

**Congress of the United States**  
**Washington, DC 20515**

March 30, 2011

Mr. Eric Schwaab  
Assistant Administrator  
National Marine Fisheries Service  
1315 East West Highway  
Room 14564  
Silver Spring, MD 20910

Dear Assistant Administrator Schwaab:

There are a substantial number of commercial fishermen located in our congressional districts. Several of them, along with our State agencies, have expressed concerns about the Proposed Listing Determinations for Distinct Population Segments of Atlantic Sturgeon in the Northeast Region (75 FR 61872).

A number of our constituents submitted detailed, substantive comments during the comment period but it remains unclear how these comments will effectively inform the Agency's listing process. 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.

Specifically, the comment period on the proposed rule officially closed on Thursday, February 3, 2011. Prior to this date, various state agencies (including NC and VA) and commercial fishing associations from NJ and VA submitted comprehensive sturgeon data to the Agency. However, at a sturgeon workshop convened by NMFS just two working days later (Tuesday, February 8, 2011), your staff reported that the final rule had already been submitted for peer review.

Since your Agency is required to utilize the best scientific and commercial data available to inform an ESA listing please answer the following questions:

- 1) How has the Agency analyzed the data submitted during the comment period?
- 2) How were these analyses prepared and by whom, and in what form were the data submitted to peer review?
- 3) Specifically who (or what entity) is the Agency using to conduct the peer review of this information?

- 4) If the new data have not yet been properly analyzed or submitted for peer review, please explain the entire process by which you intend to accomplish this task.
- 5) We understand the Agency has never conducted a single stock assessment on any sturgeon DPS being proposed for listing. In fact, the only estimate of spawning-age individuals (from the Hudson River DPS) dates back to 1985 and does not even reflect the 14-years of recovery since the entire East Coast directed fishery was closed. Please explain how your Agency can propose to list several individual DPS units having never assessed the status of any one of these populations?
- 6) We understand the Agency convened the Atlantic Sturgeon Status Review Team (ASSRT) on two separate occasions (2003 and 2005) to examine the available sturgeon information and to provide management advice to NMFS. We believe the most recent data, especially that submitted by the State agencies and the ASMFC, along with tagging data from NJ/DE/VA documenting the presence of more fish plus an abundance of especially large, mature fish previously thought not to exist, should be examined closely by the ASSRT prior to any listing. Does the Agency plan to reconvene the ASSRT to examine the newly available scientific and commercial data to inform the listing decision? If not, why?

We look forward to your detailed answers to these questions. Thank you for your consideration.

Sincerely,



Walter B. Jones  
Member of Congress



Jon Runyan  
Member of Congress



Robert J. Wittman  
Member of Congress

Cc: The Honorable Doc Hastings  
The Honorable John Fleming