



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chicago Ecological Services Field Office
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IN REPLY REFER TO:
FWS/AES-CIFO/8-FA-0250

March 18, 2009

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

RE: STB Finance Docket No. 35087

Dear Ms. Rutson:

This follows a meeting held in Griffith, Indiana on February 20, 2009, attended by representatives of the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service (Service), Canadian National (CN) and their consultants, and non-governmental organizations. At the meeting, representatives of CN requested relief from mitigation number 38, as stated in the final Environmental Impact Statement (EIS). We have reviewed the situation and have determined that measure number 38 is not necessary to protect the Indiana bat (*Myotis sodalis*), a federally listed endangered species.

Mitigation number 38 of the EIS specifically reads: "To avoid any direct take of Indiana bats, Applicants shall not remove trees within the former EJ&E ROW with a diameter of 3 or more inches between April 15 and September 15. Applicants shall avoid or minimize tree clearing and snag removal within project-related construction area limits."

The Biological Report addressed the life history, population dynamics, habitat requirements, rangewide status, and project area status of the Indiana bat and concluded that the proposed action may affect, but is not likely to adversely affect, the Indiana bat. We concur with this determination. Although there is potential summer nursery habitat for this species along the West Branch Little Calumet River in Lake County, Indiana, no activities associated with the action are proposed in this area (i.e. the existing EJ&E double bridge over the river and double tracks though the floodplain would not be altered). The various areas within Indiana and Illinois where construction is proposed to provide new connections between the EJ&E and CN tracks, new double tracks, and other related activities, do not contain suitable habitat for the Indiana bat. Specifically the area near Griffith Indiana, where CN plans to install a switching facility, is in an

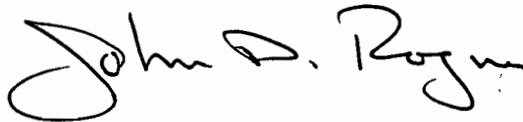
Ms. Victoria Rutson

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an urbanized area and the woodland area is too small to support Indiana bats. Cutting trees during the spring and summer would not likely adversely affect Indiana bats, because the area is highly unlikely to support this species.

Please let us know if we can be of further assistance in resolving this issue. If you have any questions, please contact Karla Kramer in this office at (847) 381-2253 ext. 12 (karla_kramer@fws.gov) or Elizabeth McCloskey in the Northern Indiana Suboffice at (219) 983-9753 (elizabeth_mccloskey@fws.gov).

Sincerely,

A handwritten signature in black ink, reading "John D. Rogner". The signature is fluid and cursive, with the first name "John" being the most prominent.

John D. Rogner
Field Supervisor

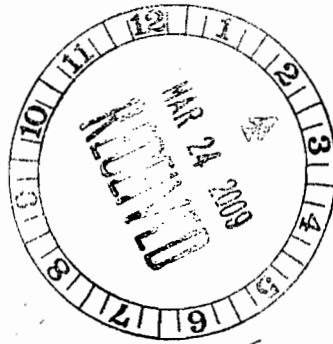
cc: Paul A. Cunningham, Counsel for CN, Washington, DC
Scott Pruitt, USFWS, Bloomington, IN
Elizabeth McCloskey, USFWS, Chesterton, IN

ES: EMcCloskey/03-18-09/CN EJ&E Indiana bat followup

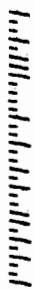
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