

Exhibit J
U.S. Fish and Wildlife Service Communication

Note, the attached exhibit was also provided with the application filed in Cadence Solar's application in 21-1003-EL-BLN.

From: [Zimmermann, Susan C](#) on behalf of [Ohio, FW3](#)
To: [Drew Carson](#)
Cc: kate.parsons@dnr.state.oh.us; nathan.reardon@dnr.state.oh.us; [Seymour, Megan](#); [Stevenson, Lori](#); mretterer@pheasantsforever.org
Subject: Cadence Solar Project, Union County, Ohio
Date: Wednesday, January 29, 2020 10:53:26 AM
Attachments: [image.png](#)
[Ohio Solar Site Pollinator Habitat Planning and Assessment Form v.9 FINAL_5_3_2018.pdf](#)

EXTERNAL: This email originated from outside SWCA. Please use caution when replying.



UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service
Ecological Services Office
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / Fax (614) 416-8994



TAILS# 03E15000-2020-TA-0636

Dear Mr. Carson:

We have received your recent correspondence requesting information about the subject proposal. There are no federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area. The following comments and recommendations will assist you in fulfilling the requirements for consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA).

The U.S. Fish and Wildlife Service (Service) recommends that proposed developments avoid and minimize water quality impacts and impacts to high quality fish and wildlife habitat (e.g., forests, streams, wetlands). Additionally, natural buffers around streams and wetlands should be preserved to enhance beneficial functions. If streams or wetlands will be impacted, the Corps of Engineers should be contacted to determine whether a Clean Water Act section 404 permit is required. Best management practices should be used to minimize erosion, especially on slopes. All disturbed areas should be mulched and revegetated with native plant species. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats.

FEDERALLY LISTED SPECIES COMMENTS: All projects in the State of Ohio lie within the range of the federally endangered Indiana bat (*Myotis sodalis*) and the federally threatened northern long-eared bat (*Myotis septentrionalis*). In Ohio, presence of the Indiana bat and northern long-eared bat is assumed wherever suitable habitat occurs unless a presence/absence survey has been performed to document absence. Suitable summer habitat for Indiana bats and northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags =3 inches diameter at breast height (dbh) that have any exfoliating bark, cracks, crevices, hollows and/or cavities), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within

1,000 feet (305 meters) of other forested/wooded habitat. Northern long-eared bats have also been observed roosting in human-made structures, such as buildings, barns, bridges, and bat houses; therefore, these structures should also be considered potential summer habitat. In the winter, Indiana bats and northern long-eared bats hibernate in caves and abandoned mines.

Should the proposed site contain trees ≥ 3 inches dbh, we recommend that trees be saved wherever possible. If any caves or abandoned mines may be disturbed, further coordination with this office is requested to determine if fall or spring portal surveys are warranted. The Service requests additional information on the extent of tree clearing proposed so that we may evaluate the potential for the project to effect the Indiana and northern long-eared bat and recommend appropriate minimization measures. *Please provide estimated acreages of forest clearing as well as maps indicating areas to be cleared.*

The endangered rayed bean (*Villosa fabalis*), a freshwater mussel, is known to occur in Mill Creek, just south of the project area. The rayed bean is generally known from smaller, headwater creeks, but records exist in larger rivers. They are usually found in or near shoal or riffle areas, and in the shallow, wave-washed areas of lakes. Substrates typically include gravel and sand, and they are often associated with, and buried under the roots of, vegetation, including water willow (*Justicia americana*) and water milfoil (*Myriophyllum* sp.). Should the proposed project directly or indirectly impact any of the habitat types described above, we recommend that a survey be conducted to determine the presence or probable absence of rayed bean mussels in the vicinity of the proposed site. Any survey should be designed and conducted in coordination with the Ohio Field Office. Surveyors must have valid Federal and State permits to survey for federally listed mussels in Ohio.

If there is a federal nexus for the project (e.g., federal funding provided, federal permits required to construct), no tree clearing should occur on any portion of the project area until consultation under section 7 of the ESA, between the Service and the federal action agency, is completed. We recommend that the federal action agency submit a determination of effects to this office, relative to the Indiana bat and northern long-eared bat, for our review and concurrence.

Due to the project type, size, and location, we do not anticipate adverse effects to any other federally endangered, threatened, proposed, or candidate species. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be initiated to assess any potential impacts.

BALD EAGLE COMMENTS: The project lies within the range of the bald eagle (*Haliaeetus leucocephalus*). Bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, BGEPA), which prohibits, among other things, the killing and disturbance of eagles. To evaluate your project's potential to affect bald eagles, please visit: <https://www.fws.gov/midwest/eagle/permits/baeatake/index.html>.

Our records indicate that a bald eagle nest is located within approximately 350 meters from the northeast corner of the project area (see attached figure for approximate nest location). Our database of nest locations may not be complete because new nests are built each year, and nesting pairs sometimes build multiple nests. Therefore, we recommend that the site and surrounding area be evaluated to determine if any additional eagle nests are present and to

validate the actual nest location.

In order to avoid take of bald eagles, we recommend that no tree clearing occur within 660 feet of a bald eagle nest or within any woodlot supporting a nest tree. Further we request that work within 660 feet of a nest or within the direct line-of-site of a nest be restricted from January 15 through July 31. This will prevent disturbance of the eagles from the egg-laying period until the young fledge, which encompasses their most vulnerable times. Once site specific eagle nest information is available, we can work with you to determine the appropriate buffer from the nest(s) relative to your proposed activities.

If these recommendations cannot be implemented and take of bald eagles is likely, a bald eagle take permit for this project may be necessary. Further information on eagle take permits can be found at: <https://www.fws.gov/midwest/eagle/permits/baeatake/index.html>.

POLLINATOR COMMENTS: The Service is working closely with our partners at Ohio Pollinator Habitat Initiative (OPHI) to create and enhance pollinator habitat at solar power installations. Attached for your use is the Ohio Solar Site Pollinator Habitat Planning and Assessment Form. This form was developed by the OPHI Solar Pollinator Program Advisory Team. We recommend that the areas between the solar panels be planted with legumes and wildflowers (i.e. forbs) that are beneficial to pollinators and other wildlife instead of non-native grass. Pollinators are beneficial to agricultural communities like the project area because they pollinate many varieties of fruits and vegetables. The recommended legumes and forbs are short (low-growing) so as not to cast shadows on the solar panels and would only require one to two mowings a year for maintenance, which should allow the project proponent to minimize maintenance costs. For other areas of the installation where vegetation does not have to be low-growing, alternative pollinator mixes are available with a more diverse array of flowering plants. This perennial vegetation will provide beneficial foraging habitat to songbirds and pollinators (e.g., monarch butterfly and the federally listed rusty patched bumblebee) while reducing storm water runoff, standing water, and erosion. Native plants can act as host plants for insect larva while flowering plants provide nectar sources for adult butterflies as well as other pollinators such as hummingbirds. Seeds from these plants can also provide food for a wide variety of bird species. Please contact the Ohio Pollinator Habitat Initiative (<http://www.ophi.info/>, and specifically Mike Retterer mretterer@pheasantsforever.org) for further information on solar power facility pollinator plantings.

Recommended low-growing grasses and forbs may include:

Little Bluestem	<i>Schizachyrium scoparium</i>
Sideoats Grama	<i>Bouteloua curtipendula</i>
Alfalfa	<i>Medicago spp.</i>
Alsike Clover	<i>Trifolium hybridum</i>
Brown-eyed Susan	<i>Rudbeckia triloba</i>
Butterfly Milkweed	<i>Asclepias tuberosa</i>
Lanceleaf Coreopsis	<i>Coreopsis lanceolata</i>
Partridge Pea	<i>Chamaecrista fasciculata</i>
Timothy	<i>Phleum pratense</i>
Orchardgrass	<i>Dactylis glomerata</i>
Crimson Clover	<i>Trifolium incarnatum</i>
Ladino or White Clover	<i>Trifolium repens</i>

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the ESA, and are consistent with the intent of the National Environmental Policy Act of 1969 and the Service's Mitigation Policy.

This letter provides technical assistance only and does not serve as a completed section 7 consultation document. We recommend that the project be coordinated with the Ohio Department of Natural Resources due to the potential for the project to affect state listed species and/or state lands. Contact John Kessler, Environmental Services Administrator, at (614) 265-6621 or at john.kessler@dnr.state.oh.us.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,



Patrice M. Ashfield
Field Office Supervisor

cc: Nathan Reardon, ODNR-DOW
Kate Parsons, ODNR-DOW
Mretterer@pheasantsforever.org
Lori_Stevenson@fws.gov

Attachments (2):

Approximate location of bald eagle nest relative to project boundary provided by
SWCA

Ohio Solar Site Pollinator Habitat Planning and Assessment Form



From: [Seymour, Megan](#)
To: [Becky Braeutigam](#)
Cc: [Ohio, FW3](#); [Wojcikiewicz, John](#); [Drew Carson](#)
Subject: Re: Cadence Solar Project - Updated Review Request
Date: Wednesday, February 26, 2020 2:59:57 PM
Attachments: [image003.png](#)

EXTERNAL: This email originated from outside SWCA. Please use caution when replying.

Hi Becky,

Our original letter is still applicable to the revised project boundary. The southernmost extent of the new project lands is quite a bit closer to the stream that supports the Rayed Bean mussel, however the boundary still appears to be about 150-200 m from the stream itself.

Thank you for checking in on this!

Megan

From: Becky Braeutigam <becky.braeutigam@swca.com>
Sent: Wednesday, February 26, 2020 10:35 AM
To: Seymour, Megan <megan_seymour@fws.gov>
Cc: Ohio, FW3 <ohio@fws.gov>; Wojcikiewicz, John <jwojcikiewicz@invenergyllc.com>; Drew Carson <DCarson@swca.com>
Subject: [EXTERNAL] Cadence Solar Project - Updated Review Request

Good morning Megan-

Invenergy is considering additional lands for their Cadence Solar Energy Center Project, and they've asked that we update our site characterization accordingly. Attached are shapefiles and a revised IPaC. We'll be discussing these areas in more detail during our upcoming meeting, but wanted to get them over to you before then. The additional parcels have a similar cover type to the rest of the Project area (predominately active agricultural land). Can you please confirm that the data and recommendations provided during previous coordination apply to this revised Project Area or let us know what additional resources or recommendations you have?

Thanks,
Becky

Becky Braeutigam

Natural Resources Project Manager

SWCA Environmental Consultants

M 937.405.8256



**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on
5/23/2023 12:42:28 PM**

in

Case No(s). 23-0557-EL-BLN

Summary: Application - Application 12 of 15 (Exhibit J –U.S. Fish and Wildlife Service Communication) electronically filed by Christine M.T. Pirik on behalf of CADENCE SOLAR ENERGY LLC.