



RE: AB 303 (Sub-No. 46X) - Wisconsin Central/Lake County, IL

Robert A. Wimbish to: nadalsc@stb.dot.gov

12/01/2015 03:18 PM

History:

This message has been replied to.

1 attachment



USFWS TE No Effect.pdf

Good afternoon Cathy -

As you may know, in its decision in the above-referenced proceeding granting WCL's request for authority to abandon a rail line segment in Lake County, IL, the STB imposed the following three-part precondition to abandonment consummation and track salvage:

1. Under 49 U.S.C. § 10502, we exempt from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by WCL of the above-described line, subject to the employee protective conditions set forth in Oregon Short Line, and subject to the conditions that prior to beginning any salvage activities, WCL shall:

(a) consult with the Corps [Army Corps of Engineers] regarding potential impacts to the waters of the United States and comply with the Corps' reasonable requirements;

(b) consult with the USFWS to discuss potential impacts to any federally listed endangered or threatened species and report the results of this consultation to OEA in writing. Should any potential impacts be identified, WCL shall consult with OEA and USFWS to develop appropriate mitigation measures; and

(c) consult with the Illinois State Coastal Management Office, pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and the Board's environmental regulations, 49 C.F.R. § 1105.9, to determine whether state coastal management consistency certification is required. WCL may not file its consummation notice or initiate [sic.] any salvage activities related to abandonment until it reports the results of these consultations in writing to OEA and the Board has removed this condition.

I am sending this note to advise you, in writing, that WCL believes that it has satisfied the requirements set forth in Ordering Paragraph 1, above.

Attached hereto is a copy of a letter of "no effect" from USFWS in connection with consultations required under 1(b). I will supply to you under separate cover similar responses (sent to WCL via email in each case) from the Corps and the Illinois State Coastal Management Office.

I believe that you will find from the attached and the two emails that I will

supply to you in a moment that WCL has complied with the STB's consultation requirements, and that such consultation has not triggered any further documentation, certifications, or mitigation in connection with the proposed abandonment.

Please let me know if this email and the two that will follow in a moment are sufficient for you to recommend that the Board remove the three-part precondition in Ordering Paragraph 1.

- Rob

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Endangered Species

S7 Consultation Technical Assistance

Decision Process for "No Effect" Determinations

Projects within a Developed Area - Step 5

Step 5. "No Effect" Determination and Documentation

Your project will have "no effect" on federally listed species. A "No Effect" determination is appropriate because your project is

- within a Developed Area (an area that is already paved or supports structures and the only vegetation is limited to frequently mowed grass or conventional landscaping), and
- does not involve removing native vegetation.

Since it will not affect suitable habitat for listed species, no listed species or designated critical habitat is anticipated to be directly or indirectly affected by this action.

To document your section 7 review and "no effect" determination, we recommend that you print this page (go to File<Print Preview), fill-in the project name and date, attach your [species list](#), and file in your administrative record.

Project Name: *Waukegan Abandonment*

Date: *11-17-2015*

Kerry Starnig

[Back](#)

[Home - "No Effect" Determination Process](#)



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Chicago Ecological Service Field Office
1250 SOUTH GROVE AVENUE SUITE 103
BARRINGTON, IL 60010

PHONE: (847)381-2253 FAX: (847)381-2285

URL:

www.fws.gov/midwest/endangered/section7/s7process/7a2process.html

Consultation Code: 03E13000-2016-SLI-0041

November 17, 2015

Event Code: 03E13000-2016-E-00055

Project Name: Waukegan Abandonment

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

To Whom It May Concern:

The attached species list identifies any federally threatened, endangered, proposed and candidate species that may occur within the boundary of your proposed project or may be affected by your proposed project. The list also includes designated critical habitat if present within your proposed project area or affected by your project. This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation.

Please note! For all wind energy projects and projects that include installing towers that use guy wires or are over 200 feet in height, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

For all other projects, continue the Section 7 Consultation process by going to our Section 7 Technical Assistance website at

<http://www.fws.gov/midwest/endangered/section7/s7process/index.html>. If you are familiar with this website, you may want to go to Step 2 of the Section 7 Consultation process at <http://www.fws.gov/midwest/endangered/section7/s7process/step2.html>.

Under 50 CFR 402.12(e) (the regulations that implement Section 7 of the Endangered Species Act) the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally. You may verify the list by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation and

completing the same process you used to receive the attached list. As an alternative, you may contact this Ecological Services Field Office for updates.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at <http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html> to help you determine if you can avoid impacting eagles or if a permit may be necessary.

We appreciate your concern for threatened and endangered species. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

Official Species List

Provided by:

Chicago Ecological Service Field Office

1250 SOUTH GROVE AVENUE SUITE 103

BARRINGTON, IL 60010

(847) 381-2253

<http://www.fws.gov/midwest/endangered/section7/s7process/7a2process.html>

Consultation Code: 03E13000-2016-SLI-0041

Event Code: 03E13000-2016-E-00055

Project Type: TRANSPORTATION

Project Name: Waukegan Abandonment

Project Description: Proposed project includes removing existing railroad tracks and ties, and leaving embankment in place. There is no proposed grading or other improvements.

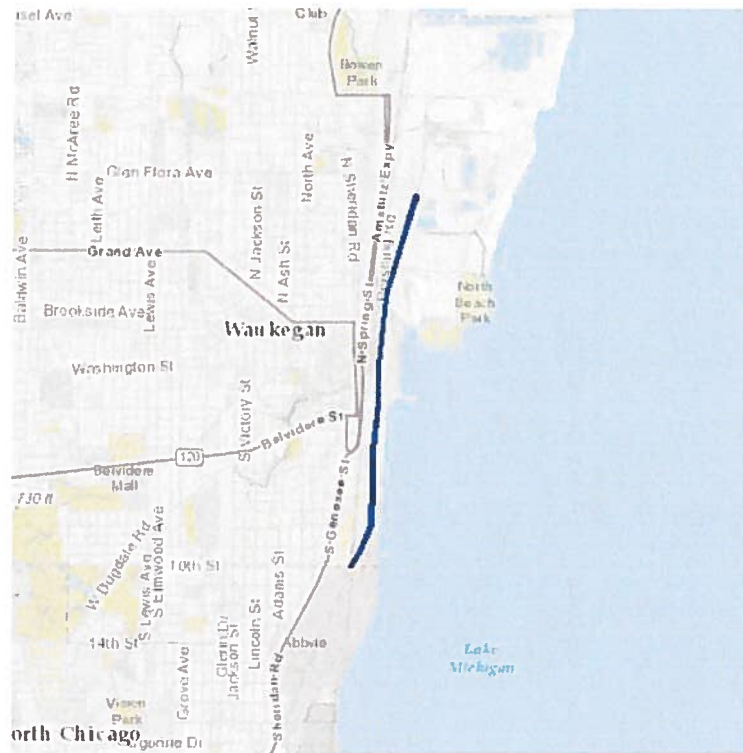
Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-87.8256892623409 42.36637203870001, -87.82654418865333 42.36005509210729, -87.82663098845141 42.35668645337797, -87.82723081837108 42.35219043926613, -87.82740482593076 42.34507018346585, -87.82888040053517 42.3425527911344, -87.83000721340444 42.34114112016663, -87.83012606056784 42.341090098258746, -87.83023451168006 42.34116056981036, -87.83023616893605 42.341289895510954, -87.82911179011424 42.34270054571925, -87.8276757266071 42.345135561355555, -87.8275037619148 42.35221933998027, -87.82690391952504 42.35671544756151, -87.82681708186405 42.36008447337575, -87.82595877497928 42.3664263986065, -87.82225891618418 42.375401370345564, -87.82218476330429 42.375475704406085, -87.8220797671818 42.37547583252014, -87.82200543312128 42.37540167964024, -87.82200530500722 42.37529668351775, -87.8256892623409 42.36637203870001)))

Project Counties: Lake, IL



United States Department of Interior
Fish and Wildlife Service

Project name: Waukegan Abandonment

Endangered Species Act Species List

There are a total of 7 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
Piping Plover (<i>Charadrius melodus</i>) Population: Great Lakes watershed	Endangered		
Red Knot (<i>Calidris canutus rufa</i>)	Threatened		
Flowering Plants			
Eastern Prairie Fringed orchid (<i>Platanthera leucophaea</i>)	Threatened		Will this project impact, directly or indirectly, emergent wetland, wet meadow, sedge meadow, fen, wet to mesic prairie, or marsh edges?
Pitcher's thistle (<i>Cirsium pitcheri</i>)	Threatened		
Insects			
Karner Blue butterfly (<i>Lycaeides melissa samuelis</i>) Population: Entire	Endangered		
Mammals			
Northern long-eared Bat (<i>Myotis</i>)	Threatened		



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<i>septentrionalis</i>)			
Reptiles			
eastern Massasauga (<i>Sistrurus catenatus</i>)	Proposed Threatened		



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Critical habitats that lie within your project area

There are no critical habitats within your project area.