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Congress of the United States
House of Representatives
Washington, DC 20515-3002

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COUNTERINTELLIGENCE (THACI)

May 16, 2013

Mr. Eric C. Schwaab
Assistant Administrator
National Marine Fisheries Service
1315 East West Highway, Room 1436
Silver Spring, MD 20910-6233

Dear Assistant Administrator Schwaab:

We are aware that NOAA has been working to better understand the condition of Atlantic sturgeon populations which are listed under the Endangered Species Act. We appreciate NOAA's efforts to revisit these sturgeon population questions. We also understand that newly available data are revealing promising biomass estimates that may indicate the species is not in need of ESA-level protection. Finally, we understand the Atlantic States Marine Fisheries Commission (ASMFC) is developing a first-time benchmark stock assessment. We view these developments in a very positive manner.

We represent a substantial number of commercial fishermen located in our congressional districts. Several of them, along with our State agencies, have expressed some concerns about the sturgeon process including the Proposed Listing Determinations for Distinct Population Segments of Atlantic Sturgeon in the Northeast Region (75 FR 61872) as well as the Draft Biological Opinion that will characterize risks posed to Atlantic sturgeon by seven Northeast fisheries (including groundfish, monkfish and dogfish). A number of our constituents submitted detailed, substantive comments and data during the comment period and we encourage you to fully consider those points

In an effort to gain some clarity and transparency about the administrative process and the scientific information required pursuant to this ESA listing, we request that you address the following issues.

1. Please explain why/how the Agency intends to complete the Incidental Take Statement and issue a Draft Biological Opinion (and possibly propose RPA's and RPM's) before the results of the ASMFC peer-reviewed benchmark stock assessment are available? Is it possible to issue a provisional ITS decision pending incorporation of the new scientific information?
2. In the past, we recall the Agency indicating they could react to potential petitioner litigation by illustrating the fact that they are in the process of completing the necessary ESA administrative and scientific processes. Why does the Agency appear to be in a hurry to complete the Bio-Op given their previous actions in similar circumstances?
3. During the recent webinar held by NOAA, Agency staff seemed confident that if the benchmark assessment warranted it, a re-consultation would be relatively easy and timely to perform. Can

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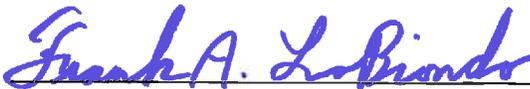
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you please explain in detail the process that will be used to reinitiate consultation? Will the Agency re-initiate on scientific merit or will a formal request be required? What metrics will the Agency use to determine what is "warranted" to initiate re-consultation?

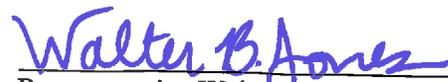
4. How does the Agency intend to reconcile the wide abundance estimate range in the Draft Bio-Op (i.e. 164,000 to 745,000)?
5. Jeopardy determinations for each fishery will be the basis of the Draft Bio-Op and the RPA's/RPM's, if they are deemed necessary. How does the Agency intend to consider the new abundance estimates in the Draft BiOp and what metric will be used to determine how restrictive the alternatives and measures need to be, if at all?
6. How long will the comment period be for the Draft BiOp?
7. We understand the Agency intends to provide the Draft Bi-Op to both regional councils and the ASMFC and we commend you for this process. Can you please explain the process by which the Agency will incorporate such input into the development of the final RPA's/RPM's, if they are deemed necessary?

Thank you for your reconsideration of the Atlantic sturgeon population estimates and your planned efforts to work with the RFMC's, ASMFC and our constituents. We look forward to your detailed answers to these questions.

Sincerely,



Representative Frank A. LoBiondo
Member of Congress



Representative Walter Jones
Member of Congress



Representative Jon Runyan
Member of Congress

cc. Mr. Sam Rauch, NOAA Fisheries

FAL:jb