



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Pennsylvania Field Office
110 Radnor Road, Suite 101
State College, Pennsylvania 16801-4850

April 11, 2016

Peter Browne
HDR
970 Baxter Boulevard, Suite 301
Portland, ME 04103

RE: USFWS Project #2014-0986; CPA-2014-0005

Dear Mr. Browne:

Thank you for your letter of March 8, 2016, requesting updated information about federally protected species within the area being considered for the proposed ITC Lake Erie Connector, LLC, Lake Erie Connector project (Project) located in Erie County, Pennsylvania. We previously commented on this project in letters dated September 22, 2014, February 11 and April 6, 2015. Since that time, the Project limit of disturbance has been finalized and a Joint Permit Application for Pennsylvania Water Obstruction and Encroachment Permit and U.S. Army Corps of Engineers Rivers and Harbors Act 10 and Clean Water Act 404 Permit was submitted on January 29, 2016. The following comments are provided pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) to ensure the protection of endangered and threatened species, the Migratory Bird Treaty Act (16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755, as amended), and the Bald and Golden Eagle Protection Act (Eagle Act, 54 Stat. 250, as amended; 16 U.S.C. 668-668d), to ensure the protection of migratory bird species.

Threatened and Endangered Species

Northern long-eared bat

The proposed project is within the range of the threatened northern long-eared bat (*Myotis septentrionalis*). On February 16, 2016, the final rule that tailors protections for the northern long-eared bat under the Endangered Species Act became effective (81 FR 1900; available here: <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/FRnlebFinal4dRule14Jan2016.pdf>). Because your project is not located within 0.25 mile of a known northern long-eared bat hibernaculum or within 150 feet from a known, occupied maternity roost tree, any incidental take that might result from tree removal is not prohibited and no further consultation regarding this

species is necessary. More information on the northern long-eared bat and the 4(d) rule can be found here: <http://www.fws.gov/midwest/endangered/mammals/nleb/>

Indiana bat

The proposed project is within the range of the endangered Indiana bat (*Myotis sodalis*). According to your April 6, 2016, e-mail, approximately 12.4 acres of forest will be cleared for the project. Because the project is not located near known Indiana bat summer or winter habitat and a minimal amount of forest will be cleared, the project is not likely to adversely affect this species.

Assessment of Risks to Migratory Birds and Eagles

In our April 6, 2016, letter, we determined that impacts from the project to bank swallows (*Riparia riparia*) are low enough that no seasonal restriction on project activities is necessary and development of a habitat restoration plan for birds is not warranted based on the following: 1) horizontal directional drilling will be employed to avoid impacts to the bluff, 2) the drill rig will be located approximately 328 feet away from the top of the bluff, and 3) off-shore activities will be approximately 750 feet from the shoreline. The project has been designed to avoid all impacts to the bluff and consequently, nesting bank swallows.

The Bald and Golden Eagle Protection Act (BGEPA) provides for very limited issuance of permits that authorize take of bald eagles (*Haliaeetus leucocephalus*) when such take is associated with otherwise lawful activities, cannot practicably be avoided, and is compatible with the goal of stable or increasing eagle breeding populations. Under BGEPA, “take” means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. “Disturb” means to agitate or bother an eagle to a degree that causes, or is likely to cause, injury to an eagle or either a decrease in its productivity or nest abandonment due to interference with breeding, feeding, or sheltering. For more information regarding eagle biology and take, please visit: <http://www.fws.gov/northeast/ecologicalservices/eagle.html>

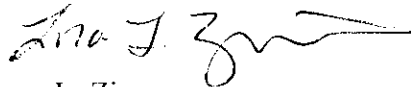
Please review our previous comments regarding bald eagles from our September 22, 2014, letter. Additional information, including the bald eagle project screening and online mapping tool, can be found on our website (see: http://www.fws.gov/northeast/pafo/bald_eagle.html). The Service is aware of a bald eagle nest within approximately 2,000 feet from the project. Please review the *National Bald Eagle Management Guidelines* (available here: <http://www.fws.gov/northeast/ecologicalservices/eaglenationalguide.html>) for recommendations for avoiding disturbance of eagles at foraging areas and communal roost sites. If you would like more information regarding eagle permits, please contact Scott Frickey, Migratory Bird Program, at Scott_Frickey@fws.gov or (413) 253- 8592.

This response relates only to federally protected species under our jurisdiction, based on an office review of the proposed project’s location. No field inspection of the project area has been conducted by this office. Consequently, this letter is not to be construed as addressing other potential Service concerns under the Fish and Wildlife Coordination Act or other authorities.

To avoid potential delays in reviewing your project, please use the above-referenced USFWS project tracking number in any future correspondence regarding this project.

Please contact Melinda Turner of my staff at 814-234-4090 if you have any questions or require further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Lora L. Zimmerman", with a long horizontal flourish extending to the right.

Lora L. Zimmerman
Field Office Supervisor

cc:
DOE – Mills

