United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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TAKE PRIDE IN AMERICA

In Reply Refer To: (ER 14/0001) (ER 14/0004).

Mr. Eli Veenendaal
National Telecommunications and Information
Administration
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Mr. Veenendaal:

The Department of the Interior (Department) has reviewed the above referenced proposal and submits the following comments and attachment for consideration. Because the First Responder Network Authority (FirstNet) is a newly created entity, we commend the U.S. Department of Commerce for its timely proposals for NEPA implementing procedures.

The Department believes that some of the proposed procedures are not consistent with Executive Order 13186 Responsibilities of Federal Agencies to Protect Migratory Birds, which specifically requires federal agencies to develop and use principles, standards, and practices that will lessen the amount of unintentional take reasonably attributed to agency actions. The Department, through the Fish and Wildlife Service (FWS), finds that the proposals lack provisions necessary to conserve migratory bird resources, including eagles. The proposals also do not reflect current information regarding the effects of communication towers to birds. Our comments are intended to further clarify specific issues and address provisions in the proposals.

The Department recommends revisions to the proposed procedures to better reflect the impacts to resources under our jurisdiction from communication towers. The placement and operation of communication towers, including un-guyed, unlit, monopole or lattice-designed structures, impact protected migratory birds in two significant ways. The first is by injury, crippling loss, and death from collisions with towers and their supporting guy-wire infrastructure, where present. The second significant issue associated with communication towers involves impacts from non-ionizing electromagnetic radiation emitted by them (See Attachment).

In addition to the 147 Birds of Conservation Concern (BCC) species, the FWS has listed an additional 92 species as endangered or threatened under the Endangered Species Act. Together with the bald and golden eagle, this represents 241 species of birds whose populations are in trouble or otherwise merit special protection, according to the varying criteria of these lists. The Department suggests that FirstNet consider preparing a programmatic environmental impact statement (see attachment) to determine and address cumulative impacts from authorizing FirstNet projects on those 241 species for which the incremental impact of tower mortality, when

added to other past, present, and reasonably foreseeable future actions, is most likely significant, given their overall imperiled status. Notwithstanding the proposed implementing procedures, a programmatic NEPA document might be the most effective and efficient method for establishing best management practices for individual projects, reducing the burden to individual applicants, and addressing cumulative impacts.

Categorical Exclusions
The Department has identified 13 of the proposed categorical exclusions (A-6, A-7, A-8, A-9, A-10, A-11, A-12, A-13, A-14 A-15, A-16, A-17, and A-19) as having the potential to significantly affect wildlife and the biological environment. Given this potential, we want to underscore the importance of our comments on FirstNet's procedural guidance under Environmental Review and Consultation Requirements for NEPA Reviews and its list of extraordinary circumstances in Appendix D.

Environmental Review and Consultation Requirements for NEPA Reviews
To ensure there are no potentially significant impacts on birds from projects that may otherwise be categorically excluded, the Department recommends including the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act to the list of requirements in this section.

Extraordinary Circumstances
To avoid potentially significant impacts on birds from projects that may otherwise be categorically excluded, the Department recommends including species covered under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources. Additionally, adding important resources to migratory birds such as sites in the Western Hemisphere Shorebird Reserve Network and Audubon Important Bird Areas to the paragraph on areas having special designation or recognition would help ensure their consideration when contemplating use of a categorical exclusion.

Developing the Purpose and Need
The Department recommends inclusion of language that would ensure consideration of all other authorities to which NEPA is supplemental as opposed to simply the FirstNet mission. As currently written, the procedures are limited to ensuring the purpose and need considers the FirstNet mission. If strictly applied, this approach would severely limit the range of reasonable alternatives, and likely preclude consideration of more environmentally benign locations or construction practices.

Environmental Review Process, Apply NEPA Early in the Process, Where Action is by Non-Federal Entity
The Department recommends that FirstNet be required to coordinate with federal agencies having jurisdiction by law or special expertise on construction and lighting of its network of towers.

Thank you for the opportunity to comment on the draft document. If you have any questions concerning the comments, please contact Diana Whittington, NEPA Migratory Bird lead, at (703) 358-2010. If you have any questions regarding Departmental NEPA procedures, contact Lisa Treichel, Office of Environmental Policy and Compliance at (202) 208-7116.

Sincerely,

Willie R. Taylor
Director, Office of Environmental Policy
and Compliance

Enclosure

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Enclosure A

Background

The placement and operation of communication towers, including un-guyed, unlit, monopole or lattice-designed structures, impact protected migratory birds in two significant ways.

The first is by injury, crippling loss, and death from collisions with towers and their supporting guy-wire infrastructure, where present. Mass mortality events tend to occur during periods of peak spring and fall songbird bird migration when inclement weather events coincide with migration, and frequently where lights (either on the towers and/or on adjacent outbuildings) are also present. This situation has been well documented in the U.S. since 1948 in the published literature (Aronoff 1949, see Manville 2007a for a critique). The tallest communication towers tend to be the most problematic (Gehring *et al.* 2011). However, mid-range (~400-ft) towers as proposed by the First Responder Network Authority (FirstNet, a newly created entity under the Department of Commerce) can also significantly impact protected migratory birds, as can un-guyed and unlit lattice and monopole towers (Gehring *et al.* 2009, Manville 2007a, 2009, 2013a). Mass mortalities (more than several hundred birds per night) at unguyed, unlit monopole and lattice towers were documented in fall 2005 and 2011 in the Northeast and North Central U.S. (*e.g.*, Manville 2007a). It has been argued that communication towers including "short" towers do not impact migratory birds, including at the population level (*e.g.*, Arnold and Zink 2011), but recent findings have contradicted that assertion (Manville 2007a, 2013a, Longcore *et al.* 2012, 2013).

The second significant issue associated with communication towers involves impacts from non-ionizing electromagnetic radiation emitted by these structures. Radiation studies at cellular communication towers were begun circa 2000 in Europe and continue today on wild nesting birds. Study results have documented nest and site abandonment, plumage deterioration, locomotion problems, reduced survivorship, and death (*e.g.*, Balmori 2005, Balmori and Hallberg 2007, and Everaert and Bauwens 2007). Nesting migratory birds and their offspring have apparently been affected by the radiation from cellular phone towers in the 900 and 1800 MHz frequency ranges – 915 MHz is the standard cellular phone frequency used in the United States. However, the electromagnetic radiation standards used by the Federal Communications Commission (FCC) continue to be based on thermal heating, a criterion now nearly 30 years out of date and inapplicable today. This is primarily due to the lower levels of radiation output from microwave-powered communication devices such as cellular telephones and other sources of point-to-point communications; levels typically lower than from microwave ovens. The problem, however, appears to focus on very low levels of non-ionizing electromagnetic radiation. For example, in laboratory studies, T. Litovitz (personal communication) and DiCarlo *et al.* (2002) raised concerns about impacts of low-level, non-thermal electromagnetic radiation from the standard 915 MHz cell phone frequency on domestic chicken embryos – with some lethal results (Manville 2009, 2013a). Radiation at extremely low levels (0.0001 the level emitted by the average digital cellular telephone) caused heart attacks and the deaths of some chicken embryos subjected to hypoxic conditions in the laboratory while controls subjected to hypoxia were unaffected (DiCarlo *et al.* 2002). To date, no independent, third-party field studies have been conducted in North America on impacts of tower electromagnetic radiation on migratory birds. With the European field and U.S. laboratory evidence already available,

independent, third-party peer-reviewed studies need to be conducted in the U.S. to begin examing the effects from radiation on migratory birds and other trust species.

Discussion

Collision Deaths and Categorical Exclusions

Attempts to estimate bird-collision mortality at communication towers in the U.S. resulted in figures of 4-5 million bird deaths per year (Manville 2005, 2009). A meta-review of the published literature now suggests, based on statistically determined parameters, that mortality may be 6.8 million birds per year in Canada and the U.S.; the vast majority in the United States (Longcore *et al.* 2012). Up to 350 species of birds have been killed at communication towers (Manville 2007a, 2009). The Service's Division of Migratory Bird Management has updated its voluntary, 2000 communication tower guidelines to reflect some of the more recent research findings (Manville 2013b). However, the level of estimated mortality alone suggests at a minimum that FirstNet prepare an environmental assessment to estimate and assess the cumulative effects of tower mortality to protected migratory birds.

A second meta-review of the published mortality data from scientific studies conducted in the U.S. and Canada (Longcore *et al.* 2013) strongly correlates population effects to at least 13 species of Birds of Conservation Concern (BCC, USFWS 2008). These are mortalities to BCC species based solely on documented collisions with communication towers in the U.S. and Canada, ranging from estimated annual levels of mortality of 1 to 9% of their estimated total population. Among these where mortality at communication towers was estimated at over 2% annually are the Yellow Rail, Swainson's Warbler, Pied-billed Grebe, Bay-breasted Warbler, Golden-winged Warbler, Prairie Warbler, and Ovenbird. Longcore *et al.* (2013) emphasized that avian mortality associated with anthropogenic sources is almost always reported in the aggregate, *i.e.*, "number of birds killed," which cannot detect species-level effects necessary to make effective and meaningful conservation assessments, including determining cumulative effects. These new findings strongly suggest the need for at least an environmental assessment by FirstNet, or more likely, an environmental impact statement.

Radiation Impacts and Categorical Exclusions

There is a growing level of anecdotal evidence linking effects of non-thermal, non-ionizing electromagnetic radiation from communication towers on nesting and roosting wild birds and other wildlife in the U.S. Independent, third-party studies have yet to be conducted in the U.S. or Canada, although a peer-reviewed research protocol developed for the U.S. Forest Service by the Service's Division of Migratory Bird Management is available to study both collision and radiation impacts (Manville 2002).

As previously mentioned, Balmori (2005) found strong negative correlations between levels of tower-emitted microwave radiation and bird breeding, nesting, and roosting in the vicinity of electromagnetic fields in Spain. He documented nest and site abandonment, plumage deterioration, locomotion problems, reduced survivorship, and death in House Sparrows, White Storks, Rock Doves, Magpies, Collared Doves, and other species. Though these species had historically been documented to roost and nest in these areas, Balmori (2005) did not observe these symptoms prior to construction and operation of the cellular phone towers. Balmori and Hallberg (2007) and Everaert and Bauwens (2007) found similar strong negative correlations

among male House Sparrows. Under laboratory conditions, DiCarlo *et al.* (2002) raised troubling concerns about impacts of low-level, non-thermal electromagnetic radiation from the standard 915 MHz cell phone frequency on domestic chicken embryos – with some lethal results (Manville 2009). Given the findings of the studies mentioned above, field studies should be conducted in North America to validate potential impacts of communication tower radiation – both direct and indirect – to migratory birds and other trust wildlife species.

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