

From: [Troy Andersen](#)
To: [Kimberly Smith](#)
Cc: [Sarah Nystrom](#)
Subject: RE: TREVIEW - MBTA eagle comments from Sarah to MVP - Due April 25
Date: Thursday, March 24, 2016 10:46:36 AM

These look great. Only one suggestion when you paste them into an email....move the "general comments" to the beginning.

And as we discussed early this morning, please add a brief statement that clarifies that our comments are focused on eagles so they can get started on surveys and that we are still reviewing the parts focused on impacts to migratory birds. Also, could you please ask them if it is acceptable to share the report with the Nature Conservancy provided the "privileged and confidential" tag stays intact. They are assisting us with mig bird aspects of energy projects.

Thanks,
Troy

From: Smith, Kimberly [mailto:kimberly_smith@fws.gov]
Sent: Wednesday, March 23, 2016 4:02 PM
To: Troy Andersen
Subject: TREVIEW - MBTA eagle comments from Sarah to MVP - Due April 25

I was planning to email these comments for expediency. Sarah said these comments are consistent with what she told the other pipeline.

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REVIEWS\2015FY Projects\Mountain Valley Pipeline_2016-SLI-0880\Migratory Bird
Conservation Plan\20160323_Nystrom Comments_MBTA Conservation Plan

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Mountain Valley Pipeline – Migratory Bird Habitat Conservation Plan

Comments

Title Page-

Habitat Conservation Plan is a term of art for the Service under Section 10 of the Endangered Species Act. To avoid confusion, call the plan something else. Bird Conservation Strategy is a term often used with wind projects that could be applicable (usually Bird and Bat Conservation Strategy). Or simply Migratory Bird Conservation Plan. Just avoid the Habitat Conservation Plan phrase since that has a specific definition that isn't met by this plan.

Page 1, Page 3 and throughout –

The Nov. 1, 2013 notice in the Federal Register states that 1,026 birds are listed on the MBTA

Page 19, Section 7.5.1 –

Golden eagles do not nest in the eastern United States. Surveys should be conducted to document presence or absence of wintering golden eagles in the project area from December through early March. Aerial surveys are unlikely to successfully document golden eagles because they tend to stay below tree line. Camera trap surveys have had success in identifying individual golden eagles on wintering territories. Todd Katzner and Trish Miller have data sets from golden eagles with GPS transmitters that they may be willing to provide.

Page 19, Section 7.5.1 -

Aerial surveys for bald eagle nests should be conducted during the breeding season, preferably before leaf out. The presence of the eagles at the nest often helps to find the nest as the bright white head of the bird will stand out, particularly in conifers. It can be difficult to identify a large nest structure conclusively as an eagle nest without the birds being on territory and at the nest. Many former bald eagle nests are appropriated by other species. Future surveys should be conducted during the breeding season, with January through March or April as targeted months.

Page 20, Section 7.5.1 -

Surveys should be conducted along the entire length of the proposed pipeline in Virginia. Surveys should be conducted for at least 0.5 mi on either side of the proposed pipeline in areas of dense forest. Surveys

should be conducted for at least 1.0 mi of either side of the proposed pipeline in areas with open line of sight.

Page 20 –

Limited short-term disturbance related activities can occur within 660 feet of nests that have been inactive for longer than two years; however, permanent habitat changes, such as tree clearing, should not be conducted within 330 feet of the nests. The recommendations found in the National Bald Eagle Management Guidelines should be applied to alternate nests that have not been used in the previous two years as they are more restrictive than the VDGIF guidelines.

Page 21, Section 7.7 –

If blasting is occurring in Jefferson National Forest, bald eagle surveys should have been conducted for 0.5 mi on either side of the proposed route.

General Comments –

The plan does address the potential presence of golden eagles in the project area; however, there are no survey results, data collected or avoidance and minimization measures for golden eagles. These should be provided in order to accurately assess the risk to golden eagles. The current survey effort for bald eagles does not adequately address the likelihood of their presence. In order to avoid project delays due to the late discovery of a nest, we recommend additional survey effort prior to the beginning of the project.

General avoidance and minimization measures for bald and golden eagles should be included in the plan. Simple measures, like keeping the project site clean of garbage, ensuring that vehicles drive slowly to avoid hitting animals and creating carrion, and encouraging hunters in the area to bury or remove gut piles can decrease the likelihood that eagles will be drawn to the construction site. Winter tree clearing should be avoided in areas with high concentrations of wintering golden eagles. Measures to reduce noise should be implemented whenever possible. Blasting should be minimized and measures taken to reduce noise and vibration effects whenever possible. A qualified observer should be present whenever construction is occurring to identify the presence of bald or golden eagles and implement the appropriate avoidance and minimization measures. If a nest is discovered within 660 feet of the project, work should stop until the appropriate USFWS field office has been contacted and recommendations have been provided.