Meeting Summary
USFWS Regions 3 and 5
Rover Pipeline Project – Indiana Bat and Northern Long-eared Bat Coordination
April 15, 2015

Attendees:
Karen Herrington – USFWS
Keith Lott – USFWS
Tiernan Lennon – USFWS
John Schmidt – USFWS
Jack Dingledine – USFWS (phone)
Jeff Gosse – USFWS (phone)
Beth Rigby – USFWS (phone)
James Bettaso – USFWS (phone)
Michael Nagy – Cardno
Christine Allen – FERC (phone)
Jennifer Ward – Cardno (phone)
Joey Mahmoud – Rover
Patricia Patterson – TRC
Buffy Thomason – Rover

Discussion:

Please note that since discussions oscillated between subjects, the following is summarized by subject more than order of occurrence.

Rover provided a presentation with details of the draft survey plan for Indiana and northern long-eared bats (IB and NLEB) for the Rover Pipeline Project (Project). Following the bats, the presentation included information on mussels and migratory birds in the event time permitted for a discussion of those additional considerations.

Formal and Information Consultation
During the presentation, the discussion began on the options of formal and informal consultation in relation to the Project schedule. Rover described, in general terms and in relation to the bat clearing window per state, the stages of the FERC process and the potential timeline for the Draft Environmental Impact Statement, Final Environmental Impact Statement, Certificate, and then the Notice to Proceed that would follow, at which time construction could start. Although FERC attempts to keep to a relatively standard schedule, the amount of time required for each stage of the FERC review process depends on many factors, which cumulatively affect the start of construction. Rover is hoping to receive final clearance from FERC to begin construction in January of 2016. That would afford Rover ample time to clear trees from all of the proposed facilities by the end of the tree clearing window, which is March 31st of any year. However, the closer to March 31st that FERC issues the Notice to Proceed, the less time Rover will have to

clear trees, and at some point, Rover could be left without enough time to ensure clearing is complete before March 31st. After further discussion, Rover concluded that formal consultation would be the most conservative approach to ensuring that the overall Project schedule and in-service could be maintained in regard to the potential variability in FERC's schedule and in accordance with USFWS regulations, whereas the FERC schedule and approval process could extend into March of 2016, eliminating the potential for Rover to comply with the standard clearing windows as defined by the USFWS in that region and by state. USFWS noted that formal consultation would require a minimum of 135 days and the request for formal consultation would need to be issued from FERC. Rover stated that they would follow up with FERC to initiate the discussion to begin the formal consultation process.

USFWS stated that the key to consultation would be to get to a "not likely to adversely affect" or a "likely to adversely affect but not jeopardize the continued existence of the species" determination through various modifications of the Project or mitigative efforts. The preferred and predominant method of minimizing impacts to IB and NLEB is by clearing outside of the roosting season, although other, secondary methods may be included to minimize impacts.

It was noted that the field offices vary in the tree clearing windows and the most important time is the non-volant/pup period occurring during the months of June and July, which were non-clearing times no matter the other mitigation measures. In formal consultation, it could be possible to clear during the roosting season, but most likely not during the non-volant period. In that case, buffers might be established around roost trees and a timing restriction employed to avoid the non-volant period. In informal consultation, no tree clearing could occur after March 31st in any areas where IB and NLEB are verified until the end of the roosting period, which varies by state.

In West Virginia, the clearing window is from November 15th - March 31st of any year. West Virginia has a set procedure for assessing impacts to bats based on the acreage of forested habitat being impacted by a project in relation to the surrounding habitat remaining. Other than clearing outside of roosting season, mitigative efforts such as girdling trees or other activities could be incorporated to minimize impacts from a project.

In Ohio, the clearing window is October 1st – March 31st, and in Michigan, it is October 1st – March 31st. The clearing window for Pennsylvania was not discussed. Rover was made aware of a new survey guidance document which has an appendix dedicated to linear projects and agreed to review and follow the new guidance as much as possible.

It was noted that in formal consultation, presence for bats could not be assumed in areas that tree clearing may take place within the roosting season. Rover had previously proposed to assume presence in southeast Ohio, West Virginia, and Pennsylvania, per previous consultations with USFWS, and as described in the draft Biological Evaluation, and had not anticipated surveying for bats in those areas. However, with the guidance provided from the USFWS, Rover is going to conduct the surveys in all areas where construction may occur within

the traditional non-clearing window. USFWS also requested surveys in Pennsylvania regardless of clearing times.

Rover provided the possibility of staging construction of the various pipeline segments to accommodate clearing windows. Rover may be able to postpone clearing of some of the pipeline segments to not begin until the fall of 2016, in accordance with the various clearing windows per state. The areas that could be cleared within the window would not be surveyed for IB and NLEB. The areas that would potentially be cleared during the roosting season, would be surveyed for bats. All of these details, including any other avoidance or mitigative efforts, would be described in the BA per pipeline segment.

Rover continued to offer to provide funding for additional staff to support the effort to review the Project, via the third party reimbursement program utilized by the USFWS. The USFWS agreed to coordinate with FERC and Rover to develop a BA/BO for the Project as quickly as possible to facilitate its inclusion in the FERC review process.

Rover asked for guidance for bat surveys regarding the number of specimens to be tracked with telemetry if multiple specimens are netted at a single net site, and if there was a preference as to the sex of the species to be tracked. USFWS stated that multiple specimens may be requested, but it could depend on the location. USFWS will verify and respond. Rover asked if the field offices would review a draft survey protocol with proposed survey locations for each state, to give recommendations or general approval. The field offices stated they would review the draft plans. Rover understands that the permitted bat surveyors will also have to submit individual plans to the field office prior to beginning surveys.

Mussels

Rover spoke about the mussel surveys that are proposed for the Project. The West Virginia field office inquired about whether Meathouse Fork and the two crossings of Middle Island Creek could be avoided. It was determined that Rover is not crossing Meathouse Fork, and the Middle Island Creek crossings cannot be avoided, and are proposed to be horizontal directional drills (HDD). The West Virginia field office requested geotechnical information to assess the likelihood of failure or frac-out for the drills, as well as a contingency plan for the drills, or multiple options for the drill if possible. Rover replied that there are HDD plans for the drills and the HDD Plan, which have all been filed with FERC and can be provided.

Other Species

It was noted that the eastern hellbender is present in Captina Creek and Witten Fork. Captina Creek is proposed as an HDD and previous discussions with the USFWS Columbus field office had verified that Rover does not cross the portion of Witten Creek where the eastern hellbender is present. No surveys for the eastern hellbender are proposed.

For snakes, Rover requested in the draft Biological Evaluation that surveys occur just prior to construction. However, it was mentioned during the discussion that USFWS may accept

surveys this year. The Columbus and Michigan USFWS field offices stated they would review the existing records for copperbelly water snake to assess the likelihood presence along the Rover pipeline route and possible need for surveys.

Migratory Birds and the Habitat Evaluation Assessment (HEA) Tool

A discussion commenced concerning migratory birds and the Habitat Evaluation Assessment tool. USFWS stated that work can be allowed during nesting time, unless there are nesting Birds of Conservation Concern (BCC) in the area. If BCC are in the area, then no clearing of an active nest could occur until after the bird left the nest. It may also be recommended to skip the clearing of areas with heavy roosting of BCC. BCC surveys are typically recommended for May and June of any year. Rover agreed that there would most likely be some form of mitigation and depending upon the data and consultation process, felt comfortable that the parties would reach an agreement. However, Rover and the USFWS did not agree on the definitions of presence, timing restrictions or assumed presence and restrictions, but did agree to further the discussion to reach a mutually agreeable conclusion.

For mitigation, there would be no 'double-dipping', in that mitigation would be assessed based on the highest ratio for any area. USFWS noted that habitat for listed bat species usually includes older forests, meaning those habitats usually have an equal or higher ratio than habitat for migratory birds.

Rover is conducting surveys to provide additional data for the HEA evaluation than was originally obtained during the initial biological surveys, including characterizing tree size composition of surveyed stands and diameter at breast height (DBH) and species for all trees ≤7 inches DBH in survey plots. USFWS had previously reviewed and commented on the data sheet being utilized for this effort. In addition, Rover offered to send a sample of the data being collected to ensure that it adequately meets requirements and facilitates the HEA process.

USFWS will also want details in the BA documenting avoidance and reduction of impacts that Rover has incorporated into the Project to date, and additional avoidance and reduction that may occur as analysis of the data and species surveys occur.