



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Tennessee Ecological Services Field Office
446 Neal Street
Cookeville, Tennessee 38501
(931) 528-6481



September 8, 2023

Ms. Amy Priest, Project Manager
West Branch
Regulatory Division
U.S. Army Corps of Engineers
37101 Bell Road
Nashville, Tennessee 37214-2660

Re: FWS 2022-0071594. LRN-0-5258900; USACE – Final Biological Opinion and Conference Opinion for the Harms Mill Dam Removal Project on the Elk River in Lincoln County, Tennessee

Dear Ms. Priest:

This letter transmits our enclosed biological opinion (BO) and conference opinion (CO) for the *Harms Mill Dam Removal Project on the Elk River in Lincoln County, Tennessee* (Action). The Tennessee Wildlife Resources Agency proposes the demolition and removal of the abandoned powerhouse and dam located at Elk River mile 77.04. On June 23, 2023, we received your letter requesting formal consultation for the Action and associated revised Biological Assessment. You determined that the Action is likely to adversely affect the federally-listed boulder darter (*Etheostoma wapiti*), Alabama lampmussel (*Lampsilis virescens*), slabside pearl mussel (*Pleuroaia dolabellodes*), cracking pearl mussel (*Hemistena lata*), rabbitsfoot (*Quadrula cylindrica*), shiny pigtoe (*Fusconaia cor*), snuffbox (*Epioblasma triquetra*), longsolid (*Fusconaia subrotunda*), Tennessee pigtoe (*Pleuroaia barnesiana*), Tennessee clubshell (*Pleurobema oviforme*) and designated critical habitat (DCH) for the slabside pearl mussel and fluted kidneyshell (*Ptychobranhus subtentus*). The proposed endangered Tennessee pigtoe and Tennessee clubshell are being covered in the CO at the request of the action agency.

In a letter dated May 5, 2023, our office concurred with your determination of may affect, but is not likely to adversely affect for the Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), gray bat (*Myotis grisescens*), birdwing pearl mussel (*Lemiox rimosus*), and round hickory nut (*Obovaria subrotunda*). With this letter, we also concur with your letter of

June 23, 2023, indicating a may affect, but is not likely to adversely affect determination for the fluted kidneyshell. Although no coordination is required under ESA for no effect determinations, we also acknowledged that you made no effect determinations for Cumberland monkeyface (*Theliderma intermedia*), dromedary pearlymussel (*Dromas dromas*), fine-rayed pigtoe (*Fusconaia cuneolus*) and monarch butterfly (*Danaus plexippus*).

In response to your request for formal consultation, we concur with your determination that the proposed activities are likely to adversely affect the boulder darter, Alabama lampmussel, slabside pearlymussel, cracking pearlymussel, rabbitsfoot, shiny pigtoe, snuffbox, longsolid, Tennessee pigtoe, Tennessee clubshell, and DCH for the slabside pearlymussel and fluted kidneyshell. We have addressed effects to these species in the attached BO/CO, which concludes that the Action is not likely to jeopardize the continued existence of the species. This finding fulfills the requirements applicable to the Action for completing consultation under §7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended.

The attached BO/CO includes an Incidental Take Statement that requires implementation of reasonable and prudent measures that we consider necessary or appropriate to minimize the impacts of anticipated taking of listed species. Incidental taking of listed species that comply with the terms and conditions of this statement are exempted from the prohibitions against take under the ESA.

We appreciate the opportunity to work with you on an approach that fulfills your consultation needs, facilitates your ability to effectively execute your missions, and recognizes the importance of implementing conservation measures to minimize adverse effects to listed species and their habitats. As you proceed with planning and implementing the Action, we are available to offer any necessary assistance with your endeavors. A complete administrative record of this consultation is on file at our Cookeville, TN office. If you have any questions about the BO/CO, please contact Anthony Ford by phone at 931/319-7747 or via email at Anthony_Ford@fws.gov.

Sincerely,

Field Supervisor