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GEAUGA COUNTY 138 KV TRANSMISSION LINE SUPPLY PROJECT

APPENDIX I – THREATENED & ENDANGERED SPECIES PLAN

OPSB CASE NO. 07-0171-EL-BTX

Prepared for:

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the
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Company
A FirstEnergy Company

PUCO

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1.0 Introduction

The following Threatened & Endangered Species Plan addresses requirements and restrictions for identified threatened and endangered animal and plant species during American Transmission Systems, Incorporated ("ATSI") and The Cleveland Electric Illuminating Company's ("CEI") (the "Companies") construction of the Geauga County 138 kV Transmission Line Supply Project ("Project.") The underlying concept of the plan is to minimize and/or prevent impacts to these species.

1.1 Applicable OPSB Condition(s)

The Threatened & Endangered Species Plan includes addressing applicable requirements of Conditions 5, 13(A), 13(B), 14, 15, 16 and 18 of the November 24, 20008 OPSB Certificate relating to threatened and endangered species during construction of the Project. Those conditions are:

5: "That the Applicants shall have an environmental specialist on site at all times that construction (including vegetation clearing) is being performed in or near a sensitive area such as a designated wetland, stream, river, or in the vicinity of identified threatened/endangered species or their identified habitat,"

13(A): "If tree clearing must be conducted outside of the October through March period, Applicants shall, prior to tree clearing, conduct Indiana bat surveys in areas identified as suitable habitat in coordination with Staff, including the following specific locations: (a) forest stand including woodlots 8, 9, 10 and 11; (b) forest stand including woodlots 20, 21, 22, 23, and 24; (c) forest stand including woodlots 36, 37, and 38. The results of this study shall be forwarded to Staff for review and approval prior to any clearing or construction in the areas of concern,"

13(B): "Prior to any tree clearing, Applicants shall conduct yellow-bellied sapsucker surveys in areas identified as suitable habitat for these birds in coordination with Staff and the Ohio Department of Natural Resources, Division of Wildlife (ODNR-DOW). If the results of the study identify the presence of the nesting/breeding yellow-bellied sapsuckers, then the tree clearing in that area shall be limited to that period of time when the yellowed-bellied sapsuckers are not present. The results of this study, together with a tree clearing plan, shall be forwarded to Staff for review and approval prior to any clearing or construction in the areas of concern,"

14: *"That the Applicants shall contact Crane Creek Wildlife Research Station shortly before initiating construction to ensure there are no bald eagle nests within 0.5 miles of the selected Project r-o-w,"*

15: *"That the Applicants shall flag endangered plant species locations within the r-o-w and prevent vehicle access to these areas. Use of herbicides within 50 feet of these flagged areas during construction and maintenance activities shall be prohibited, unless otherwise approved as part of Applicants' herbicide use plan. Prior to construction, the Applicants shall provide for Staff review and approval a threatened and endangered species protection plan. For plants, this should include specific r-o-w clearing/avoidance recommendations, herbicide restrictions, and potential monitoring procedures, while for animal species it should also include construction timing limitations related to breeding activities and the potential impacts of long-term r-o-w maintenance work,"*

16: *"That Staff, the ODNR-DOW, and the United States Fish and Wildlife Service (USFWS) shall be immediately contacted if the presence of threatened or endangered species is confirmed during construction activities. Activities that could adversely impact the identified plants or animals will be halted until an appropriate course of action has been agreed upon by the Applicants and Staff,"*

18: *"That, prior to finalizing engineering plans for the Project, the Applicants shall identify the area known to support snowshoe hare. The Applicants shall submit a plan for this area to the Staff and the ODNR-DOW for review and Staff's approval. The Applicants shall not employ clear-cutting or generalized broadcasting of herbicide for vegetation maintenance and, to the maximum extent possible, shall leave shrub and scrub woody vegetation within this identified area of the r-o-w."*

2.0 Threatened & Endangered Species Coordination Review

This section provides a brief review of the contacts and coordination conducted by the Companies and/or URS since the beginning of this Project in 2007.

2.1 Bald Eagle Coordination

On September 21, 2007 Ohio Department of Natural Resources (ODNR) – Division of Wildlife (DOW) commented that Project is within the range of the state endangered and at the time federally threatened (federally delisted July 2007) bald eagle (*Haliaeetus leucocephalus*). ODNR-DOW instructed that as the actual date of construction gets closer, the Companies must contact Mr. Mark Shieldcastle with ODNR-DOW, Crane Creek Wildlife Research Station, for current information on the presence of bald eagles in the area. ODNR-DOW stated that if a nest is located within ½ mile of the Project site, coordination with them is required. On August 28, 2008, URS contacted Mr. Shieldcastle to inquire about any potential bald eagle nest sites that may be near the Project. Mr. Shieldcastle indicated that the nearest nest site is approximately three miles southwest of the Stacy Substation.

2.2 Indiana Bat Coordination

In U.S. Fish and Wildlife Service's (FWS) initial response on September 24, 2007, they expressed concerns for the federally endangered Indiana bat (*Myotis sodalis*). To address FWS concerns the Companies held a meeting on March 6, 2008 with FWS, OPSB Staff, and URS provided a desktop tour of the route and the woodlots that are crossed by the Project. Following the meeting, a habitat report was sent to FWS on March 21, 2008 to review and provide comments on whether a mist net survey would be necessary. On April 27, 2008, FWS commented that the Companies would be required to conduct a mist net survey at five sites within three forest stands. Copperhead Environmental Consulting, Inc. (Copperhead Consulting) conducted a mist net survey between July 28, 2008 and August 2, 2008, which resulted in no Indiana bat captures. Following the survey, Copperhead Consulting provided FWS with a mist net survey report that stated the project is not likely to adversely affect the Indiana bat. On March 18, 2009 FWS agreed that based on the results of the mist net survey, it is unlikely that Indiana bats occur along the Project corridor. FWS granted the Companies unrestricted tree clearing through July 28, 2010. The March 3, 2009 Final Report of the Indiana Bat Mist Net Survey was submitted to the OPSB for review and approval on March 27, 2009. Currently the Companies are planning on clearing during the non-restricted season between October 1 and March 31.

2.3 Snowshoe Hare Coordination

ODNR-DOW initial comments on September 21, 2007 indicated that the Project is possibly located in the range of the state endangered snowshoe hare (*Lepus americanus*). ODNR-DOW

provided the name of a snowshoe hare expert at ODNR-DOW to contact and determine if the Project is within the snowshoe hare reintroduction area. Dave Scott with ODNR-DOW confirmed that the Project is within the snowshoe hare reintroduction area from Mayfield Road (U.S. 322), north to GAR Highway (U.S. 6).

2.4 Yellow-bellied Sapsucker Coordination

On September 21, 2007 ODNR-DOW commented that the Project is within the nesting range of the state endangered yellow-bellied sapsucker (*Sphyrapicus varius*), and recommended that if tree removal is to occur, tree removal should not occur between May 1 through July 1. URS sent ODNR-DOW a letter on July 16, 2009 requesting information about the yellow-bellied sapsucker and the name of an expert that URS could contact to determine the nesting habitat preferences of the yellow-bellied sapsucker. ODNR-DOW responded on July 28, 2009 with multiple literature resources to use, and provided the name of an expert with ODNR-DOW to contact. On November 2, 2010 URS contacted Mr. Jim McCormac with ODNR-DOW regarding yellow-bellied sapsuckers and their preferred nesting habitat. Mr. McCormac indicated that the species is a habitat generalist and could be found wherever there is forested habitat. On November 16, 2010, a letter was sent to ODNR-DOW summarizing communication with Mr. McCormac, and a request for approval from ODNR-DOW to approve the plan to not clear trees from May 1 through July 1 as suggested by ODNR on September 21, 2007. In ODNR-DOW's December 17, 2010 email, the ODNR-DOW stated that they concur with the Companies' request to clear so long as they avoid cutting trees from May 1 to July 1.

3.0 Threatened & Endangered Species Plan

The Threatened & Endangered Species Plan addresses requirements for agency coordination, flagging of species along the ROW, tree clearing restrictions and requirements, and instructions concerning reporting of a threatened or endangered species discovery during construction.

3.1 Threatened and Endangered Animal Species Coordination For Construction

- **Bald Eagle:** Prior to beginning construction, Mr. Shieldcastle with ODNR-DOW must be contacted to determine if there are any bald eagle nests within ½ mile of the Project. If a nest site has been established with a ½ mile, ATSI and CEI must coordinate with ODNR-DOW to determine how construction may proceed.

- On March 1, 2011, URS contacted Andrea Tibbels at ODNR-DOW Crane Creek Wildlife Station regarding current bald eagle nest(s) in proximity to the Project. Ms. Tibbels checked the ODNR records and indicated that at this time the bald eagle nest at Tar Creek (located approximately 3 miles southwest of Stacy Substation) is still the closest nest site. She also indicated that there are two new nests, one located approximately 3 to 4 miles northeast and the other located approximately 3 to 4 miles northwest of the northern end of the Project. This discussion confirms that shortly before initiating Project construction, there are no bald eagle nests within 0.5 miles of the Project. Throughout the duration of Project construction, the ODNR will be contacted each January to determine if there are any bald eagle nests within ½ mile of the Project.
- **Indiana Bat:** Based on the contacts to date with FWS and ODNR, compliance with the seasonal tree clearing restrictions, with clearing occurring during the non-restricted season between October 1 and March 31, fulfills the coordination requirements for the Indiana bat. In the event any tree clearing is proposed for the restricted season of April 1 to September 30, prior to commencing such clearing, further coordination with FWS is proposed. This further coordination will involve seeking, both FWS concurrence that clearing activities may proceed within an area on a case-by-case basis, and if FWS concurs, then seeking OPSB staff concurrence that clearing activities may proceed within the same area on a case-by-case basis prior to commencing any clearing activities in the subject area.
- **Snowshoe Hare:** No additional coordination with ODNR-DOW is required.
- **Yellow-bellied Sapsucker:** No additional coordination with ODNR-DOW is required.

3.2 Threatened and Endangered Plant Species

No threatened or endangered plant species have been identified to date.

3.2.1 Contingency for Reporting Previously Undocumented T&E Plant Species

In preparation for the Preconstruction meetings, the Environmental Specialist shall review the applicable area of the Project to identify the presence or confirm the absence of threatened or endangered plant species. If a threatened or endangered plant species is identified prior or during construction, OPSB Staff and the appropriate regulatory agency (ODNR, FWS) will be notified. Work in the area of the identified plant species will stop until the Companies, OPSB,

and the regulatory agency have decided on the appropriate course of action before work can proceed.

3.2.2 Flagging

To keep vehicles from impacting identified plant species, construction fencing will be placed around the identified threatened or endangered plant species. Additionally, to the extent practical construction crews will avoid the area and cut trees will be felled to fall outside the fenced off area.

3.2.3 Herbicide Use

Herbicide use is defined in the Vegetative Clearing, Herbicide Use and Signage Plan (Appendix J). Only the herbicide stump treatment as described in the Vegetative Clearing, Herbicide Use and Signage Plan will be used and any other herbicides will not be used within 50 feet of any identified endangered plant species.

3.2.4 Clearing Restrictions

No threatened or endangered plant species have been identified to date, and therefore no specific clearing restrictions are anticipated. However, as previously indicated, if a threatened or endangered plant species is identified prior or during construction, OPSB Staff and the appropriate regulatory agency (ODNR, FWS) will be notified and an appropriate course of action will be implemented.

3.3 Threatened and Endangered Animal Species

No threatened or endangered animal species have been identified in the field by the Companies, URS, or Copperhead Consulting. However, according to the ODNR-DOW, there are snowshoe hares in the Project area between Mayfield Road (U.S. 322) and GAR Highway (U.S. 6), the area potentially contains the yellow-bellied sapsucker, and is in the range of the Indiana bat.

3.3.1 Reporting

If a threatened or endangered animal species, other than the yellow-bellied sapsucker and the snowshoe hare, is identified, OPSB Staff and the appropriate regulatory agency (ODNR, FWS) will be notified. Work in the area of the identified animal species will stop until the Companies,

OPSB, and the regulatory agency have decided on the appropriate course of action before work can proceed.

3.3.2 Flagging

Flagging for identified threatened or endangered animal species will likely not be necessary due to mobility of most animal species, unless the identified species is using a fixed habitat (tree, shrub, or a specific area). If the species is using a fixed habitat or a specific area along the ROW, flagging or fencing will be used.

3.3.3 Herbicide Use

Herbicide use is defined in the Vegetative Clearing, Herbicide Use and Signage Plan. The use of herbicides during construction and maintenance cannot be used within 50 feet of the identified endangered animal species fixed habitat, particularly if it is a ground nesting species during the nesting season. If the identified species does not have a fixed habitat within or close to the ROW, then herbicide use is permitted.

3.3.4 Clearing Restrictions and Requirements

The entire Project, without further consultation with FWS, can only be cleared of trees during the non-restricted seasonal clearing window from October 1 through March 31. Table 2 outlines when clearing is not permitted.

As a result of the yellow-bellied sapsucker agreement with ODNR-DOW, clearing of trees is not permitted from May 1 through July 1. Table 2 outlines when clearing is not permitted.

There are no clearing restrictions for the snowshoe hare. However, to minimize impacts to the snowshoe hare habitat between Mayfield Road (U.S. 322) and GAR Highway (U.S. 6), cut trees are to be placed in the ROW to create habitat. Additionally, shrub species are to be left in place as much as practical to minimize loss of habitat.

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1: No clearing from April 1st through September 30th
2: No clearing from May 1st through July 1st

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