



United States Department of the Interior



OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Custom House, Room 244
200 Chestnut Street
Philadelphia, Pennsylvania 19106-2904

IN REPLY REFER TO:

January 9, 2011

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ER 11/1002

Mr. Bruce Olson
Project Manager
Environmental Projects Branch 2
Division of New Reactor Licensing
Office of New Reactors
U.S. Nuclear Regulatory Commission,
Washington, DC 20555-0001

Dear Mr. Olson:

The U.S. Department of Interior (Department) has reviewed the Draft Environmental Impact Statement (DEIS) for the Combined License (COL) for the Enrico Fermi Unit 3 proposed by Detroit Edison Company (DTE) (NUREG-2105). Fermi 3 is co-located with Units 1 and 2, Monroe County, Michigan, on the shore of Lake Erie. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (ESA), as amended, and are consistent with the intent of the National Environmental Policy Act of 1969 and the U. S. Fish and Wildlife Service's Mitigation Policy.

Federally Threatened and Endangered Species

To facilitate compliance with Section 7(c) of the Endangered Species Act of 1973, as amended, Federal agencies are required to obtain information from the U. S. Fish and Wildlife Service (FWS) concerning any species, listed or proposed to be listed, that may be present in the area of proposed action.

The DEIS identifies six federally-listed species in Monroe County, Michigan that may inhabit the project area. The FWS is reserving substantive comments regarding federally listed species until they are provided an opportunity to review the forthcoming biological assessment. At that time, consultation pursuant section 7 of the ESA will continue. The construction of the transmission lines will require a separate section 7 consultation as it is considered a separate project by the Nuclear Regulatory Commission (NRC). The FWS recommends that the NRC not issue a license for Fermi 3 until section 7 consultation has been completed.

Bald Eagles

There is a known bald eagle territory that overlaps DTE's FERMI 3 project boundary. As outlined in the FWS Bald Eagle Management Guidelines (<http://www.fws.gov/midwest/eagle/guidelines/guidelines.html>), the FWS recommends no construction activity within a buffer distance of 660 feet from any existing or recently existing nest if the proposed activity is visible from the nest and/or a resulting structure will be over three stories tall. Because the locations of proposed project-related construction activities appear to fall outside the recommended 660 foot nest buffer around the current active nest, the FWS has determined that this project, at this time, is unlikely to result in take of breeding eagles. This determination should only be considered valid as long as activities associated with the chosen project alternative continue to fall outside of the aforementioned 660 foot buffer around the current active eagle nest and there are no new eagle nests identified in the area.

It is worth noting that the breeding pair of eagles that occupy the nearby territory have constructed five nests in the last ten years (resulting in one new nest approximately every other year) on FERMI property, and have used all but one of them for nesting during that same time period. An unused nest was constructed in 2011 and is likely to be used for breeding at some point in the future. Because these eagles frequently relocate nest sites, and because the project start date may be one or several years down the road, it is very difficult to predict impacts to these eagles from this project. As such, FWS recommends that DTE remain in close contact with FWS Field Office in Michigan regarding changes in eagle nest locations. If a new nest were to be built, or an inactive nest be occupied in the future and project activities cannot be modified to avoid a potential disturbance, an eagle take permit may be necessary.

Additionally, since the project is located in the proximity of eagle foraging and roosting habitat both during breeding and in the winter, along with the above finding, the FWS encourages you to implement the following recommendations to further avoid impacting bald eagles:

- Minimize potentially disruptive activities (as outlined in the Guidelines) and development in the eagles' direct flight path between any known nests, roost sites and/or important foraging areas.
- Avoid loud, intermittent noises within one-half mile of known eagle nest locations during the breeding season and known eagle use areas when eagles are present .
- Protect and preserve potential roost and nest sites by retaining, when possible, mature trees and old growth stands within one-half mile of water.
- Employ industry-accepted best management practices to prevent birds from colliding with any lines, poles, and tower supports.
- Use pesticides, herbicides, fertilizers, and other chemicals only in accordance with federal and state laws.

Migratory Birds

The DEIS identifies several species of woodland and grassland bird species or their habitats that fall under protection of the Migratory Bird Treaty Act. Because the proposed project site very likely provides nesting habitat for migratory birds, we have concerns that the proposed project may also impact migratory birds. Under the Migratory Bird Treaty Act of 1918, as amended, it is unlawful to take, capture, kill, or possess migratory birds, their nests, eggs, or young. We

recommend that removal of potential nesting habitat associated with the proposed project be completed before spring nesting begins or initiated after the breeding season has ended to avoid take of migratory birds, eggs, young, and/or active nests. Specifically, we recommend that no habitat disturbance, destruction, or removal occur between April 15 and August 15 to minimize potential impacts to migratory birds during their nesting season, but please be aware that some species may initiate nesting before April 15.

Wildlife Habitat

Approximately 197 acres of terrestrial wildlife habitat on the proposed Fermi 3 site will be disturbed and of that, 51 acres will be permanently lost. We would recommend DTE develop a wildlife management plan to compensate for the loss of wildlife habitat to be reviewed and approved by the FWS Field Office in Michigan. There will be approximately 130 acres of grassland-type habitat either permanently or temporarily lost due to the construction of Fermi 3 and associated appurtenances. The plan should include development of quality grassland habitat to offset the loss and to provide nesting habitat for grassland avian species (i.e., bobolink, Eastern meadowlark, savannah sparrow).

Wetlands and Aquatic Habitats

Approximately 34.5 acres of wetlands will be affected from the construction of Fermi 3. Of that, 27.7 acres will be temporarily disturbed and will be restored. Approximately 8.3 acres would be permanently lost at the site. To offset any wetland loss, DTE has developed an aquatic resource mitigation plan that includes restoring or enhancing approximately 82 acres of wetland offsite in the coastal zone of Western Lake Erie. The FWS agrees conceptually with the mitigation plan although according to the FWS's mitigation plan, coastal wetlands may be considered Category 1, with a goal of "no loss of existing habitat value." Therefore, the 0.80 acres of emergent coastal wetlands proposed to be impacted by the project should not lose any existing habitat value.

Pgs. 2-74, and 9-202: The information presented in the document on the Lake Erie fishery could be more thorough. USGS suggests that the Final EIS include the information available from the website: http://www.glsc.usgs.gov/_files/reports/2009LakeErieMonitoring.pdf

Pg. 2-121: The document does not indicate that the tubenose goby (*Proterorhinus semilunaris*) has been collected in Swan Creek. USGS suggests the Final EIS include the information on the tubenose goby available from the website:
<http://nas.er.usgs.gov/queries/factsheet.aspx?SpeciesID=714>

Pg. 9-153: The information presented in the document on the Lake Huron fishery could be more thorough. USGS suggests the Final EIS include the information available from these websites:
http://www.glsc.usgs.gov/_files/reports/2009LakeHuronDemersal.pdf
http://www.glsc.usgs.gov/_files/reports/2009LakeHuronPreyfish.pdf

Pg. 9-202, paragraph 3: The tubenose goby (*Proterorhinus semilunaris*) is not included in the list of nuisance species. USGS suggests the Final EIS include the tubenose goby as a nuisance species. A suggested reference can be found at:
<http://nas3.er.usgs.gov/queries/CollectionInfo.asp?SpeciesID=714&HUCNumber=41000>

Water Intake

DTE has proposed a closed circuit cooling system with a cooling basin cooling tower for Fermi 3. This closed system can significantly reduce the water use by 96 to 98%, and significantly reduce the impingement or entrainment of aquatic organisms. DTE has also proposed a through screen velocity of 0.5 ft/s or less under all operating conditions which should also reduce entrainment and impingement. The system also allows impinged organisms to be washed from the traveling screens to be directed back to Lake Erie via a fish return system. We laud these measures to reduce entrainment/impingement but the DEIS has not addressed impingement of diving ducks. There are water intake structures at other nuclear power plants in the Great Lakes where this has become a problem. Ducks may be attracted to the intake structures to feed on the guagga/zebra mussels that colonized the intake and the surrounding substrate. The DEIS has not stated the depth of the intake. The depth could be greater than a diving duck's diving capabilities but DTE should address this issue in the forthcoming FEIS.

Summary

The FWS will provide more substantive comments regarding federally listed threatened and endangered species after they are provided the opportunity to review the biological assessment (BA). In the DEIS, on page 5-21, it is stated that "the Review Team will prepare a BA prior to issuance of final EIS", at which time the U. S. Fish and Wildlife Service, East Lansing Field Office will review the BA. Wetland loss should be mitigated and any affected coastal wetland should not lose any exiting habitat value. A wildlife management plan should be developed and provided to the local FWS Office for review and comment. The impingement of diving ducks should be addressed in any forthcoming NEPA documents.

We appreciate the opportunity to provide these comments.

Sincerely,



Lisa Chetnik Treichel
Program Manger,
Land, Energy and Transit Projects

cc: Dave Larsen & Jeff Gosse, USFWS, Bloomington. MN