



United States Department of the Interior

Fish and Wildlife Service



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September 30, 2013

Mr. Dave Navecky
Surface Transportation Board
395 E Street, SW
Room 1104
Washington, DC 20423

RE: Docket No. FD 35523, CSX Transportation, Inc. – Joint Use – Louisville & Indiana Railroad Company, Inc.

Dear Mr. Navecky:

The U.S. Fish and Wildlife Service (FWS) has reviewed the draft Environmental Assessment (EA) for the aforementioned project and is providing the following comments. These comments are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U. S. Fish and Wildlife Service's Mitigation Policy.

Our office provided early coordination comments for this project on July 28, 2011, which also incorporated the Kentucky Field Office comments as well. At that time, we included threatened and endangered species information, as well as general comments and recommendations to minimize and avoid impacts to natural resources. The following comments and recommendations serve to update the FWS's Indiana and Kentucky Field Office's reviews based on the most recent project and species information.

According to the information provided in the EA, the proposed transaction would allow CSX Transportation, Inc. (CSXT) to jointly operate the Louisville & Indiana Railroad Company, Inc.'s rail line from Indianapolis, IN to Louisville, KY. As part of the joint use, CSXT proposes to fund improvements of the Line estimated to cost \$70 to \$90 million and to be completed within seven years. The upgrades would result in a Federal Railroad Administration (FRA) Class 4 track standard. With these upgrades, CSXT and L&I would operate at up to 49 mph over a majority of the Line. Improvements include: installing heavier weight and continuously welded rail over the entire 106.5-mile rail line, adding "hot box" detectors (devices located trackside that can prevent overheating by measuring the temperature of bearings), replacing older cross-ties, adding new ballast, and replacing the Flatrock River Railroad Bridge near Columbus, Indiana. CSXT would also increase the size of rail sidings at Elvin and Brook, Indiana, and build new sidings at Crothersville and Underwood, Indiana on the L&I rail line to make it easier for trains to pass one

another. Once the upgrades to the railroad are completed, it is anticipated that CXST will shift an estimated 13 to 15 trains per day to the upgraded route.

General Comments

Overall, the project appears to have minimal impacts to natural resources adjacent to the proposed project area. Most of the work will be contained within the existing right of way. The applicant and the Surface Transportation Board have proposed numerous measures to avoid and minimize impacts due to project construction, including seasonal tree-clearing restrictions for Indiana bat conservation, seasonal stream channel disturbance restrictions for the Flatrock River crossing, and various best management practices to reduce erosion, sedimentation, turbidity, and pollution of streams and adjacent habitat. Although there is a brief discussion of the bridge replacement project across the Flatrock River near Columbus, it is unclear if any other bridges or culverts will need to be constructed, including at the two new siding projects (Crothersville and Underwood locations). This information should be included, if applicable, in order to understand the full scope of the project's impacts. The EA indicates that over a mile and a half of new siding would be constructed in two locations but does not discuss how much forest clearing may be needed or what potential wetland and stream impacts would occur as a result of these projects. If additional bridges and culverts are required for perennial and large intermittent streams, we recommend minimizing the disturbance of stream channels and avoiding work during the primary fish spawning season (April 1 – June 15).

Endangered Species

Since the time of our original correspondence, changes in the status of several freshwater mussel species have occurred. Just this month, the rabbitsfoot mussel was added to the FWS's Threatened and Endangered Species List.¹ The rabbitsfoot is now listed as a threatened species. It is found in rivers and streams in Alabama, Arkansas, Georgia, Kansas, Kentucky, Illinois, Indiana, Louisiana, Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and West Virginia. The FWS estimates that it has been lost from about 64 percent of its historical range. While 51 of 140 historical populations are still present, only 11 populations are viable; 23 populations are at risk of extirpation and 17 populations do not seem to be reproducing at a level that can sustain the populations. Most of the existing rabbitsfoot populations are marginal to small and isolated. In Indiana it is found in Carroll, Cass, Fulton, Miami, Pulaski, Shelby, Spencer, Starke, Tippecanoe, and White counties.

Recently, the rabbitsfoot mussel has been found in the Flatrock River, which is one of the streams crossed by the project. Currently, the rabbitsfoot mussel is known to occur in the Flatrock River just across the border of Bartholomew County in adjacent Shelby County. These recent records are approximately 15 river miles upstream of the proposed railroad bridge replacement near Columbus, IN. We have contacted the state aquatic biologist to help further determine the distribution of this species in the Flatrock River, but have not yet obtained a

¹ The U.S. Fish and Wildlife Service published a final rule in the Federal Register on September 17, 2013 determining that the rabbitsfoot mussel (*Quadrula cylindrica cylindrica*) is considered a threatened species under the Endangered Species Act. This final rule implements the protections provided by the Act for this species and will become effective October 17, 2013.

response. Because of the limited survey information we have, a mussel habitat survey in the area of the Flatrock River Bridge replacement project may be necessary (if any instream work is required) to determine if any suitable habitat is present for the rabbitsfoot mussel prior to bridge construction activities. If suitable habitat is present, a mussel survey may be warranted. Based on this, we cannot determine at this time what, if any, impacts the bridge project may have on the rabbitsfoot mussel. Once final bridge plans are developed, please re-coordinate with our office for further consultation on this species.

In addition to the new listing of the rabbitsfoot mussel, within the past two years, three proposed species with occurrences in Indiana have become federally listed. Both the rayed bean (*Villosa fabalis*) and snuffbox mussel (*Epioblasma triquetra*) were listed on March 15, 2012. These species are considered extant in portions of Sugar Creek in central Indiana. The nearest snuffbox mussel record occurs in Sugar Creek in northern Shelby County. This site is over 15 river miles northeast of the railroad's crossing of Sugar Creek. The rayed bean is known to occur in a stretch of Sugar Creek in Johnson County, just west and north of Edinburgh. This area is very near where the line crosses Sugar Creek; however, according to the information provided, no bridge, culvert, or other instream work associated with the project is proposed in or near Sugar Creek, and therefore the project is not likely to adversely affect either of these species.

The sheepnose mussel (*Plethobasus cyphus*) was also recently listed as an endangered species on April 12, 2012. The sheepnose mussel is found in Carroll, Cass, Clark, Floyd, Fulton, Harrison, Jefferson, Knox, Marshall, Martin, Perry, Pulaski, Spencer, Starke, Switzerland, Tippecanoe, Vanderburgh, Warrick, and White Counties. In 2007, a fresh-dead specimen was found near 18 Mile Island in the Ohio River in Clark County. Based on the project description, no work is expected to occur in the Ohio River and therefore the project is not likely to adversely affect the sheepnose mussel as well.

The project is within the range of two endangered bat species, the Indiana bat (*Myotis sodalis*) and the gray bat (*Myotis grisescens*). Indiana bats hibernate in caves, then disperse to reproduce and forage in relatively undisturbed forested areas associated with water resources during spring and summer. Young are raised in nursery colony roosts in trees, typically near drainageways in undeveloped areas. Like all other bat species in Indiana, the Indiana bat diet consists exclusively of insects.

There is suitable summer habitat and several summer records for this species along the project corridor. The project will not eliminate enough habitat to affect this species, but, as discussed in the EA, the applicant has agreed to avoid incidental take from removal of an occupied roost tree by avoiding tree-clearing activities in the Indiana portion of the project during the period **April 1 - September 30**. If this measure is implemented we concur that the proposed project is not likely to adversely affect this listed species.

Gray bats inhabit caves year-round, although they migrate from summer foraging areas to winter hibernation caves. This species forages chiefly along waterways. Its range is primarily the southeastern US, and the only known summer colony in Indiana is located in an abandoned part of a gravel quarry adjacent to the project corridor near the city of Sellersburg, IN. The foraging territory of this colony includes the Silver Creek/Muddy Fork watershed and other nearby Ohio

River tributaries. Based on the information you provided, the proposed project will not have significant adverse **physical** impacts on the gray bat roosting site or foraging habitat; however, increased noise level in the vicinity of the summer colony could negatively affect the colony.

At the time of our original coordination, no information was provided related to the potential increase in noise along the rail line and adjacent parcels. The EA indicates that along the portion of the line that runs through the Sellersburg area, the anticipated increase in A-weighted decibel (dBA) noise over a 24-hr period (L_{dn}) would be 4 dBA (from an estimated existing 76.4 dBA level to an anticipated 80.4 dBA). Based on this information, a 65 dBA L_{dn} contour line was developed along the entirety of the line to depict areas that would experience noise levels greater than 65 dBA, which is considered a threshold value for incompatibility with residential areas. According to a discussion with Mr. Dave Davecky of the Surface Transportation Board on September 30, 2013, the 65 dBA contour extends out approximately 500 feet from the line, across the central portion of the quarry lake. The 70 dBA contour is much tighter along the rail line and only extends approximately 120 feet out towards the quarry area from the line. Bats at this colony are currently exposed to train noise on a daily basis, in addition to noise from the adjacent active quarry and the Clark County Airport. Although the noise level will increase somewhat in the vicinity of the track and the western part of the quarry lake, and the number of times the bats are exposed to the train noise will increase, we believe the bats are somewhat acclimated to these types of noises and anticipate impacts to the bats from this activity to be insignificant and discountable.

Specific Comments

Section 3.6.1.2 should be updated to reflect the current status of the rayed-bean, sheepnose, snuffbox, and rabbitsfoot mussels in the project area.

In Table 3.8-4, the City of Greenwood is listed as occurring in Marion County and should be listed under Johnson County.

Design Recommendations

We recommend the following standard mitigation measures in the final project plans to minimize adverse impacts on fish and wildlife resources (many of these have already been included as proposed mitigation measures per the EA):

1. Post DO NOT DISTURB signs at the construction zone boundaries in forested areas, and do not clear trees or understory vegetation outside the boundaries.
2. Culverts should span the active stream channel, should be either embedded or a 3-sided or open-arch culvert, and be installed where practicable on an essentially flat slope. When an open-bottomed culvert is used in a stream with good bottom substrate for aquatic habitat (gravel, cobbles and boulders), the existing substrate should be left undisturbed beneath the culvert.

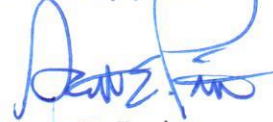
3. Construct bridges and culverts in wildlife habitat areas with benches and/or high water shelves for wildlife crossings.
4. Restrict channel work, especially low-water work, and vegetation clearing to the minimum necessary for installation of bridges or culverts.
5. Minimize the extent of artificial bank stabilization and use bioengineering methods wherever feasible. If riprap is used, extend it below low-water elevation to provide aquatic habitat.
6. Implement temporary erosion and siltation control devices such as placement of riprap check dams in drainage ways and ditches, installation of silt fences, covering exposed areas with erosion control materials, and detention basins, in accordance with INDOT specifications.
7. Revegetate all disturbed soil areas immediately upon project completion, using native species of plants in undeveloped areas.
8. Avoid channel work in perennial and intermittent streams during the fish spawning season (April 1-June 30).

Permits under Section 404 of the Clean Water Act may be needed for the proposed project. Our recommendations to the U.S. Army Corps of Engineers for permit conditions would be consistent with our comments here.

The FWS has a continuing interest in working with the Surface Transportation Board to ensure that project impacts to resources of concern are adequately addressed. Please continue to coordinate with Robin McWilliams Munson, project biologist, particularly with regards to the Flatrock River bridge replacement project.

If project plans change such that additional fish and wildlife habitat may be affected, please recoordinate with our office as soon as possible. If you have any questions about our recommendations, please call Robin Munson at (812) 334-4261 (Ext. 1207).

Sincerely yours,



Scott E. Pruitt
Field Supervisor

cc: Christie Stanifer, Indiana Division of Fish and Wildlife, Indianapolis, IN
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