

**TWO-WAY MEMORANDUM**

USFWS/NJDEP Freshwater Wetlands Permit Application Review  
(N.J.A.C. 7:7A-12.2(k))

**PROJECT INFORMATION:**

Date of Receipt: \_\_\_\_\_ 30-day Deadline-Date: \_\_\_\_\_

Date Assigned: \_\_\_\_\_

Project Manager/Review Officer: JAN ARNETT

LURP File No: 0000-15-0007.1

Applicant: NEW JERSEY NATURAL GAS

Municipality: VARIOUS

County: BURLINGTON + OCEAN

Block(s)        Lot(s)       

HUC11 Watershed: \_\_\_\_\_

**PERMIT TYPE(S)**—Check all that apply:

General Permit (circle): 2 FWW 150001 4 6 7 10A 10B 11 13 15 17 18 20 22 23 24 26 27

Individual Permit

Other: CAFWS IP, FHA IP

Description/Comments: NEW 29.5-mile 30-inch wide PIPELINE

\*\*\*\*\*

**U.S. FISH & WILDLIFE SERVICE REVIEW:** 927 North Main St. (Bldg D), Pleasantville, NJ 08232

tel summary

Tel. (609)-646-0352

Date Received: 12-22-15 USFWS Log No. 15-CPA-0158a

Additional information needed/site inspection required—30-day extension.

No Potential to affect federally listed species or critical habitat; no federal review required [40 CFR 235.51(b)(2)].

Potential to affect federally listed species or critical habitat—federal review required.

Potential to affect federally listed species or habitat, unless following conditions are implemented:

Comments/Conditions: PLEASE SEE THE 3 pp. ATTACHMENT

Reviewing Biologist: [Signature]

Date: 12-31-15

Concurring Supervisor: [Signature]

Date: 31 Dec 15

FAX: (609)-777-3656  
ATTN: Larry Torok

or mail to

NJDEP / 501 E. State St.  
Mail Code 501-02A/POB 420  
Trenton, NJ 08625-042

**Land Use Regulation Program Decision:**

Permit Approved\*       Permit Approved with Conditions\*       Permit Denied\*

\*If checked, scanned final permit must be emailed to [carlo\\_popolizio@fws.gov](mailto:carlo_popolizio@fws.gov)

## ATTACHMENT

### Comments/Conditions

DLUR File No. 0000-15-0007.1

The U.S. Fish and Wildlife Service (Service) has received and reviewed the *Northern Long-Eared Bat Presence / Probable Absence Acoustic Survey Report* (first report) and the *Federal Threatened / Endangered Species Final Evaluation and Survey Report* (second report) both provided by DuBois Environmental Consultants. The reports pertain to the subject Permit Application by New Jersey Natural Gas (applicant) for the proposed Southern Reliability Link Project in Chesterfield and North Hanover Townships, Burlington County; and Plumsted, Jackson, and Manchester Townships, Ocean County, New Jersey.

### Bog Turtle

The Service provides the following comments / recommendations for protection of the federally listed (threatened) bog turtle (*Clemmys muhlenbergii*):

- Please provide the Phase I habitat evaluation forms.
- No surveys were conducted in wetlands in the immediate vicinity of the proposed project route where access was not granted (pp. 16-17). The Service notes that bog turtles may use travel corridors to enter the proposed project site. At a minimum, such potential travel corridors must be identified and protective measures must be proposed for Service approval.
- According to results provided in the second report (p.32), there are 17 wetlands providing potentially suitable habitat for bog turtles, but a Phase II survey was conducted only within Wetland 10. Phase II surveys should be completed in all potential habitat.
- The Service notes that the Landscape Mapping project identifies only wetlands with known occurrences and the associated suitable habitat. In the second report (p. 32), there is the erroneous assumption that the Landscape Mapping Project highlights all known suitable bog turtle habitat in the State.
- On the same page, there is the erroneous assumption that all roads are barriers to bog turtle movements.
- Wetland 42a is mentioned on p. 32, but it is not included in the table on p. 19.
- The Service disagrees that Wetland 53 is outside of the action area as described on p. 32.

- Bog turtle survey reports from previous years should be provided to the Service for review, when referenced to discount the need for a survey. Please send us copies of previous big turtle surveys referenced in the second report.
- A contingency plan is recommended in the second report (p. 33). Once the contingency plan is finalized, please send us a copy for review.
- The Service notes that directional drilling under wetlands cannot be construed as ensuring no adverse effects to bog turtle and their habitat (Crowell 2014).
- A Phase II survey was completed for Wetland 10. However, the last day of the Phase II survey was completed on June 15, 2015 in the afternoon. The temperature exceeded 80 degrees. The May 26, 2015 survey was also conducted in temperature ranging from 82 to 86 degrees. Conducting Phase II surveys in these conditions limits a surveyor's ability to find bog turtles. Wetland 10 also appears to have high-quality potential habitat for bog turtles. Thus, the Service requests additional Phase II survey efforts for Wetland 10.

### **Swamp Pink**

An extant occurrence of the federally listed (threatened) swamp pink (*Helonias bullata*) along Middle Ruckels Branch, in the immediate vicinity of the proposed gas line, was identified and confirmed in the second report as occurring approximately 150 feet from the proposed pipeline route (p. 29). A contingency plan is also recommended for swamp pink in the second report (p. 33). Once the contingency plan is finalized, please send us a copy of for review. Again, the Service notes that directional drilling under wetlands cannot be construed as ensuring no adverse effects to swamp pink and its habitat (Crowell 2014).

### **Northern Long-Eared Bat**

The Service notes that, although the survey results provided in the first report indicated probable absence, the Joint Base McGuire-Dix-Lakehurst documented the presence of the federally listed (threatened) northern long-eared bat (*Myotis septentrionalis*) in portion of the project area. Therefore, the Service considers the northern long-eared bat present. Pursuant to the procedures outlined in the December 22, 1993 Memorandum of Agreement (MOA) among the Service, the U.S. Environmental Protection Agency, and the New Jersey Department of Environmental Protection (NJDEP), MOA and because of the risk of removing an occupied roost tree, the Service reaffirms our request for a seasonal restriction on tree removal from April 1 to September 30.

### **Knieskern's Beaked-Rush**

The Recovery Plan (available at: [http://ecos.fws.gov/docs/recovery\\_plan/930929b.pdf](http://ecos.fws.gov/docs/recovery_plan/930929b.pdf)) for the federally listed (threatened) Knieskern's beaked-rush (*Rhynchospora knieskernii*) defines the fruiting period as occurring between July and September. Field survey results provided in the second report were based on surveys conducted in May and early August. Identification of the

species requires the presence of fully mature achenes with extended bristles which, according to our field experience, occurs from late August into September. However, the list of associates presented in the second report is mostly dissimilar to the list of associates in the Recovery Plan. The Service concurs with the conclusion that habitat within or nearby the proposed pipeline route is marginal at best, but questions the selection of survey dates for proper identification of the species.

### **Nesting Migratory Birds**

A seasonal restriction on tree cutting would avoid adverse impacts to nesting migratory birds, which are protected by Federal law pursuant to the Migratory Bird Treaty Act of 1918 (MBTA) (40 Stat. 755, as amended; 16 U.S.C. 703-712). The MBTA prohibits taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. In New Jersey, the recommended seasonal restriction for tree or shrub removal that may result in take of active nests with eggs or unfledged chicks of migratory birds is March 15 to July 31 according to the *New Jersey Division of Fish and Wildlife Manual for the Protection of Fish and Wildlife Resources* dated July 2008.

Please contact Carlo Popolizio or Jeremy Markuson at (609) 382-5271 or -5266, respectively, should you have any questions or comments regarding this correspondence. Please refer to control number 15-CPA-0158a.

### **Reference**

Crowell, H. 2014. Ecological impacts of inadvertent returns from horizontal directional drilling (HDD). HullRAC Science Summit, February 4, 2014. Available at: [http://www.hullinc.com/lib/sitefiles/Ghost%20Pages/HullRAC%20Summit/Presentations/9%20-%20HCrowell\\_Inadvertent%20Returns.pdf](http://www.hullinc.com/lib/sitefiles/Ghost%20Pages/HullRAC%20Summit/Presentations/9%20-%20HCrowell_Inadvertent%20Returns.pdf).

# THREATENED + ENDANGERED SPECIES HABITAT REVIEW

## FLOOD HAZARD AREA

**FILE NUMBER:** 0000-15-0007.1  
**APPLICANT:** New Jersey Natural Gas  
**PERMIT TYPE:** FHA IP (FHA 150001\*), FWGP2 (FWW 150001), CAFRA IP (CAF 150001)  
**PROJECT:** *Southern Reliability Line Project: Construction / installation of a new 29.5-mile 30-inch natural gas transmission pipeline between Chesterfield Township, Burlington County and Manchester Township, Ocean*  
**MUNICIPALITIES:** Chesterfield Township (B), North Hanover (B), Plumsted Township (O), Jackson Township (O), Manchester Township (O)  
**COUNTIES:** Burlington, Ocean  
**BLOCK(S):** N/A  
**LOT(S):** N/A  
**DATE RECEIVED:** 07.01.2015  
**DEADLINE:** 20<sup>th</sup> Day = 07.24.2015  
**PROJECT MANAGER:** J. Arnett

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- EPA Priority - Barnegat Bay Tributary System (p/o the project, east)
- Pinelands – p/o the project, east
- NHP Data
- Vernal Habitat

**Surface Water Quality:** FW2-NT, PL

**Name:** Sucker Run, Blacks Creek, Crosswicks Creek, Deep Run, Lahaway Creek, Stony Ford Brook, Beaverdam Brook, Jumping Brook (PL), Elisha Branch (PL), Gaunts Brook (PL), Middle Ruckels Branch (PL), North Ruckels Branch (PL), Blacks Branch (PL), Manapauqua Brook (PL), Union Branch

**RIPARIAN ZONE DETERMINATION:** (SECTION A)

**Watercourse Dependent Species: (Location)**

- Onsite
- Within 1 mile downstream
- Within 1 mile of site in question
- Not Documented

**Amphibians:** N/A

**Reptiles:** Timber Rattlesnake, Bog Turtle, Wood Turtle

**Invertebrates:** N/A

**NHP Listed Plant Species: (Location)**

- Onsite
- Within 1 mile downstream
- Within 1 mile of site in question
- Not Documented

**NHP-Listed Watercourse-Dependent Plant Species:**

W/in 1 d/s mile: Swamp Pink (*Helonias bullata*)

Upstream of the LOD: Pumpkin Ash (*Fraxinus profunda*), Hairy Wood-rush (*Luzula acuminata*)

W/in a one-mile radius of LOD: Swamp Pink (Beaverdam Brook drainage, to south); Two-flower Bladderwort (*Utricularia biflora*) along Borden's Mill Branch UNT which does not intersect with the project LOD; Swamp Pink (South Ruckels Branch, to south); Swamp Pink and NJ Rush / *Juncus caesariensis* (Blacks Branch, to south)

**ENDANGERED AND THREATENED SPECIES DETERMINATION:** (SECTION B)

- Not Documented

**Landscape Mapping:** Version 3.1

Piedmont Plains—Ranks 3, 4

Pinelands—Ranks 3, 4, 5

**T+E Species:** Northern Long-eared Bat, Bald Eagle, Barred Owl, Red-shouldered Hawk, Red-headed Woodpecker, Northern Pine Snake, Corn Snake, Timber Rattlesnake, Wood Turtle, Bog Turtle, Pine Barrens Treefrog

**FINAL COMMENTS/CONDITIONS:**

The following comments, within sections "A" and "B" below, are associated with the project site plan entitled, "SOUTHER RELIABILITY LINK (SRL), RESH WATER WETLANDS & FLOOD HAZARD ANALYSIS SUBMITTAL," signed by Bryan A. Pariseault, P.E., of AECOM and dated June 25, 2015.

**RIPARIAN ZONE DETERMINATION:** (SECTION A)

**After review of this project area, it has been determined that:**

- The downstream or onsite area is **NOT** documented for water dependent and/or NHP listed species.
- The downstream or onsite area is documented but **NOT** suitable for water dependent and/or NHP listed species.
- The downstream or onsite area **IS** documented and suitable habitat for the following Water Dependent / NHP species Swamp Pink, Wood Turtle, Bog Turtle, Timber Rattlesnake.

**COMMENTS:**

Drainage areas associated with Lahaway Creek, Beaverdam Brook, Jumping Brook (PL), Elisha Branch (PL), Gaunts Brook (PL), Middle Ruckels Branch (PL), North Ruckels Branch (PL), and Manapaqua Brook (PL) are documented and feature suitable habitat for watercourse-dependent species either at the proposed project location or within one downstream mile of the proposed limit of disturbance.

Streams identified on the project site plan as "Stream 24" (Lahaway Creek), "Stream 28" (Beaverdam Brook), "Stream 29" (Beaverdam Brook) and "Stream 29a" (Beaverdam Brook) should have 150-foot riparian zones attributed to them. Tributaries associated with Jumping Brook, Elisha Branch, Gaunts Brook, Middle Ruckels Branch and Manapaqua Brook were attributed 300-ft riparian zones as they fall within Pinelands jurisdiction.

Please see SECTION B, below, for conditions pertinent to habitat for State-listed/protected species.

(Note: It appears that within Table 2 (page 11) of the submitted compliance statement "Stream 24" is shown to have a 50-foot riparian zone while the legend on sheet 14 of the submitted site plan (*Freshwater Wetlands & Flood Hazard Analysis Submittal*) suggests that this stream might have a 150-foot riparian zone.)

**ENDANGERED AND THREATENED SPECIES DETERMINATION: (SECTION B)**

**After review of this project area, it has been determined that:**

- Additional information is required for further review. Please see comments below.
- The area is ***NOT*** a documented Endangered or Threatened species habitat.
- The area is ***NOT A SUITABLE*** documented Endangered or Threatened species habitat.
- The area is ***NOT*** a documented Endangered or Threatened habitat ***HOWEVER*** the Dept. reserves the right to conduct future Presence/Absence surveys for E&T species.
- The area ***IS*** a documented and suitable Endangered or Threatened habitat for Bald Eagle, Barred Owl, Red-shouldered Hawk, Northern Long-eared Bat, Red-headed Woodpecker, Northern Pine Snake, Corn Snake, Wood Turtle, Bog Turtle, Pine Barrens Treefrog, Swamp Pink. Please see the comments below for restrictions or conditions which may apply.

**COMMENTS WITH REGARD TO RESTRICTIONS OR CONDITIONS THAT APPLY:**

The construction of the new 29.5-mile 30-inch natural gas transmission pipeline will involve trench and horizontal directional drill methods for its installation. The limit of disturbance largely holds to existing paved roadways. A permanent 10-foot wide cleared and maintained easement above the length of the new pipeline will result upon project completion.

Some clearing and/or trimming of mature woody vegetation is proposed (e.g., valve location(s), preparation of laydown and access areas, resultant gas main easement, etc.). This vegetation features suitable habitat for the Federally-listed, endangered species, Northern Long-eared Bat. During the summer, this species typically roosts singly or in colonies underneath bark or in cavities or crevices of both live trees and snags. Threats to the northern long-eared bat include disease due to the emergence of white-nose syndrome, disturbance in or adjacent to a hibernacula, degradation and destruction of summer habitat and use of pesticides. Tree removal could impact this species by killing, injuring or disturbing breeding or roosting bats. Please include the following condition within the permit authorization:

- In order to protect habitat for the Federally-listed, endangered species, Northern Long-eared Bat, the permittee shall adhere to a seasonal restriction on the removal of and disturbance to the onsite woody vegetation from April 1 through September 30 of each calendar year.

Species occurrence mapping suggests that the species in question (i.e., northern pine snake, corn snake, bog turtle, wood turtle and possibly timber rattlesnake) utilize habitats to the north and south/east and west of the limit of disturbance and traverse the proposed project area to do so. While the proposed work falls largely within the existing paved or dirt/sandy roadways, a mechanism is needed by which to protect the documented species from accidentally entering the work zone. Please include the following conditions within the permit authorization:

- In order to protect habitat for the State-listed wood turtle within and adjacent to Beaverdam Brook and its tributaries, the following timing restrictions shall apply:
  - i. In-stream work (including stream bank excavation): In order to prevent adverse impacts to hibernating turtles, no site preparation, disturbance, grading, clearing or construction activity is permitted within the banks of the referenced watercourse from **November 1 through April 1** of the calendar year. [If a coffer dam, or similar structure, is proposed to *completely* enclose the work area, work may occur during this restricted period provided the coffer dam installation is *completed* prior to November 1 and thereafter completely precludes turtles from accessing the work area to rest or hibernate. This must include appropriate bank-side fencing to preclude terrestrial access to the coffer dam work area. Immediately after installation of the work area enclosure, a qualified herpetologist must thoroughly inspect the enclosed area for wood turtles. Any wood turtles found must be reported to the NJDEP, Division of Fish

and Wildlife, Endangered and Nongame Species Program (<http://www.state.nj.us/dep/fgw/ensp/rprtform.htm>), and relocated outside of the proposed work area. Once this inspection is complete, authorized activities may commence within the coffer dammed work area.]

- ii. Wetlands/Transition Area/Riparian Zone work: In order to prevent adverse impacts to wood turtles or their resting, breeding or foraging habitats within the regulated areas associated with the referenced watercourse, no authorized activities may commence from **April 1 through May 30** and **September 1 through November 15** of the calendar year *unless* the following measures have been taken:

1. Prior to the commencement of site preparation, disturbance, grading, clearing or construction activity the permittee shall erect a silt/debris fence around the footprint of all proposed activities (temporary and permanent) sufficient to exclude small wildlife species, and specifically wood turtle, from entering the proposed construction area; specifically, from the intersection of Fischer Road and West Colliers Mills Road (CR-640) east-southeast along the project limit of disturbance to the intersection of Long Swamp Road with Pinehurst Road (CR-539).

2. Immediately thereafter, a qualified herpetologist must thoroughly inspect the fenced-in work area for wood turtles. Any wood turtles found must be reported to the NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (<http://www.state.nj.us/dep/fgw/ensp/rprtform.htm>), and safely relocated outside of the proposed work area. Once this inspection is complete, authorized activities may commence within the fenced work area.

3. The fence must be monitored weekly and maintained until project completion.

The Department reserves the right to suspend all regulated activities onsite should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.

- In order to prevent adverse impacts to the State-listed Northern Pine Snake, Corn Snake and Timber Rattlesnake, or their resting, breeding or foraging habitats no authorized activities may commence until the following measures have been taken:

i. Prior to the commencement of site preparation, disturbance, grading, clearing or construction activity the permittee shall construct an exclusion fence (i.e., four-foot high, heavy duty silt fence) around the footprint of all proposed activities (temporary and permanent); specifically, from Block 79, Lot 29 in Plumsted Township east-southeast along (and around) the length of the limit of disturbance to its intersection with the parking lot of the shopping plaza in Manchester Township (block 52.51, lot 1).

ii. Immediately thereafter, a qualified herpetologist must thoroughly inspect the fenced-in work area for snakes. Any northern pine snakes, corn snakes or timber rattlesnakes found must be reported to the NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (<http://www.state.nj.us/dep/fgw/ensp/rprtform.htm>), and safely relocated outside of the proposed work area. Once this inspection is complete, authorized activities may commence within the fenced work area.

iii. The fence must be monitored weekly and maintained until project completion.

The Department reserves the right to suspend all regulated activities onsite should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.

The applicant's anticipated project timeline is to begin work October 2015 and end work December 2016. If the project is set to begin as scheduled, it is recommended that if possible, work should begin at the eastern terminus and head westward. This may serve as an additional measure by which to protect habitat for the documented amphibian and reptile species as



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**RIPARIAN ZONE DETERMINATION:** (SECTION A)

**Watercourse Dependent Species: (Location)**

- Onsite
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**Amphibians:** N/A

**Reptiles:** Timber Rattlesnake, Bog Turtle, Wood Turtle

**Invertebrates:** N/A

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Piedmont Plains—Ranks 3, 4

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disturbance (e.g., noise, vibration) generated by the proposed activity would ideally be conducted while the species are hibernating.

Lastly, this permit application is currently undergoing review with the US Fish & Wildlife Service, New Jersey Field Office. Please be sure to include their provisions issued with regard to Federally-listed species (i.e., bog turtle, northern long-eared bat and swamp pink).

Reviewed by: K. Symanski

Date: 07.15.2015