMFS understands that FERC has provided all the information it intends NMFS to use for formal consultation. Therefore, NMFS agrees to complete its analysis with the available information, including the clarifications provided on January 20, 2010, resolving any remaining uncertainties in a precautionary manner to best protect NMFS' trust resources.

Formal consultation has been initiated on the Bradwood Landing LNG Project as of January 21, 2010, the date information responsive to Part A of NMFS' November 16, 2009, additional information request was received. We have assigned NMFS No. 2007/01605 to this consultation. Please refer to this number in future correspondence regarding this consultation.

FERC's letter stated consultation would be concluded on March 8, 2010. Section 7 of the ESA allows NMFS up to 90 calendar days to conclude formal consultation with your agency and an additional 45 days to prepare our biological opinion (unless we mutually agree to an extension). As NMFS has previously indicated, given the amount of information and the size and complexity of the proposed action, consultation is expected to exceed 135 calendar days. Following NMFS' review of the information provided by the applicant on January 5 and January 21, 2010,<sup>3,4</sup> NMFS will provide an expected consultation completion date.

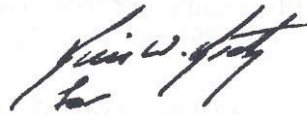
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<sup>3</sup> January 5, 2010, Rob Markle (NMFS) received from Kate Ruff (NorthernStar Natural Gas) a copy of a correspondence from John Buchovecky (Counsel for NorthernStar Energy LLC) to Kimberly D. Bose (FERC) regarding NorthernStar Natural Gas' response to NMFS' request for additional information (943 p.).

As a reminder, the ESA requires that after initiation of formal consultation, the Federal action agency may not make any irreversible or irretrievable commitments of resources that limit future options. This practice insures agency actions do not preclude the formulation or accomplishment of reasonable and prudent alternatives that avoid jeopardizing the continued existence of endangered or threatened species or destroying or modifying their critical habitats.

If you have any questions or concerns about this consultation or the consultation process overall, please contact Robert Markle or Bridgette Lohrman, fishery biologists, in the Oregon Coast/Lower Columbia River Branch of the Oregon State Habitat Office, at 503.230.5400.

Sincerely,



Michael P. Tehan  
Assistant Regional Administrator  
Habitat Conservation Division

cc: Russ Berg (USCG)  
Gary Coppedge (NorthernStar)  
Jon Germond (ODFW)  
James Holm (COE)  
Ross Reineke (USDOT)  
Steve West (WDFW)  
Doug Young (USFWS)  
SERVICE LIST

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<sup>4</sup> On January 21, 2010, Barry Thom (NMFS, action regional administrator for the NWR) received a complete copy of a January 19, 2010, correspondence from John Buchovecky (Counsel for NorthernStar Energy LLC) to Kimberly D. Bose (FERC) regarding "Supplemental Response to NMFS Request for Additional Information." The correspondence included privileged information (11 p.).

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Bradwood Landing LLC	)	Docket Nos.	CP06-365-000
	)		
NorthernStar Energy LLC	)		CP06-366-000
	)		CP06-376-000
Application for Natural Gas Act	)		CP06-377-000
Authorizations	)		
	)		

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by electronic mail, a letter to Kimberly D. Bose, Federal Energy Regulatory Commission, the National Marine Fisheries Service's response to the Commission's request to proceed with formal consultation, and this Certificate of Service has been served by first class mail or electronic mail to each person designated on the official service list compiled by the Commission in the above captioned proceeding.

Dated this 27<sup>th</sup> day of January, 2010.



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Robert Markle  
N. Oregon Coast/Lower Columbia River Branch  
Oregon State Habitat Office  
National Marine Fisheries Service