

# Section 7 of the ESA: Consultation for Atlantic Sturgeon



**Mr. Keith Lockwood, MBA, LEED AP, FP-A**

Chief, Technical Support Section  
Operations Branch, Norfolk District

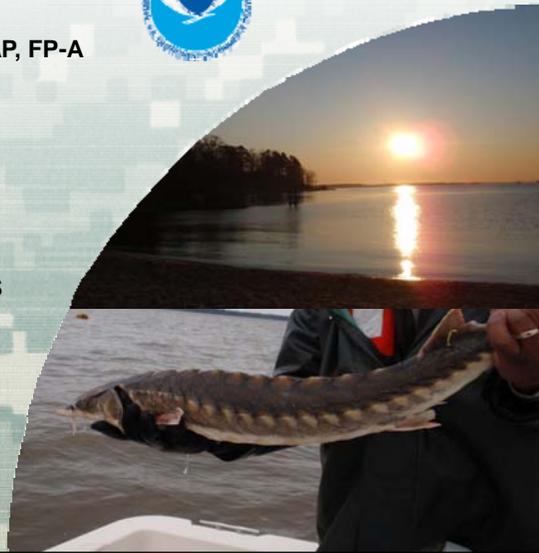
**Ms. Julie Crocker**

Fisheries Biologist  
Protected Resources Division, NMFS

October 12, 2011



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## Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*)

- **Anadromous: Adults migrate into freshwater to spawn**
- **Maximum length 14-18'**
- **Can weigh up to 800 lbs**
- **Greatest longevity (up to 60 yrs); Slow maturation**
- **Nonannual reproduction**
- **After hatching juveniles remain in natal area for up to 5 years.**



## Population Decline

- **Significant commercial fishery for caviar and smoked flesh.**
- **Peak harvest around 1888; 3,200 metric tons.**
- **Population crash around 1900.**
- **Moratorium on harvesting in VA since 1974.**
- **Identified as “Species of Concern” in 1988**
- **1998 ASFMC coast-wide moratorium.**
- **Factors for Decline: 1) Fishing 2) Bycatch  
3) Habitat Degradation 4) Locks and Dams**

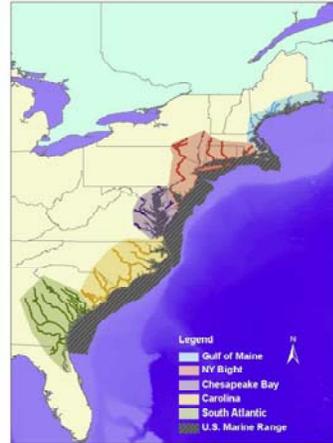


## Species Status

- **In October 2009, the Natural Resources Defense Council petitioned NMFS to list the Atlantic sturgeon under the ESA. NMFS published a positive 90 day finding on the petition in January 2010.**
- **In October 2010, NMFS published 2 proposed rules proposing to list Atlantic sturgeon DPSs.**
- **NMFS proposed the listing of 5 DPS's in the US, including the Chesapeake Bay DPS as endangered.**



## 5 DPS's: Gulf of Maine, New York Bight, Chesapeake Bay, Carolina, & South Atlantic



## Distinct Population Segment (DPS)

- Discreteness (markedly diff. from other pop.)
- Significance (ex. persistence, only surviving occurrence)
- **Conservation Status:**  
Chesapeake Bay DPS proposed as endangered
- Final decision on species status in October
- If listed, critical habitat must be designated



## Section 7 Consultation Process - ESA

- **WHO:** NMFS is responsible for the stewardship of the nation's living marine resources and their habitat. NMFS determines whether a species is threatened or endangered under the ESA (16 U.S.C. 1531).



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7

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## Section 7 Consultation Process - ESA

- **WHAT:** Section 7 of the ESA requires that all Federal agencies consult with NMFS to ensure 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.



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8

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## Section 7 Consultation Process

- **WHEN**: NMFS will release final rule on about 6 Oct 2011.
- **WHY**: Threats to Atlantic sturgeon include water quality, vessel strikes, fisheries bycatch and dredging. All types of dredging have the potential to take (kill or injure) sturgeon. ~35 sturgeon takes from dredging operations documented since 1990 (dredging may also result in impacts to Atlantic sturgeon habitat).



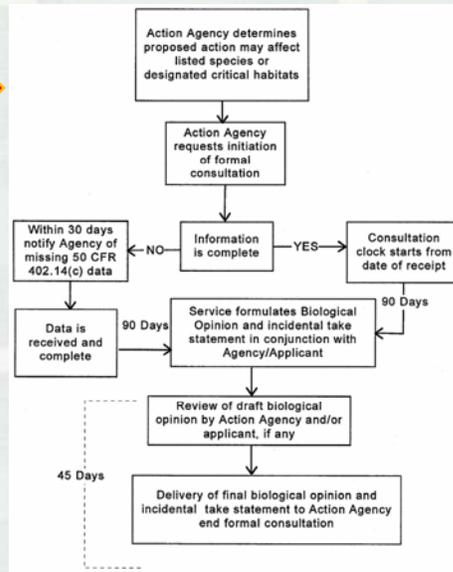
## Section 7 Consultation Process

- **HOW**: Biological Assessment (BA) is required if listed species or critical habitat may be present in the action area and may be affected by the project. Formal consultation is required if the action ‘may affect’ listed species or designated critical habitat.
  - “Effects analysis”: cumulative, critical habitat, and species.
  - Includes any conservation measures that could be implemented to reduce, avoid, or eliminate adverse impacts.



## Section 7 Consultation Process

We are here



From: Final ESA Sect. 7 Consultation Handbook, March 1998



## Key Takeaways

1. Once Atlantic sturgeon are listed, NMFS has the authority to require the USACE to implement measures to minimize and monitor effects of dredging activities similar to those currently employed to protect sea turtles (ex. marine endangered species observers, draghead deflectors).



## Key Takeaways

- 2. Dredging and dredged material placement activities that may affect Atlantic sturgeon will require Section 7 Consultation, which will result in a Biological Opinion (BO) and Incidental Take Statement (ITS) (provided the project does not jeopardize the continued existence of Atlantic sturgeon or adversely modify critical habitat). Existing consultations may need to be reinitiated if the action may affect Atlantic sturgeon.**



## Importance of BO and ITS

- **Section 9 of the ESA and Federal regulations pursuant to Section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without special exemption.**
- **Taking that is incidental to and not intended as part of the action is not prohibited under the ESA provided that such taking is in compliance with the terms and conditions of the ITS.**



## Questions/Comments?



Keith Lockwood  
Norfolk District,  
USACE

[keith.b.lockwood@  
usace.army.mil](mailto:keith.b.lockwood@usace.army.mil)  
757-201-7004

Julie Crocker  
Protected Resources  
Division, NMFS

[julie.crocker@noaa.gov](mailto:julie.crocker@noaa.gov)  
978-282-8480

