



ROVER PIPELINE
An ENERGY TRANSFER Company

June 6, 2016

Mr. Jeff Gosse
U.S. Fish and Wildlife Service
5600 American Blvd. West, Suite 990
Bloomington, MN 55437-1458

Subject: Rover Pipeline Project
Response to DEIS Comments

Dear Mr. Gosse:

Please accept this letter in response to the letter submitted directly to the Federal Energy Regulatory Commission (FERC) by the U.S. Department of Interior, U.S. Fish and Wildlife Service (USFWS) on April 1, 2016 concerning the Rover Pipeline Project (Project).

As noted in the April 1st letter, Rover Pipeline LLC (Rover) concurs that the list of counties that overlap known Indiana bat (*Myotis sodalis*) occurrences should include Monroe, Noble, Tuscarawas, Wayne, Seneca, and Crawford, as originally referenced in a July 23, 2014 letter from the USFWS Columbus Field Office to Rover.

Per the request in the April 1st letter, as well as a request within a letter from April 16, 2016 from the West Virginia Field Office, Rover is committing to conducting surveys for Indiana bat (*Myotis sodalis*) in areas outside of the known-use buffers. Specifically, Rover is proposing to conduct mist-net surveys, which can occur between June 1st and August 15th. While Rover intends to complete the surveys as quickly as possible, the Final Environmental Impact Statement is also scheduled to be finalized during this time.

The DEIS included the following condition concerning surveys:

“Rover should not begin construction of the Rover Pipeline Project until:

- a. all outstanding bat surveys have been completed;*
- b. species conservation plans and compensatory mitigation have been approved by the FWS or state regulatory authority;*
- c. the FERC staff completes any necessary ESA Section 7 consultation with the FWS;”* (section 4.7.2, page 4-135).

The USFWS supported the above condition in the April 1st letter. However, since Rover is committing to conduct Indiana bat surveys in the portion of the Project in West Virginia, and since the surveys can only be conducted from June 1st to August 15th, while the FEIS will be finalized, Rover is requesting concurrence from the WVFO, Department of Interior, and FERC that the condition be amended to the following two conditions:

1. *“Rover should not begin construction of the Rover Pipeline Project until:*
 - a. species conservation plans and compensatory mitigation have been approved by the FWS or state regulatory authority;*

b. *the FERC staff completes any necessary ESA Section 7 consultation with the FWS;*" (section 4.7.2, page 4-135)."

2. *"Rover should not begin construction of the Majorsville, Sherwood, or CGT laterals within West Virginia in areas where required bat surveys have not been completed."*

Rover is working with the USFWS to finalize the Migratory Bird Conservation Plan (MBCP), including avoidance and minimization measures and associated voluntary mitigation contribution. Rover does not agree with the use of the term "compensatory mitigation" as that would indicate mitigation for take in regards to migratory birds and/or their habitat and since the Migratory Bird Treaty Act does not allow specific take, the use of the word is improper and misleading. However, Rover is committed to a "voluntary mitigation contribution" and is coordinating with the USFWS to execute a Memorandum of Understanding in this regard.

Rover has revised its construction schedule and intends to conduct clearing within the approved clearing window for listed bat species in each state and will revise the MBCP accordingly. As noted in the DEIS, this coincides with the clearing window for the migratory bird nesting season. However, the DEIS stated that the clearing window should be October 15th through March 31st for the entire Project. As noted in the April 1st letter from the USFWS, Rover is requesting the clearing dates be amended in the Final EIS to October 1st through March 31st for Pennsylvania, Ohio, and Michigan, and November 15th through March 31st for West Virginia.

Rover intends to complete all required clearing in the approved seasonal clearing windows for each state as stated above; however, since clearing will depend on agency approval and acquiring right-of-way easements, a situation could occur where Rover would not have the ability to clear timber in the timeframe. If Rover is not able to complete all clearing activities within the approved clearing window, Rover will consult with the USFWS for those specific locations and, if necessary, will work with FERC and the USFWS for formal consultation under Section 7 of the ESA should those conditions arise during the construction of Rover.

If you have any questions or require additional information please contact me at 713-989-2844 or Buffy.Thomason@energytransfer.com or Patricia Patterson at 978-656-3540 or ppatterson@trcsolutions.com.

Sincerely,



Buffy Thomason
Environmental Project Manager
Rover Pipeline LLC