



United States Department of the Interior

FISH AND WILDLIFE SERVICE

3817 Luker Road
Cortland, NY 13045



September 10, 2014

Mr. Brian Mills
National Electricity Delivery Division
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Mills:

The U.S. Fish and Wildlife Service (Service) has reviewed the Final Environmental Impact Statement and Biological Assessment (FEIS/BA) for the Champlain Hudson Power Express Transmission Line Project dated August 2014. This project is a buried 336-mile long, 1000-megawatt direct current transmission line to be located in 16 counties in New York State, from the Canadian Border at Lake Champlain and generally following the Hudson River south to New York City. As lead federal agency, the U.S. Department of Energy (DOE) produced the FEIS/BA and is considering the approval of a Presidential Permit to construct, operate, and maintain the project.

Pursuant to Section 7(a)(2) of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the DOE has determined that the project will result in no effect to the federally-listed threatened bog turtle (*Clemmys [=Glyptemys] muhlenbergii*), northern wild monkshood (*Aconitum noveboracense*), small whorled pogonia (*Isotria medeoloides*), endangered piping plover (*Charadrius melodus*), roseate tern (*Sterna dougallii dougallii*), or proposed threatened red knot (*Calidris canutus rufa*) or the federal candidate for listing, the New England cottontail (*Sylvilagus transitionalis*), as no suitable habitat for these species occurs along the project site. We have no additional comments on these species.

In addition, the DOE has determined that the proposed project may affect, but is not likely to adversely affect, the endangered Indiana bat (*Myotis sodalis*), Karner blue butterfly (*Lycaeides melissa samuelis*), or the proposed endangered northern long-eared bat (*Myotis septentrionalis*).

As you are aware, the northern long-eared bat is currently proposed for listing as an endangered species under the ESA and a final listing decision is expected in April 2015. At this time, no critical habitat has been proposed for the species. Pursuant to Section 7(a)(4) of the ESA, federal action agencies are required to confer with the Service if their proposed action is likely to

jeopardize the continued existence of the northern long-eared bat. Action agencies may also voluntarily confer with the Service if the proposed action may affect a proposed species. We appreciate DOE's efforts to consider the northern long-eared bat while it is proposed for listing.

A majority of the project will be sited within water. However, a portion does follow a land route between Lake Champlain and the Hudson River. The land route is collocated with road and railroad rights of way; however, some vegetation removal, including trees, will be required. These rights of way are currently managed for transportation purposes and subject to continual disturbance. Once installed, maintenance of the project right of way will be similar to what is currently being implemented for transportation purposes. Given the linear nature of tree removal, the fact that the upland portion of the project will follow many existing transportation rights of way, and the proposed conservation measure of conducting tree removal between October 31 and March 31, we do not anticipate any measurable impacts to the northern long-eared bat. Therefore, we concur with your determination. Given that no adverse impacts are anticipated, the project is unlikely to jeopardize the continued existence of the northern long-eared bat.

If the northern long-eared bat is listed, and if project activities are expected to continue after this listing, this concurrence will serve to satisfy consultation requirements pursuant to section 7 of the ESA, provided that: (1) the project scope and activities remain unchanged; (2) any applicable or any proposed conservation measures are implemented; and (3) there are no other changes (e.g., to the landscape, habitat, etc.) that may affect the newly-listed species and that have not already been analyzed in this consultation.

The DOE has indicated that the construction and operation of the project will not adversely affect the Indiana bat as well. Because the conservation measure of removing trees when the bats are not present (October 31 to March 31) will be used for this project and the existing disturbed nature of the transportation rights of way where the project will be sited on land, we concur with the determination.

The Karner blue butterfly occurs in the project area at two known general locations. Several sites within these locations contain patches of wild blue lupine (*Lupinus perennis*), an important food source for the larval stage of Karner blue butterfly. The project sponsor has agreed to drill and install the transmission cable 10 feet below these areas. Areas of lupine would be fenced to prevent intrusion of construction activity and no impact is expected to these areas. An environmental monitor will ensure the protection of these areas as well. No pesticides or herbicides would be used in lupine areas and coordination with the Service would be initiated if work near lupine habitat is expected. Given that there will be no direct impact to lupine habitat and conservation measures such as fencing and monitoring and no herbicides or pesticides will be used, we concur with the DOE's determination that the project may affect but will not likely adversely affect the Karner blue butterfly.

The project sponsor, Transmission Developers, Inc. (TDI), has agreed to implement additional conservation measures to benefit the Karner blue butterfly. In a letter dated June 12, 2014, TDI has committed to developing a plan in consultation with the Service that will promote the growth of lupine within their right of way. Specifically, TDI has indicated that they will periodically

mow and/or hand cut lupine patches during periods when they are not occupied by butterflies, to promote and expand lupine growth. Although this will ultimately be a beneficial action for the species, short-term adverse impacts are likely to occur. Consequently, TDI has agreed to apply for a section 10(a)(1)(A) permit pursuant to the ESA prior to project construction. We look forward to partnering with them in furthering Karner blue butterfly conservation.

No further coordination or consultation under the ESA is required with the Service at this time. Should project plans change, or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered. The most recent compilation of federally-listed and proposed endangered and threatened species in New York is available for your information. Until the proposed projects are complete, we recommend that you check our website every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed projects is current.*

The above comments pertaining to endangered species under our jurisdiction are provided pursuant to the ESA. This response does not preclude additional Service comments under other legislation.

Any additional information regarding the proposed projects and their potential to impact listed species should be coordinated with both this office and with the New York State Department of Environmental Conservation.

Thank you for your time. If you require additional information or assistance please contact Tim Sullivan at (607) 753-9334.

Sincerely,


for David A. Stilwell
Field Supervisor

*Additional information referred to above may be found on our website at:
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

cc: NYSDEC, New Paltz, Ray Brook, and Schenectady, NY (Env. Permits)
NYSDEC, Albany, NY (Wildlife Diversity)