



United States Department of the Interior

FISH AND WILDLIFE SERVICE
3817 Luker Road
Cortland, New York 13045



March 29, 2021

Ms. Melissa Pauley, Policy Analyst
Energy Resilience Division
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Ms. Pauley:

This is in response to your March 17, 2021 letter requesting concurrence 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.*) for the proposed Champlain Hudson Power Express project, a long-distance electric transmission line planned in eastern New York state. As lead federal agency, the U.S. Department of Energy (DOE) is considering the approval of a Presidential Permit to construct, operate, and maintain the project. In your letter, DOE has asked the U.S. Fish and Wildlife Service (Service) to review the most recent information on the revised project. The project purpose is to transmit electricity generated from renewable sources in Canada to New York City.

In October, 2014, the DOE issued a Presidential Permit (PP-362) to Champlain Hudson Power Express, Inc. (CHPE) to construct, operate, maintain, and connect the project to the electric network. The project was also approved by other federal, state, and local authorizations at that time but was never constructed. On September, 25, 2020, CHPE submitted an application to DOE to amend PP-362, with project modifications. The revised project would be authorized under PP-481.

Consultation history

The Project was introduced to the Service in 2010 with the submittal of a permitting overview document and request for information on federally-listed species. Numerous other documents and information exchanges were provided to the Service over a multi-year period and we submitted comments on a Draft Environmental Impact Statement (DEIS) in December, 2013. After revisions, this subsequently led to the completion and publication of a Final EIS/Biological Assessment (FEIS/BA) dated August, 2014. The potential environmental effects of the project, including those to federally-listed species, were analyzed in the FEIS/BA. In a letter dated September 10, 2014, the Service concurred with the BA in our Biological Opinion (BO). Specifically, the Service concurred with DOE's determination that the project *may affect, but is not likely to adversely affect* three federally-listed species (described below).

In a letter dated December 4, 2020, the DOE requested to reinitiate section 7 consultation with the Service for a revised project design, including shifts in alignment, increased capacity, and a relocated converter station. Representatives of CHPE, DOE, and the Service met on January 8, 2021 to discuss the revised project. During this meeting, some project details were unavailable but were later provided via electronic mail on February 10, 11, and 25, 2021. Finally, we met again on March 4, 2021, to discuss the location of a bald eagle nest in relation to the project alignment. We appreciate DOE's efforts to provide us with a complete project description.

Project description

The original project consisted of 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 mentioned above, since the approval of the PP-362 CHPE has modified the project in several ways. The project was modified in October, 2020 to include a shift in the alignment at 8 locations resulting in an additional total length of approximately 5.1 miles. These shifts were to avoid sensitive resources and address community concerns, among others.

The revised project consists of a 341.1 mile-long, underground 1250-megawatt cable. The cable size or construction footprint would not substantially change from what was previously reviewed and approved, except in those areas of the proposed alignment shifts. CHPE states that the installation methods and project operation would also not change. The location of the new converter station in Queens would require an additional 0.5 acre of land disturbance and the buried cable from the river to the station has shifted, however it is all within an urban environment. In addition, CHPE has indicated that the previously agreed upon impact minimization and conservation measures and commitments, as described in the FEIS/BA, will remain in place for the revised project.

As mentioned, the project alignment will change in 8 areas to avoid natural and social resources. Even in these areas of change, the project will still follow and be constructed within existing road, railroad, and utility rights of way. A majority of the project will follow a route under Lake Champlain and the Hudson River as previously described and evaluated.

Updated ESA review

Pursuant to the ESA, the DOE in 2014 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. The red knot was listed by the Service as threatened in 2015. However, the listing status does not change the fact that there is no known habitat for the species in the project area and does not change the previous DOE determination. The New England cottontail is no longer a federal candidate for listing. We have no additional comments on these species.

In addition, the DOE previously 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 (at that time) endangered northern long-eared bat (*Myotis*

septentrionalis). The northern long-eared bat was subsequently listed by the Service as a threatened species in 2015.

Based upon the revised project description, a majority of the project will be sited within water. However, a portion does follow a land route between Lake Champlain at Dresden and the Hudson River at Cementon. The land route is collocated with road, utility, and railroad rights of way; however, some vegetation removal, including trees, will be required. These rights of way are currently managed for infrastructure purposes and subject to continual disturbance. Once installed, maintenance of the project right of way will be similar to what is currently being implemented. 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 for the revised project.

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 for the revised project.

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 updated determination that the revised project *may affect but will not likely adversely affect* the Karner blue butterfly.

Summary

The DOE has analyzed the potential environmental effects of a revised CPHE project, including those to federally-listed species. DOE has confirmed that the analysis provided in the FEIS/BA is still applicable with the exception of those recent changes provided to the Service under the request to reinitiate ESA consultation. In addition, DOE has found that the project will have *no effect* on bog turtle, northern wild monkshood, small whorled pogonia, endangered piping plover, roseate tern, or red knot. The project is within the range of three listed species, the Indiana bat, northern long-eared bat, and the Karner blue butterfly and potential habitat may be found in the project area but based upon the project description, including avoidance and minimization measures as well as conservation measures, the DOE has determined that the project *will not adversely affect these species*. We concur with that determination.

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 regularly 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 the opportunity to review this project. If you require additional information or assistance please contact Tim Sullivan at 607-753-9334.

Sincerely,

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)