



United States Department of the Interior



FISH AND WILDLIFE SERVICE

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State College, Pennsylvania 16801-4850

March 22, 2012

Amy Elliott
U.S. Army Corps of Engineers
State College Field Office
1631 South Atherton Street, Suite 101
State College, Pennsylvania 16801

RE: Bell Bend Nuclear Power Plant (PN-12-07)
USFWS Project #2009-0501

Dear Mrs. Elliott:

The Fish and Wildlife Service reviewed Public Notice No. 12-07 for the proposed Bell Bend Nuclear Power Plant (Bell Bend). PPL Holtwood, LLC (PPL) proposes to construct a new nuclear power plant at a site adjacent to the existing Susquehanna Steam Electric Station, bounded by Beach Grove Road and State Route 11, in Salem Township, Luzerne County, Pennsylvania. Approximately 687 acres would be altered, including removal of forest vegetation, to support construction and operation needs of the plant. The public notice states that a jurisdictional determination of stream and wetlands has not yet been completed for the Bell Bend site. According to the applicant, however, construction of the facility would result permanent impacts to 13.14 acres of jurisdictional wetlands and 1.25 acres of jurisdictional rivers and streams, as well as temporary impacts to, or dewatering of, additional jurisdictional wetlands and the Eastern Tributary to Walker Run. The applicant's proposed impact analysis also anticipates permanent impacts to several potentially non-jurisdictional wetlands.

Operation of the proposed plant will require withdrawal of approximately 25,729 gallons per minute of water from the North Branch Susquehanna River. Water withdrawal at this site is regulated by the Susquehanna River Basin Commission (SRBC) and potential impacts of withdrawals to aquatic or other downstream resources are not addressed in the section 404 permit application or this public notice.

The following comments are provided pursuant to the Endangered Species Act of 1973 (ESA, 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 (MBTA, 16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755, as amended) to ensure the protection of migratory bird species, and the Fish

and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) to ensure protection of other fish and wildlife resources.

NEPA Analysis

The public notice states that in order to satisfy the Corps' requirement under the Clean Water Act 404(b)(1) Guidelines and 33 CFR 320 through 332, a full range of off-site alternatives must be addressed in order to determine if there are practicable alternatives that would result in less environmental damage. According to the public notice, this alternatives analysis will be addressed in the final Environmental Impact Statement (EIS). In order to use the alternatives analysis to inform the Corps and commenting agencies on the least damaging alternative, it is necessary for this alternatives analysis to be available prior to issuance of a 404 permit. As yet, neither the draft EIS nor the final EIS is available for review.

Although the current site design identifies fewer wetland impacts than earlier drafts of the proposed project design, without reviewing the analysis for alternate sites, it is impossible for the Service to determine whether this proposal is the least damaging alternative. Furthermore, the potential indirect and cumulative impacts for a project of this magnitude are substantial. Reviewing the full and complete project proposal, as we expect will be presented in the draft EIS, is necessary for a realistic impacts assessment.

Federally Listed and Proposed Species

The Bell Bend project is located within swarming habitat associated with three known Indiana bat hibernacula. Consequently, the applicant has evaluated the project area for Indiana bat habitat and prepared a biological evaluation. The Service received the draft biological evaluation on October 7, 2011, and met with the Nuclear Regulatory Commission (NRC), the Corps, the applicant, and other interested agencies on October 20 to discuss effects on Indiana bats, and concerns related to the draft biological evaluation. On November 30, we received supplemental maps depicting the location and extent of forest cover that will be affected by the project, as well as the area which will be permanently protected to partially offset adverse effects on Indiana bats. The biological evaluation is currently under review by the Service, and we expect to have comments to NRC and the applicant by the end of April.

Due to the anticipated loss of 234 acres of Indiana bat habitat at the Bell Bend location, the Service has determined that the proposed project is likely to adversely affect Indiana bats. Consequently, formal consultation pursuant to section 7(a)(2) of the Endangered Species Act will be necessary. We understand that NRC is acting in the capacity of lead federal action agency, and will be initiating formal consultation on a timeline that would ensure the section 7 consultation is completed prior to issuance of the Final Environmental Impact Statement for this project. With some modification, it appears the draft biological evaluation that has been prepared by the applicant may form a good foundation for NRC's biological assessment for this project. We look forward to coordinating with NRC on the biological assessment and consultation timeline.

Assessment of Risks to Migratory Birds

The Fish and Wildlife Service (Service) is the principal Federal agency charged with protecting and enhancing populations and habitat of migratory bird species. The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. While the MBTA has no provision for authorizing incidental take, the Service recognizes that some birds may be killed even if all reasonable measures to avoid take are implemented. Unless the take is authorized, it is not possible to absolve individuals, companies or agencies from liability (even if they implement avian mortality avoidance or similar conservation measures). However, the Office of Law Enforcement focuses enforcement action on those individuals, companies, or agencies that take migratory birds with disregard for their actions and the law.

The potential exists for avian mortality from habitat destruction and alteration within the project boundaries, as well as transmission lines required for support of the facility. Site-specific factors that should be considered in project siting to avoid and minimize the risk to birds include avian abundance; the quality, quantity and type of habitat; geographic location; type and extent of bird use (e.g. breeding, foraging, migrating, etc.); and landscape features. Potential impacts and conservation measures employed to prevent impacts should be incorporated into the forthcoming draft EIS.

Fisheries and Aquatic Resources

The Service has potential concerns with this project regarding water discharge temperatures, amounts, and salinity levels. The Service's Susquehanna River Coordinator, Larry Miller, raised these concerns with the applicant and the SRBC early on in the permitting process to gain better understanding of water discharge parameters; however, as yet, the Service does not feel that we have satisfactory information to determine potential impacts of water discharged from cooling tower blowdown. We request that the applicant address this information to the satisfaction of the resource agencies prior to the issuance of any project permits.

The Service is also concerned about the amount of water proposed to be withdrawn and consumed by daily operations of the proposed nuclear facility; however, the public notice clearly defers regulation of the necessary water withdrawal to the SRBC. Withdrawals of water from the Susquehanna River, particularly during periods of low flow, have the potential to adversely affect resident and migratory fish resources in the Susquehanna River basin. Based on a February 16, 2012, letter from the SRBC, it is our understanding that issues related to water use and consumptive needs at Bell Bend have not been satisfactorily reviewed or resolved. Because water withdrawals and water consumption are an integral component of the proposed project, we do not feel that it is appropriate to issue a 404 permit until these issues have been resolved with the SRBC.

Conclusion

This project has the potential to severely alter the biota, habitats, and aquatic resources over a large area, and cause substantial direct, indirect, and cumulative losses of aquatic and terrestrial habitats. The effects of the facility, the transmission lines, waste and borrow areas, access roads, laydown areas, staging areas, stockpiling sites, and all interrelated actions should be fully evaluated and considered in project impact assessment, design, and permitting. We look forward to commenting on the complete project, the alternatives analysis, and potential impacts during a future EIS comment period.

Until the DEIS is available for review, water withdraw guidelines have been agreed upon by the SRBC, and a final analysis of take and the associated biological opinion is issued for the Indiana bat, the Service feels that it is premature to issue a Section 404 permit for the Bell Bend site. The Service thereby recommends denial of the applicant's 404 permit request.

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

Thank you for the opportunity to comment on this proposed project. Please contact Lora Zimmerman of my staff at 814-234-4090 if you have any questions or require further assistance regarding this matter.

Sincerely,



Clinton Riley
Field Office Supervisor