Sullivan, Tim <tim_r_sullivan@fws.gov>

Constitution DEIS comments

Niver, Robyn <robyn_niver@fws.gov> Wed, Apr 2, 2014 at 3:34 PM
To: Tim Sullivan <tim_r_sullivan@fws.gov>
Cc: Sandra Doran <sandra_doran@fws.gov>, John Wiley <john_wiley@fws.gov>

Looks good. Two purple edits for your consideration.

On Wed, Apr 2, 2014 at 3:01 PM, Tim Sullivan <tim_r_sullivan@fws.gov> wrote:

> I made a few edits. How about this?
>
> Tim
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> Endangered Species Act
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> The FERC requested that the FWS consider the DEIS as your biological assessment (BA) for the purposes of conducting ESA Section 7(a)(2) consultation procedures. The DEIS addresses the potential for impacts to the following federally-listed endangered species: Indiana bat (*Myotis sodalis*) and dwarf wedgemussel (*Alasmidonta heterodon*); and the following federally-listed threatened species: bog turtle (*Clemmys [= Glyptemys] muhlenbergii*) and northern monkshood (*Aconitum noveboracense*).
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> *Indiana bat*
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> Page 4-97. Mist-net and acoustic surveys were conducted in the Pennsylvania portion of the project in 2012 and 2013 and Indiana bats were not captured or detected. The project is located outside the current range of the species in New York. FERC has determined the project may affect, but is not likely to adversely affect the Indiana bat given the survey results and project location. We concur with this determination.
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> *Dwarf wedgemussel*
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> Habitat surveys were conducted at 35 waterbodies in 2013 and the DEIS states that no habitat or individual dwarf wedgemussels were found in the project area (Page 4-97). The DEIS also states that "Prior to construction, Constitution should develop impact avoidance or effective impact minimization or mitigation measures (e.g., utilization of trenchless crossing methods or mussel relocation) in consultation with the FWS, the PFBC, the PGC, the PADCNR, and the NYSDEC for any dwarf wedgemussels encountered during construction." FERC has determined the project may affect, but is not likely to adversely affect the dwarf wedgemussel because no individuals or suitable habitat were found during surveys in 2013 and because of recommendations to develop avoidance, minimization, or mitigation measures. The FWS cannot concur with this determination because we have not received copies of the dwarf wedgemussel survey report. However, if FERC believes habitat is not found in the project area based upon field surveys, then they could change their determination to "no effect" for this species.
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