

<b>SUBJECT:</b>	Northern Pass Northern Long-eared Bat Surveys
<b>DATE:</b>	July 23, 2013
<b>LOCATION:</b>	USFWS – Concord, NH
<b>AUTHOR:</b>	Courtney Dohoney
<b>ATTENDEES:</b>	Maria Tur, Tony Tur (US Fish and Wildlife Service), Caitlin Callaghan (US Department of Energy, via phone), Travis Beck (SE Group, via phone), Dan Belin, Courtney Dohoney (Ecology and Environment, Inc.), Lee Carbonneau and Sarah Barnum (Normandeau and Associates), Jacob Tinus (Burns & McDonnell)

## MINUTES:

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After introductions, Lee Carbonneau explained that the objective of this meeting for Northern Pass was to get guidance on how U.S. Fish and Wildlife Service (USFWS) perceives the project proceeding so that it is in compliance with the Endangered Species Act (ESA). She noted a particular interest in how USFWS would like to handle surveys and project impacts to the northern long-eared bat (*Myotis septentrionalis*) which has been proposed to be federally listed as an endangered species under the ESA. In response, Tony Tur gave a summary of all threatened and endangered (T&E) species with the potential to occur within the project area.

**Canada Lynx (*Lynx canadensis*):** The distribution of the federally listed threatened species throughout the state of New Hampshire was largely unknown until an increased survey effort in the last couple years. After coordinating with New Hampshire Fish and Game and U.S. Forest Service – White Mountain National Forest, it has been determined that habitat around Pittsburg, NH is the only location in the state where there is believed to be a consistent denning population. They may occur elsewhere in the state, but they would be considered transient in those locations. The only area Tur is uncertain about the status of the lynx population is Kinsman Ridge in the White Mountain National Forest. Bobcats largely outcompete lynx, which is the reason for their limited distribution in the state. The recent Revised Designation of Critical Habitat for the Canada lynx released for public comment by USFWS provides support for the distribution through New Hampshire and should be considered USFWS’s position on the issue. As a result of the increased understanding of the species distribution, USFWS is no longer as concerned with impacts to denning habitat as a result of tree clearing. Impacts to transient lynx populations could still occur but take as a result of habitat impacts are unlikely to be significant.

**Karner Blue Butterfly (*Lycaeides melissa samuelis*):** The project as currently proposed will not be able to avoid the location of a known Karner Blue Butterfly (KBB) population. The federally listed endangered species occurs in the current Public Service New Hampshire right-of-way near the Concord Airport. Tony felt that some level of take is unavoidable with this route, but the magnitude of the take could vary widely depending on the construction timing and methods employed. Lee reported that they are currently calculating impacts and another meeting will be necessary after the impacts have been completed. Tony specified that take could be calculated by assessing the number of lupine plants impacted and the number of lupine plants with larvae

present. Minimization measures could be implemented to nearly eliminate take. Seasonal restrictions on construction in the ROW (construction only during the dormant period for lupine) or using low pressure construction equipment to minimize damage to vegetation could be utilized along with marking areas with lupine ahead of time so the area can be avoided. Mitigation for unavoidable take could include obtaining and managing parcels of land near the current KBB population, thus creating larger areas of connected habitat for the species which will help the sustainability of the local KBB population. Lee asked if Tony had an idea of the impact level for KBB right now, which he did not due to the lack of construction detail right now. Decisions like mowing the entire ROW in the summer and constructing during that season compared to using tracked equipment and constructing during the winter would result in vastly different levels of impact. Tony suggested looking at the Biological Opinion from the Concord Airport to see how USFWS handled KBB.

**Northern Long-eared Bat:** Tony reported that the USFWS extended the comment period for the species and he is unsure of what the Service's final decision will be. With respect to the Northern Pass project, tree clearing in the ROW is the primary concern both from a habitat loss perspective as well as from direct mortality that can result when trees are cleared during the summer season when the bats are roosting in the trees.

As far as project-specific surveys for the species, Tony pointed to the USFWS's Northern Long-Eared Bat Interim Conference and Planning Guide (NLEB Planning Guide), which contains guidance for conducting presence/absence surveys for the species during the 2014 field season. Tony noted that another utility company with a project running from New Jersey to Boston was utilizing the survey protocol but using acoustic detectors only where tree clearing would occur and then mist-netting if any *Myotis* species were detected. Tony confirmed that per the NLEB Planning Guide, "habitat" constitutes any trees that are more than three inches diameter at breast height. Sarah noted that a large extent of the proposed route has some level of habitat clearing associated with it. Tony questioned whether the project could clear areas out of season, thereby reducing the need for surveys. Tony clarified that the state of New Hampshire follows New York State's clearing dates which are October 1 – May 1. Considering the amount of NLEB habitat that is available throughout the state, habitat loss resulting from the project is not a significant concern for USFWS. Their primary concern stems from the potential for direct mortality to occur when individual roost trees are felled during the day in the summer season when the bats are present, including non-volant juveniles, and can be crushed when the tree falls. If Northern Pass can agree to seasonal clearing restrictions, then Tony felt there would be no effect and even informal consultation would be unnecessary. If Northern Pass is unable to guarantee clearing out of season, then some level of acoustics and targeted mist-netting if *Myotis* species are detected, should be conducted. If no *Myotis* species are detected on the acoustics then clearing can proceed as no impacts are expected.

Courtney asked about the expected time period for bat surveys – now versus closer to construction. Lee expressed concern that the data set might not be complete for New Hampshire Site Evaluation Committee purposes if Northern Pass waits to do surveys closer to construction. Tony noted that if surveys are conducted now, the impacts would show the worst case scenario for take as the number of NLEBs are greater now and more common so it's less likely for the species to be present in the project once the population numbers decrease further.

Jacob suggested that a Programmatic Agreement between Northern Pass and USFWS with a decision tree for where and how to survey (habitat, acoustics, mist-netting) should sections of the project not allow for out of season clearing.

Sarah asked whether areas with forested habitat could be excluded from being considered suitable NLEB habitat because they are too dense to allow for foraging and flight corridors. Dan mentioned that if Northern Pass intends to re-fly the route for LiDar that they might be able to use stem counts derived from that data set to determine areas where habitat may not be suitable (too dense for NLEB to fly).

Travis mentioned that White Mountain National Forest is currently doing a biological assessment for NLEB for Forest Service activities. The potential for take for one project could potentially affect the potential for another project to obtain take coverage since a jeopardy determination could be reached very quickly with the population declines that are being documented.

Lee noted that ideally Northern Pass and the DOE team could share bat data so that there is not an unnecessary double survey effort. Dan pointed out that much like the cultural resource surveys, sharing of the data between Northern Pass and DOE is challenging. Publishing the DOE data might be the only way to make it available to Northern Pass.

**Migratory Birds:** Maria asked about Northern Pass' migratory and breeding bird survey effort. Sarah stated that Northern Pass is currently conducting an analysis of the predicted effects on migratory and breeding birds as a result of habitat fragmentation. Sarah further explained that targeted bird surveys were conducted (e.g. Bicknell's Thrush). Tony noted that per the settlement agreement with the Center for Biological Diversity, the USFWS has until 2017 to determine whether the Bicknell's Thrush should be protected under the Endangered Species Act.

Maria also noted that the USFWS Region is looking at a compensation requirement for projects that result in migratory bird habitat loss. Region 3 has previously implemented this effort but Region 5 is still trying to figure out how to implement the program. Sarah felt that the fragmentation analysis that is being developed for the project could help inform the impact analysis and resulting compensation. Maria said that she would attempt to set up a meeting with the USFWS Regional MBTA contact and send guidance from the Region 3 program. She further explained that the compensation of MBTA resources is being driven by Executive Order 13186 which promotes the conservation of migratory birds and their habitat in federal processes. Lee noted that a mitigation package would be forthcoming for the project and could include habitat conservation/protection using parcels that were purchased for the project as part of the routing effort.

**Timeline:** Maria asked what the current timeframe of the project is. Lee said that the DEIS and the SEC process will likely occur this winter. The SEC process takes one year so the siting permit will ideally be issued in early 2016 and construction will commence in fall 2016 and continue through 2017.

**Action Items:**

- Maria to provide information on Region 3's MBTA compensation program and put Northern Pass in contact with the Region 5 MBTA contact.