United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
c/o TAMU-CC, Campus Box 338
6300 Ocean Drive
Corpus Christi, Texas 78412

June 2, 2011

Mr. Tam Tran
License Renewal Project Manager
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Consultation No. 21430-2007-I-0082

Dear Mr. Tran:

Thank you for your June 1, 2011, telephone call regarding the South Texas Project Nuclear Operating Company's (STPNOC) operating license renewal application for Units 1 and 2 in Matagorda County, Texas. The nuclear plant, Units 1 and 2, and 9 associated 345-kV transmission lines that cross an additional 14 counties current exist are in operation. The facility applied for a renewal in October 2010, and has requested an additional 20 years beyond the initial 40-year licensing period. No new discharge or construction is proposed and the Nuclear Regulatory Commission is in the process of preparing a supplemental Environmental Impact Statement and submitted a species list for the U.S. Fish and Wildlife Service's (Service) review and concurrence.

The Service has reviewed and corrected the list (see enclosed list) and provides the following additional comments. The STPNOC is located in Matagorda County; however, the transmission lines traverse a total of 15 counties. The 15 counties are within three Service Field Offices' areas of responsibility. The Clear Lake Field Office will be the lead office because the plant is located in Matagorda County; however, for any future potential expansions, construction of new transmission lines and/or maintenance and improvements to existing lines please contact the following offices for counties within their area of responsibility.

Clear Lake Ecological Services Field Office - Matagorda, Brazoria, Wharton, Fayette, Colorado
Corpus Christi Ecological Field Office - Victoria, Jackson, DeWitt, Karnes, Wilson, Gonzales, Lavaca
Austin Ecological Services Field Office - Guadalupe, Bexar, Comal
Phone numbers for the respective offices are as follows: 281-286-8282, 361-994-9005, 512-490-0057.

Additional recommendations are also provided for various species.

Whooping crane
All 15 counties are within the whooping crane migratory corridor and some are in the critical wintering grounds of the endangered whooping crane (*Grus americana*) (see Figure 1). Whooping cranes use a variety of habitats including marsh, tidal flats, uplands, and barrier islands and roost in waters less than 10 inches. Whooping cranes usually arrive on the Texas coast between late-October and mid-November and spend almost six months on the wintering grounds. As spring approaches, they leave for the breeding grounds in Canada normally between March 25 and April 15 with the last birds usually gone by May 1st (occasional stragglers may stay into mid-May).

Usually, whooping crane migration flights are generally at altitudes of between 1,000 and 6,000 feet, but they fly at lower altitudes when seeking stopover habitats. They will often make low flights up to two miles from a stopover site to forage late in the day or in early morning. They may also interrupt migration flights to drink and/or forage in agricultural fields or wetlands for brief periods and may be at low altitudes during mid-day. Whooping cranes are largely opportunistic in their use of stopover sites along the Central Flyway, and will use sites with available habitat when weather or diurnal conditions require a break in migration. The Service recommends that: 1) project construction should be complete prior to the spring and autumn migration of late March to early May and mid-September to mid-November, respectively and 2) if equipment above 15 feet is proposed for use during construction or maintenance, please mark and/or lie cranes/equipment down during night time hours and periods of low visibility and 3) for all existing and future transmission lines we recommend the lines be marked with bird diverters to minimize impacts to whooping cranes from collisions during flight.

Ocelot and Gulf coast jaguarundi
Clearing/removal of the surrounding vegetation may particularly affect listed species in the area, including the ocelot and the Gulf coast jaguarundi. Both these endangered cats require dense brush cover; however information from Mexico indicates that the jaguarundi may be more tolerant of open areas. In Texas, the ocelots occur in dense shrubland. Although the ocelot's prime habitat needs are 70 to 90% canopy coverage, it will utilize a lesser degree of cover for hunting areas, and as protected corridors for travel. Roads, narrow water bodies, and rights-of-way, brushy fencelines, watercourses and other brush strips connecting areas of habitat are important for the ocelot. Any cat sightings and road mortalities should be reported immediately to the Service. Both the ocelot and Gulf coast jaguarundi are crepuscular and are active/travel during the dawn to dusk hours; noise and bright lighting used for night construction could dissuade these cats in their movements and should not be used. When assessing impacts to cats the project should be evaluated for loss of habitat, loss of connectivity, construction noise and lights during construction and/or operation.

Bald eagle
The bald eagle has been removed from the Federal Endangered and Threatened list (rule effective August 8, 2007). However, protections provided to the bald eagle under the Bald and Golden Eagle Protection (BGEPA) and the Migratory Bird Treaty Act (MBTA) will continue to remain in place after the species is delisted. Both Federal laws prohibit "take," and the BGEPA prohibits disturbance as a form of "take" as well. To help provide more clarity on the management of the bald eagle after delisting, the Service published a regulatory definition of "disturb" (72 FR 31132), and the Final National Bald Eagle Management Guidelines (72 FR 31156). The management guidelines and further information on the bald eagle may be viewed at http://www.fws.gov. The bald eagle may occur in Colorado, Brazoria, Matagorda, Wharton, Fayette, Victoria, Jackson, DeWitt, Gonzales, Guadalupe, Lavaca, and Comal counties.

Migratory Birds
The Migratory Bird Treaty Act implements various treaties and conventions for the protection of migratory birds. Under the Act, taking, killing or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals, nests or eggs. If project activities must be conducted during this time, we recommend surveying for nests prior to commencing work. If a nest is found, and if possible, the Service recommends a buffer of vegetation (= 50m for songbirds, > 100m for wading birds, and > 180m for terns, skimmers and birds of prey) remain around the nest until young have fledged or the nest is

abandoned. A list of migratory birds may be viewed at http://migratorybirds.fws.gov/intrnltr/mbta/proposedbirdlist.pdf or http://federalregister.gov/a/2010-3294.

Under the Migratory Bird Treaty Act (MBTA) it is unlawful to "pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, at any time, or in any manner, any migratory bird (*e.g.* waterfowl, shorebirds, birds of prey, song birds, etc.) included in the terms of this Convention...for the protection of migratory birds...or any part, nest, or egg of any such bird." Section 1.1307(a)(3) of the Commission's Rules requires a licensee to file an environmental assessment (EA) for the Commission's review and approval if a licensee's proposed facilities are to be located in an area that: (i) may affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973. *See* 47 C.F.R. 1.1307(a)(3).

Brown Pelican
The brown pelican has been removed from the threatened and endangered list (rule effective December 17, 2009), however, is being monitored for 5 years. It is protected under the Migratory Bird Treaty Act and may occur in Brazoria and Matagorda counties.

Mountain Plover and Black Bear
The mountain plover is not longer being proposed as threatened and the black bear is not found within any of the counties under review.

State Listed Species
The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at http://www.tpwd.state.tx.us/nature/endang/animals/mammals/.

Wetlands and Wildlife Habitat
Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to flood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, as is true with this project, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be

stored outside the floodplain and/or wetland area during construction to prevent possible contamination of water and soils. No permanent structures should be placed in the 100-year floodplain.

If your project will involve filling of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers. For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping, where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

We thank you for your concern for endangered and threatened species, migratory birds, and other wildlife resources, and we appreciate the opportunity to comment and review the proposed action and species list. If we can be of further assistance or if you have any questions about these comments; please contact Mary Orms at 361/994-9005, extension 246 or at Mary_Orms@fws.gov. Please refer to the Service Consultation number listed above in any future correspondence regarding this project.

Sincerely,

E. Dawn Wattland

for Allan M. Strand
Field Supervisor

cc: Moni Belton, Clear Lake Ecological Services Field Office, Houston, TX
Bill Seawell, Austin Ecological Services Field Office, Austin, TX

Attachments

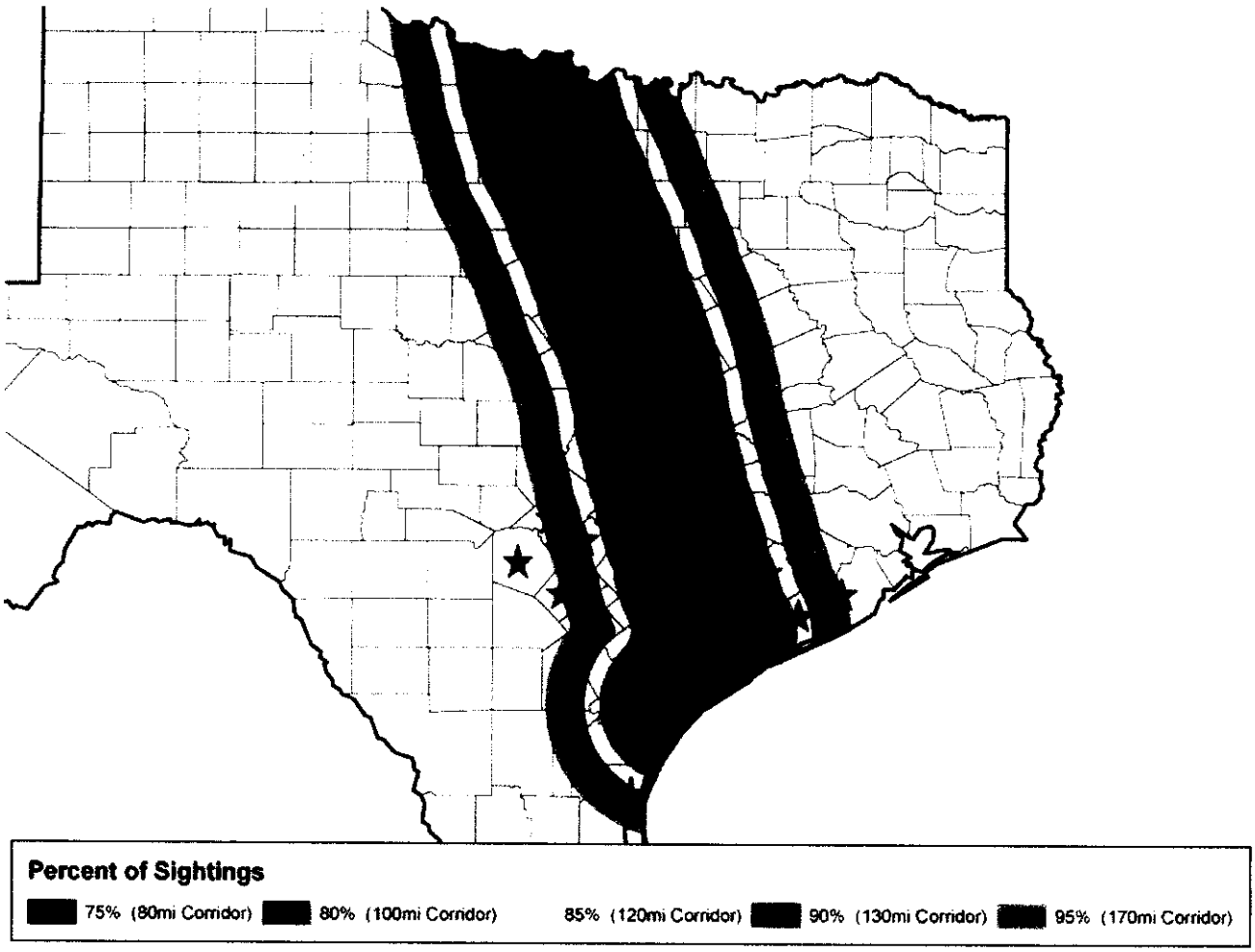

Figure 1. Whooping Crane Migratory Corridor

Federally Listed Species Potentially Occurring On and In The Vicinity of the South Texas Project Site and Its Associated Transmission Line Rights-of-Way

Scientific Name	Common Name	Federal Status	County(Counties) of Occurrence
Amphibians			
Bufo houstonensis	Houston Toad	E	Colorado, Lavaca
Eurycea nana	San Marcos salamander	T	Bexar, Comal
Typhlomolge rathbuni	Texas blind salamander	E	Bexar, Comal
Arachnids			
Cicurina baronia	Robber baron cave meshweaver	E	Bexar
Cicurina madla	Madla's cave meshweaver	E	Bexar
Cicurina venii	Braken bat cave meshweaver	E	Bexar
Cicurina vespera	Government Canyon bat cave meshweaver	E	Bexar
Neoleptoneta microps	Government Canyon bat cave spider	E	Bexar
Texella cokendolpheri	Cokendolpher cave harvestman	E	Bexar
Birds			
Charadrius melodus	piping plover	T	Brazoria, Matagorda
Dendroica chrysoparia	golden-cheeked warbler	E	Bexar, Comal
Falco *femoralis septentrionalis*	northern aplomado falcon	E	Matagorda
Tympanuchus cupido attwateri	Attwater's greater prairie-chicken	E	Colorado, Victoria
Vireo atricapilla	black-capped vireo	E	Bexar, Comal
Grus americana	whooping crane	E	Bexar, Comal, Colorado, Brazoria, Matagorda, Wharton, Fayette, Victoria, Jackson, DeWitt, Karnes, Wilson, Gonzales, Guadalupe, Lavaca
Crustaceans			
Stygobromus pecki	Peck's cave amphipod	E	Bexar, Comal
Fish			
Etheostoma *fonticola*	fountain darter	E	Bexar, Comal
Gambusia georgei	San Marcos gambusia	E	Bexar, Comal
Flowering Plants			
Zizania texana	Texas wild rice	E	Bexar, Comal
Spiranthes parksii	Navasota ladies' tresses	E	Fayette
Insects			
Heterelmis comalensis	Comal Springs riffle beetle	E	Bexar, Comal
Rhadine exilis	*unnamed* ground beetle	E	Bexar
Rhadine infernalis	*unnamed* ground beetle	E	Bexar
Stygoparnus comalensis	Comal Springs dryopid beetle	E	Bexar, Comal
Batrisodes venyivi	Helotes mold beetle	E	Bexar
Mammals			
Herpailurus yagouaroundi cacomitli	Gulf Coast jaguarondi	E	Karnes
Leopardus pardalis	ocelot	E	Karnes

Trichechus manatus	West Indian manatee	E	Jackson
Reptiles			
Caretta caretta	loggerhead sea turtle	T	Brazoria, Matagorda
Chelonia mydas	green sea turtle	T	Brazoria, Matagorda
Dermochelys coriacea	*leatherback* sea turtle	E	Brazoria, Matagorda
Eretmochelys imbricate	*hawksbill* sea turtle	E	Brazoria, Matagorda
Lepidochelys kempii	Kemp's ridley sea turtle	E	Brazoria, Matagorda