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March 7, 2011

Roy E. Crabtree Ph. D.  
Regional Administrator  
NMFS South East Regional Office  
263 13th Avenue South  
St. Petersburg, Florida 33701

Re: Listing status of Atlantic sturgeon

Dear Dr. Crabtree:

The Division of Marine Fisheries Management of the Florida Fish and Wildlife Conservation Commission (FWC) has coordinated agency consideration of the proposed listing of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) as Endangered under the Endangered Species Act (ESA), specifically in the South Atlantic Distinct Population Segment (DPS), and provides the following comments and recommendations. While we are offering these comments and recommendations outside of the commenting time frame as advertised in the Federal Register Notice, we felt it was necessary to provide them for the benefit of the South Atlantic Fishery Management Council's consideration of this issue at their March 7 – 11, 2011 meeting.

**Comments**

The NMFS Federal Register notice states: "Section 3 of the ESA defines an endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range", and a threatened species as one "which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." This requires a determination be made as to whether a species is endangered or threatened as a result of any one or a combination of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence (section 4(a)(1)(A)(E))."

Regarding these factors that must be considered for listing Atlantic sturgeon as Endangered, Florida: (A) does not present or threaten destruction, modification, or curtailment of Atlantic sturgeon habitat or range; (B) does not over-utilize Atlantic sturgeon for commercial, recreational, scientific, or educational purposes as we prohibit commercial and recreational harvest, and have not issued a single Special Activities License for scientific or educational purposes; (C) does not have any reported disease or predation; (D) has regulations in combination with ASMFC and NMFS regulations that are adequate; and (E) does not have any other natural or manmade factors affecting the continued existence of Atlantic sturgeon.

In our opinion, there is overwhelming evidence that Atlantic sturgeon are not "in danger of extinction" in the "foreseeable future" within the Southern DPS, and the Southern DPS is the healthiest DPS south of Maine. While Atlantic sturgeon were in much greater abundance in Northeast Florida rivers during the late 1880's than they are today, Florida recognized their importance to riverine ecology, eco-tourism, and recovery as a fisheries species and prohibited all

sturgeon harvest in 1984. These regulations in addition to the 1998 ASMFC FMP amendment and moratorium, and NMFS prohibition of harvest in the EEZ adjacent to Florida, already appears to be having positive effects on the populations of Atlantic sturgeon in Florida. Thirty one-meter sub-adults have been captured in the St. Marys River in the last twenty months, and two approximately 50 cm year-one-or-two juveniles were captured in the St. Johns on February 12, 2011. The one-meter St. Marys' fish will become sexually mature in the next three (male) to six (female) years, and, if they spawn in the St. Marys, will represent the first opportunity for recovery of a portion of the former population in this once commercially important sturgeon fishery river.

In addition, Florida has initiated habitat conservation efforts to improve water quality, reduce sediment inflow, and urban runoff; all directed at enhancing the survival potential of Atlantic sturgeon, endangered shortnose sturgeon, and other valuable anadromous fishes in the St. Marys and St. Johns rivers. Collaborative monitoring and habitat and water quality assessment actions among the FWC, the St. Johns River Water Management District, the Georgia Department of Natural Resources, the US Fish and Wildlife Service, the National Marine Fisheries Service, and the University of Georgia are on-going.

While Florida only represents a portion of the Southern DPS, Georgia and South Carolina also prohibited harvest, and imposed serious, restrictive, and conservative measures to protect their Atlantic sturgeon populations. Georgia has the largest population of Atlantic sturgeon south of the Maine DPS, their populations are stable to increasing, and out-migrants are presumed to be re-establishing native residence in the St. Marys River. This recorded abundance is not consistent with NMFS' assertion that Atlantic sturgeon are at "risk of extinction" in the "foreseeable future".

#### **Recommendations**

The FWC does not support the proposed "Endangered" listing of Atlantic sturgeon by NMFS, pursuant to the ESA at this time, but would support a "Threatened" status, or status quo. The FWC believes that there is sufficient evidence that the existing management measures enacted by the State of Florida, ASMFC, and NMFS are already resulting in positive population trends that do not support an "Endangered" listing.

We appreciate consideration of our input on the proposed listing of Atlantic sturgeon as Endangered under the Endangered Species Act (ESA). Should you require additional assistance regarding our comments, please contact Lisa Gregg at (850) 487-0554 or [lisa.gregg@myfwc.com](mailto:lisa.gregg@myfwc.com).

Sincerely,



Mark Robson  
Director

mr/lg/jw/ah