



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Tennessee ES Office
446 Neal Street
Cookeville, Tennessee 38501

March 5, 2015

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Subject: Review of Notice of Application for the Broad Run Expansion Project by Tennessee Gas Pipeline Company; FERC No. CP15-77-000; in Kentucky, Tennessee, and West Virginia (ER 15/0093)

Dear Dr. Bose:

Thank you for the opportunity to provide comments for the above-referenced Notice. The U.S. Fish and Wildlife Service (Service) has been consulting with the Applicant and the Service will participate in the Federal Energy Regulatory Commission's (FERC) conventional filing process for the proposed project. The Service offers the following comments in accordance with the 7 of the Endangered Species Act of 1973, as amended (Act) (87 Stat. 884; 16 U.S.C. 1531 et seq.), the Migratory Bird Treaty Act of 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et seq.) (MBTA), the Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. § 668-668d) (BGEPA), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321-4370) (NEPA).

At-Risk, Threatened, and Endangered Species

The U.S. Fish and Wildlife Service (Service) has reviewed the habitat impact assessment provided by the Applicant regarding potential impacts of this project to habitat for federally threatened and endangered species and migratory bird trust resources in Davidson County, Tennessee. The proposed compressor station listed as "CS 563" is proposed to be constructed in Davidson County, Tennessee. On January 22nd, 2015 the Applicant submitted a request for informal Section 7 Endangered Species Act consultation and consultation for Migratory Bird Treaty Act compliance to the Tennessee Ecological Services Field Office. Page 3 of this communication describes this site as second-growth oak-hickory forest. The table on page 11 of the Draft Biological Resources Habitat Assessment included with the January 22nd communication reports 31.5 acres of mature oak-hickory forest, 35.1 acres of young disturbed forest and scrub/shrub habitat, 13.6 acres of young oak-hickory forest, and 4.3 acres of maintained rights-of way; 43 of these acres will be temporarily disturbed and an additional 26.2 acres will be permanently affected by this action; with 69.2 total acres of disturbance at this site.

The table provided to our office in Attachment "C" of the Draft Biological Resources Habitat Assessment identifies habitat potentially suitable for summer roosting, maternity roosting, and foraging for Indiana bat (*Myotis sodalis*) and as present within the site. Specifically, there are 68 potential roost trees and 7 potential maternity roost trees within the footprint of the CS 563 action area.

Even if seasonal cutting restrictions were incorporated into this proposed action to avoid lethal take of roosting bats or nonvolant pups, individuals still be adversely affected by the loss of habitat provided at this location. As such a "may effect, likely to adversely affect" determination may be more appropriate than the "not likely to adversely affect" determination offered in the January 22nd, 2015 communication to our office. We recommend the Applicant coordinate with our office to identify additional information needs and measures which avoid, minimize, or mitigate the risk, extent, and manner of take that could occur as a consequence of this project.

The Biological Resources Habitat Assessment for this project also identified habitat suitable for northern long-eared bat (*Myotis septentrionalis*) roosting, maternity roosting, and foraging as being potentially present within the CS 563 action area. We recommend FERC determine whether this project will or will not jeopardize the continued existence of this species while it is proposed for listing. We also recommend FERC identify whether potential listing of this species for protection under the Endangered Species Act might have an effect on the conduct of this action. If so, we recommend FERC coordinate with our office directly or through its designated non-federal representative to identify whether conferencing procedures outlined Section 7(a)(4) would be appropriate with respect to this action.

The Biological Resources Habitat Assessment states habitat for Price's potato bean (*Apios priceana*) and one other federally listed species might also be present at this location. Table 3 of the Biological Resources Habitat Assessment notes habitat suitable for several other state-listed, at risk species may be present within the site. Specifically, surveys found potentially suitable habitat for Short's rock crest (*Boechera shortii*), Davis' sedge (*Carex davisii*), pubescent sedge (*Carex hirtifolia*), American chestnut (*Castanea dentate*), Appalachian bugbane (*Cimicifuga rubifolia*), Harbison's hawthorn (*Crataegus harbisonii*), American water-pennywort (*Hydrocotyle americana*), butternut (*Juglans cinerea*), Canada lily (*Liilum canadense*), yellow honeysuckle (*Lonicera flava*), shaggy false gromwell (*Onosmodium hispidissimum*), American ginseng (*Panax quinquefolius*), prairie parsley (*Polytaenia nuttalii*), white water-buttercup (*Ranunculus aquatilis var. diffuses*), water stitchwort (*Stellaria fontinalis*), and willow aster (*Symphotrichum praealtum*) within the footprint of the CS 563 action area. We recommend surveys for these species be performed within the next suitable survey season to estimate potential risk, manner, and extent of impact of this project to these species.

Migratory Birds Trust Resources

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet NEPA requirements federal agencies prepare detailed Environmental Assessments (EAs) and Environmental Impact Statement (EISs). The Service regularly reviews and comments on EAs and EISs prepared by other federal agencies and assures that its own actions comply with NEPA.

Executive Order 13186, "Responsibilities of Federal Agencies to Protect Migratory Birds" directs federal agencies to use their authorities to protect migratory birds and their habitat, and to "ensure that environmental analyses of Federal actions required by the National Environmental Policy Act (NEPA) or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern." In accordance with the Service's obligations defined in the "Memorandum of Understanding Between the Federal Energy Regulatory Commission and the U.S. Department of the Interior United States Fish and Wildlife Service Regarding Implementation of Executive Order 13186, 'Responsibilities of Federal Agencies to Protect Migratory Birds,'" (MOU) we offer the following observations and comments.

Surveys performed by the Applicant within the footprint of the CS 563 action area in Davidson County, Tennessee found twenty-nine species listed for protection under the Migratory Bird Treaty Act, but none of these were identified as Birds of Conservation Concern (BCC) for the region in question (Bird Conservation Region 24, Central Hardwoods) in 2008. Habitat suitable for BCCs was identified within the CS 563 footprint. Bachman's sparrow (*Aimophila aestivalis*), cerulean warbler (*Dendroica cerulea*), peregrine falcon (*Falco peregrinus*), and Bewick's Wren (*Thryomanes bewickii*) habitat was reported present within the action area by the Applicant, meaning these species may be present within the action area during some stage of their annual life cycle but have thus far gone undetected.

Though not listed as BCCs by the Service in 2008, some species observed within the action area of this project have been identified more recently as priority bird species by the Central Hardwoods Joint Venture (CMJV), a partnership of state, federal, and non-for-profit wildlife conservation agencies and organizations that work together to insure the long-term viability of native bird populations across the Central Hardwoods Bird Conservation Region. CMJV priority species identified by the Applicant as present within the action area include northern bobwhite (*Colinus virginianus*) and brown thrasher (*Toxostoma rufum*).

We recommend the Applicant work closely with the Service to identify conservation measures and information needs necessary to aid FERC and the Service's meet their mutual obligations with respect to this project, as identified and described in the interagency MOU. We further recommend FERC coordinate with our office to ensure conservation and/or mitigation measures developed between the Applicant and the Service are identified and incorporated into FERC's NEPA review of this project's effects on the natural environment. We finally recommend FERC integrate conservation measures for migratory bird trust resources developed between the Applicant and Service into any permit issued to the Applicant.

Thank you for the opportunity to review this project. If actions taken with respect to this project may alter the potential risk, manner, or extent of take possible with this action, or if you have any questions about these comments, please contact Kenneth McDonald of my staff at kenneth_mcdonald@fws.gov or (931) 525-4990.

Sincerely,

A handwritten signature in blue ink that reads "Mary E. Jennings". The signature is written in a cursive, flowing style.

Mary E. Jennings
Field Supervisor

Document Content(s)

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