



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE
110 S. Amity Road, Suite 300
Conway, Arkansas 72032
Tel.: 501/513-4470 Fax: 501/513-4480



May 21, 2013

Reference: TA0802

Anthony Bassak
Burns & McDonnell
15950 N Dallas Parkway
Suite 700
Dallas, TX 75248-6630

Dear Mr. Bassak:

The U.S. Fish and Wildlife Service (Service) has reviewed the information provided in your letter dated August 31, 2012, regarding SWEPCO's proposed construction of approximately 50 miles of new electrical transmission lines and a new Kings River Station near the City of Centerton, Benton County, Arkansas. In response to this letter, on September 7, 2012, our office provided a technical assistance letter with a list of threatened and endangered species known to occur in this region and recommendations for the use of best management practices. The Service has acquired new information relevant to this proposed project. Our comments are submitted in accordance with the Endangered Species Act (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.), the Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668-668c) and the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703-712).

According to the shapefiles provided by Sarah Waddoups, (Matthews, Campbell, Rhoads, McClure and Thompson, P.A.) on May 6, 2013, the proposed transmission line project will occur within the known range of the federally endangered Indiana bat (*Myotis sodalis*). As of May 2013, the Service has provided a revised version of the Indiana Bat Summer Survey Guidelines. The Service recommends adhering to these guidelines when determining the presence/absence of Indiana Bat within the project area. The guidelines can be found at:
<http://www.fws.gov/midwest/Endangered/mammals/inba/inbasummersurveyguidance.html>.

In addition, the proposed project will occur in the known range of the federally protected Bald Eagle (*Haliaeetus leucocephalus*), Golden Eagle (*Aquila chrysaetos*) and other migratory birds. The BGEPA prohibits the take ("take" includes pursue, shoot, shoot at, poison, wound kill capture, trap collect, molest or disturb (16 U.S.C. 668c; 50 CFR 22.3)) of Bald and Golden Eagles. Activities that directly or indirectly lead to take are prohibited without a permit. Projects occurring within 660 feet of a bald eagle nest, including alternate nests, are likely to disturb nesting bald eagles (a potential violation of the Bald and Golden Eagle Protection Act).

Information can be found on the U. S. Fish and Wildlife Service website (<http://www.fws.gov/southeast/es/baldeagle>) to determine if the new or intermittent activity is likely to disturb nesting bald eagles and measures that you can take to avoid that disturbance.

The MBTA 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. The Service recommends developing an Avian Protection Plan (APP) for the project and utilizing the updated Service guidance document entitled “Reducing Avian Collisions with Power Lines: State of the Art in 2012”. This document as well as guidance for the APP can be found at www.aplic.org.

Proposed Route Number 109 passes directly over the recharge area for two caves known to support the federally listed endangered Cave crayfish (*Cambarus aculabrum*). The Service recommends avoiding these areas. If avoidance is not possible, the Service recommends strict adherence to best management practices for “erosion and sediment control” and “construction in sensitive areas” as provided in the Service letter dated September 7, 2012. Additionally, mechanized clearing and maintenance of right-of-ways is recommended over chemical applications to avoid impacts to the Cave crayfish and other cave dwelling species.

We appreciate the opportunity to provide these comments. If you need any further assistance please contact Tommy Inebnit at (501) 513-4483 or thomas_inebnit@fws.gov.

Sincerely,

Jim Boggs
Project Leader