



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Pennsylvania Field Office
110 Radnor Road, Suite 101
State College, Pennsylvania 16801-4850

February 7, 2016

CP15-138

Alisa M. Lykens, Chief
Division of Gas – Environment and Engineering
Federal Energy Regulatory Commission
888 1st St NE
Washington, D.C. 20426

RE: USFWS Project #2014-0324
Atlantic Sunrise

Dear Ms. Lykens:

This letter regards the Transcontinental Gas Pipe Line Company, LLC (Transco) - Atlantic Sunrise Expansion project located in Susquehanna, Wyoming, Luzerne, Columbia, Northumberland, Schuylkill, Lebanon, and Lancaster Counties, Pennsylvania. The following comments are provided pursuant to 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.

Transco proposes to expand its current interstate natural gas pipeline system by connecting their existing natural gas facilities and gathering system in Susquehanna County, Pennsylvania to markets in the Mid-Atlantic and southern United States. The proposed project consists of 58.4 miles of new 30-inch-diameter pipeline at the northern portion of the project, Central Penn Line (CPL) North; and 126.6 miles of new 42-inch-diameter pipeline at the southern portion of the project, CPL South; 2.5 miles of new 36-inch-diameter and 8.5 miles of 42-inch-diameter pipeline loops in Pennsylvania; two new compressor stations in Pennsylvania; additional ancillary facilities, such as mainline valves (MLVs), cathodic protection, communication facilities, and internal inspection device (e.g., pig) launchers and receivers in Pennsylvania; two new meter stations and three new regulator stations with interconnecting piping in Pennsylvania; additional compression and related modifications of an existing compressor station in Pennsylvania.

On February 3, 2017, the Federal Energy Regulatory Commission (FERC) granted Transco's requested certificate authorizations, subject to conditions. Appendix C. Environmental Condition 34 (page 89) references completion of a Memorandum of Understanding (MOU) between the Service and Transco, related to the voluntary conservation measures that Transco

will provide to offset the removal of upland forest and indirect impacts on interior forests. No MOU of this nature is required; therefore, all Service comments on migratory birds and impacts to forest habitat are contained herein, following our review of Transco's February 7, 2017, Migratory Bird Plan.

Assessment of Risks to Migratory Birds

The Service is the principal Federal agency charged with protecting and enhancing populations and habitat of migratory bird species. The Migratory Bird Treaty Act 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 allowing unauthorized take, the FWS recognizes that some birds may be taken during activities such as pipeline construction even if all reasonable measures to avoid take are implemented. The FWS's Office of Law Enforcement carries out its mission to protect migratory birds not only through investigation and enforcement, but also through fostering relationships with individuals and industries that proactively seek to eliminate their impacts on migratory birds. Although it is not possible under the MBTA to absolve individuals, companies, or agencies from liability (even if they implement avian mortality avoidance or similar conservation measures), the Office of Law Enforcement focuses on those individuals, companies, or agencies that take migratory birds with disregard for their actions and the law, especially when conservation measures have been developed but are not properly implemented.

Transco has considered impacts to migratory birds during project planning, as outlined in their February 2017 Migratory Bird Plan (Plan), which was originally received by the Service on December 23, 2015. Several revisions to the Plan occurred due to a project route change and other updates. The updated Plan was submitted to the Service on February 7, 2017.

According to the Plan, the proposed project will directly impact 262.6 acres of interior forest during construction, of which 144.2 acres will be allowed to return to successional habitat and eventually forest. Transco calculated indirect impacts as a measurement of the length of the pipeline centerline crossing interior forests, and an assumed indirect impact area of 300 feet on either side of the centerline. Using this methodology, the Project will indirectly impact 1,307.7 acres of interior forest.

To minimize impacts to migratory birds, Transco has committed to implement the measures outlined in their Plan for the subject pipeline project. In addition to a conservation-minded design that reduces the overall project impacts to forest habitat, commitments also include conducting vegetation clearing within migratory bird key habitat areas (as discussed in Section 3.2, defined in Table A-1 and identified on Figure B-1 of the Plan) between August 1 and March 31 to minimize impacts on breeding migratory birds in these areas. Transco will also make all reasonable efforts to avoid clearing in other, non-key habitat areas during the breeding season.

The Service appreciates Transco's efforts to work with the Service to develop a plan that will minimize impacts to migratory birds and their habitat. With implementation of avoidance and minimization measures identified in the Plan and execution of commitments identified in the mitigation section of the Plan, including the voluntary contribution of \$11,944,026 to The

Conservation Fund that will be used to acquire and protect migratory bird habitat, commensurate with habitat impacts identified in the Plan, the Service agrees that this project meets the expectations established in the March 2011, MOU between the Service and FERC regarding Implementation of Executive Order 13186, "Responsibilities of Federal Agencies to Protect Migratory Birds."

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

Please contact Pamela Shellenberger of this office at (814) 234-4090 if you have any questions or require further assistance regarding this matter.

Sincerely,



Lora Z. Lattanzi
Field Office Supervisor

cc:

G. Netti – Ecology and Environmental, Inc.

J. Dean – Transco

Joanne Wachholder – FERC