

**Memorandum of Understanding  
Between the Federal Energy Regulatory Commission  
and the U.S. Department of the Interior United States Fish and Wildlife Service  
Regarding Implementation of Executive Order 13186,  
“Responsibilities of Federal Agencies to Protect Migratory Birds”**

This Memorandum of Understanding (MOU) is entered into by the Federal Energy Regulatory Commission’s Office of Energy Projects (Commission) and the U.S. Fish and Wildlife Service (FWS), collectively referred to as the Parties.

**A. Purpose and Scope**

The purpose of this MOU, as required by the Executive Order 13186 (66 FR 3853, January 17, 2001), is to further the purposes of the migratory bird conventions, the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act (BGEPA), the Fish and Wildlife Coordination Act, the Endangered Species Act (ESA), the National Environmental Policy Act (NEPA), and other pertinent statutes. This MOU focuses on avoiding or minimizing adverse impacts on migratory birds and strengthening migratory bird conservation through enhanced collaboration between the Commission and FWS by identifying areas of cooperation. This voluntary MOU does not waive legal requirements under the MBTA, BGEPA, ESA, the Federal Power Act, the Natural Gas Act, or any other statutes and does not authorize the take of migratory birds.

**B. Authorities**

This MOU is entered into under the provisions of the following statutes and other authorities available to the Parties:

Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. §§ 668 *et seq.*)  
Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531 *et seq.*)  
Executive Order 13112, Invasive Species, 1999 (64 FR 6183)  
Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, 2001 (66 FR 3853)  
Federal Power Act, as amended (16 U.S.C. §§ 791a *et seq.*)  
Fish and Wildlife Act of 1956, as amended (16 U.S.C. §§ 742 *et seq.*)  
Fish and Wildlife Conservation Act of 1980, as amended (16 U.S.C. §§ 2901 *et seq.*)  
Fish and Wildlife Coordination Act of 1980, as amended (16 U.S.C. §§ 661 *et seq.*)  
Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. §§ 715 *et seq.*)  
Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. §§ 703 *et seq.*)  
National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4300 *et seq.*)  
Natural Gas Act (15 U.S.C. §§ 717 *et seq.*)

## **C. Missions of Both Parties**

### Commission

The Commission is an independent regulatory agency that regulates and oversees energy industries in the economic and environmental interest of the American public. The Commission issues certificates of public convenience and necessity for interstate natural gas projects and associated facilities; licenses and exemptions for non-federal hydroelectric power projects; and construction permits for certain electric transmission projects under the authority of the Natural Gas Act, Federal Power Act, and § 216 of the Federal Power Act as amended by the Energy Policy Act of 2005 (EPAct 2005), respectively. It is the Commission's position that as an independent regulatory agency, as defined in 5 U.S.C. § 104, it is not bound by Executive Order 13186. However, the Commission recognizes the benefits of cooperation with the FWS, other Federal agencies, State agencies, and other partners to identify and implement actions that benefit migratory birds. The Commission therefore will implement the provisions of this MOU, consistent with its mission, under the procedures established by the Commission's regulations.

### FWS

As a Federal agency within the U.S. Department of the Interior, the mission of the FWS is to work with others to conserve, protect, manage, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. The FWS Division of Migratory Bird Management serves as a focal point in the United States for policy development and strategic planning, program implementation, and evaluation of actions designed to conserve migratory birds and their habitats.

The FWS is legally mandated to implement the conservation provisions of the MBTA, which includes responsibilities for managing migratory bird populations, domestic and international coordination, and the development and enforcement of regulations that govern the take of migratory birds. The Migratory Bird Conservation Act and the Fish and Wildlife Coordination Act mandate migratory bird habitat conservation, including habitat protection, through acquisition, enhancement, and/or management and avoidance and minimization of adverse impacts.

FWS programs that involve bird conservation activities include:

1. The Division of Migratory Bird Management and the Migratory Bird Programs in the FWS Regional Offices serve as focal points for policy development and strategic planning. These offices develop and implement monitoring and management initiatives that help maintain healthy populations of migratory birds and their habitats and provide continued opportunities for citizens to enjoy bird-related recreation.
2. The Division of Bird Habitat Conservation is instrumental in supporting habitat conservation partnerships through the administration of bird conservation grant

programs and development of Joint Ventures that serve as major vehicles for implementing the various bird conservation plans across the country.

3. Ecological Services Field Offices across the country serve as the primary contacts for technical assistance and environmental reviews involving migratory bird issues. The Field Offices coordinate with the Regional Migratory Bird Offices, as necessary, during these reviews regarding permits and overall migratory bird conservation coordination for Commission activities.
4. The Office of Law Enforcement is the principal FWS program that enforces the legal provisions of the MBTA, BGEPA, ESA, and other laws pertaining to migratory bird conservation.
5. The Division of Refuges and Wildlife manages National Wildlife Refuges (NWRs) and Waterfowl Production Areas across the country, many of which were established to protect and conserve migratory birds. NWRs not only protect important bird habitat, but also focus on monitoring migratory bird populations and restoring and maintaining native habitats.

#### **D. Statement of Mutual Benefit and Interest**

Both Parties have interests and responsibilities to ensure that the Nation's development of energy infrastructure is conducted in a manner protective of the natural environment. The Parties mutually agree that conservation of migratory birds and their habitat will help sustain ecological integrity, contribute to public conservation education, and enhance the growing interest in outdoor recreation opportunities. Further, the Parties mutually agree that it is important to: 1) conserve migratory bird populations and their habitats; 2) recognize that actions taken to benefit some migratory bird populations may adversely affect other migratory bird populations; 3) recognize that actions that may provide long-term benefits to migratory bird populations may have short-term impacts on individual birds; and 4) recognize that restoration of migratory bird populations and habitats can be a long-term endeavor. It is in the interests of both Parties that potential impacts, direct and indirect, are thoroughly assessed and unavoidable impacts are appropriately mitigated (see "Mitigation" under **Definitions**).

#### **E. Obligations of Both Parties**

The Parties agree that this MOU shall be implemented to the extent permitted by law and in harmony with agency missions, subject to the availability of appropriations. Both Parties shall:

1. Support the conservation intent of Executive Order 13186, and the migratory bird conventions, to the extent possible and practicable, by: a) integrating bird conservation principles, measures, and practices into agency actions; b) avoiding or minimizing the take of migratory birds and adverse effects on their habitat; c) improving habitat conditions for migratory birds on lands affected by energy

projects; and d) preventing or abating pollution detrimental to migratory birds and their habitats.

2. Encourage agencies and applicants (including hydropower licensees and exemptees), as appropriate for the energy project and consistent with agency authorities, to develop studies, conduct research, and exchange information related to environmental, physical, and biological stressors that are relevant to agency decisions and management practices that may impact migratory birds. This includes, to the extent practicable:
  - a. Recommending that any management studies and research projects that are appropriate to an energy project are designed using national or regional standardized protocols and programs.<sup>1</sup> These studies and projects may be done in coordination with other Federal and State agencies, universities, and other partners, as necessary.
  - b. Encouraging applicants to share data for breeding, migrating, and wintering populations, and habitats, in a timely fashion with national data repositories.<sup>2</sup>
  - c. Developing, collaboratively and periodically updating, best management practices to: 1) avoid or minimize take of migratory birds; 2) conserve and restore migratory bird habitats; 3) develop and evaluate effectiveness of mitigation measures for habitat restoration or enhancement; and 4) encourage bird conservation.
  - d. Educating participating staff and applicants in the use of acquired knowledge in the most appropriate methods and techniques to: 1) inventory and monitor migratory birds; 2) assess population status of migratory birds; 3) assess temporal and spatial bird use in specific areas; 4) evaluate impacts of projects on migratory birds; and 5) develop management practices that avoid or minimize take and other adverse impacts and promote beneficial proactive approaches to migratory bird conservation. These training opportunities could be conducted through presentations at conferences, pre-filing meetings with applicants, agency-sponsored workshops, or Commission guidance.
  - e. Contributing information on migratory birds, including the ecological, economic, and recreational values of migratory birds, to partners developing outreach and education materials and activities.
3. Work collaboratively with other agencies and applicants to identify measures to protect, restore, and manage, as practicable, Important Bird Areas, Western Hemisphere Shorebird Reserve Network sites, Ramsar sites, and other significant

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<sup>1</sup> These include the Breeding Biology Research and Monitoring Database (BBIRD) or Monitoring Avian Productivity and Survivorship (MAPS).

<sup>2</sup> These include National Point Count Database, MAPS, and State Natural Heritage Programs and could be made available through information sharing networks such as the National Biological Information Infrastructure (NBII), and/or the Avian Knowledge Network (AKN).

bird sites that occur on lands impacted by projects under the jurisdiction of the Commission.

4. Meet after execution to discuss implementation of this MOU and periodically to discuss relevant issues, summary of accomplishments and any recommendations concerning strategies for the conservation of migratory birds and/or mitigation and avoidance of adverse impacts.
5. Participate annually, as practicable, in the interagency Council for the Conservation of Migratory Birds to share information on conservation of migratory birds. The duties of the Council include the following:
  - a. Sharing the latest resource information to assist in the conservation and management of migratory birds.
  - b. Fostering partnerships to further the goals of Executive Order 13186.
  - c. Selecting an annual recipient of a Presidential Migratory Bird Federal Stewardship Award for contributions to the protection of migratory birds.

**F. Obligations of the Federal Energy Regulatory Commission**

The Commission agrees that the commitments made in this MOU shall be implemented in each of its program areas,<sup>3</sup> where applicable. The Commission shall:

1. Engage FWS for early coordination relative to potential impacts of proposed actions, to proactively address migratory bird conservation, and to initiate appropriate actions to avoid and minimize the take of migratory birds.
2. Require, as appropriate, applicants to mitigate negative impacts on migratory birds and their habitats by proposed actions, in compliance with and/or supporting the intent of the MBTA, Executive Order 13186, BGEPA, ESA, and other applicable statutes.
3. Direct applicants, where appropriate, to jointly develop project-specific conservation measures with the FWS during the pre-filing process and/or the initial planning of projects, to avoid or minimize, to the extent possible, impacts on migratory birds and their habitats, with emphasis on, but not exclusive to, species of concern, and to provide documentation of the FWS' opportunity to review and comment on proposed final conservation measures.
4. Address migratory birds and their habitats, where appropriate, with emphasis on, but not exclusive to, species of concern, in the scope of any environmental review, including the NEPA analysis. This review shall include, as necessary,

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<sup>3</sup> With the exception of activities conducted under its natural gas blanket certificate program pursuant to 18 CFR §§ 157.208, 210, 211, 212, and 216.

identifying and evaluating:

- a. Direct, indirect, and cumulative effects,<sup>4</sup> of the proposed action on migratory birds, including take, and detrimental alteration of important habitats such as breeding, migrating, roosting, or over-wintering habitats using best available demographic, population, or habitat association data. Where the potential for impacts on raptors or other species of concern is likely, require applicant to conduct pre-application surveys to facilitate the evaluation of effects to migratory birds and their habitats.
  - b. Reasonable modifications and alternatives to the proposed action that avoid or minimize take.
  - c. Bird conservation measures and best management practices to avoid or minimize adverse effects and mitigation.
  - d. Migratory bird species of concern in the proposed project area by reviewing the *Birds of Conservation Concern*, published and updated periodically by FWS, and other lists of priority migratory bird species (see “Species of Concern” under **Definitions**).
5. Address migratory bird habitat and population management objectives and recommendations in its environmental review, where appropriate. This includes objectives and priorities from national and regional bird conservation plans including Partners in Flight, North American Waterfowl Management Plan, U.S. Shorebird Conservation Plan, and North American Waterbird Conservation Plan.
  6. Evaluate information provided by the FWS on specific projects concerning presence, impacts, management, and conservation of migratory birds and consider recommendations provided by the FWS with regard to those birds in agency decision-making.
  7. Include terms and conditions<sup>5</sup> and appropriate recommendations that the Commission finds are in the public interest in hydropower licenses, exemptions, license amendments, project surrenders, and non-project use of project lands; natural gas certificate/authorizations; transmission line construction permits; or other authorizing Commission actions to avoid or minimize take of migratory birds and mitigate unavoidable take and adverse effects, as appropriate, with emphasis on species of concern and their habitats.
  8. Notify the appropriate FWS Ecological Services Field Office (e.g., the office that reviewed the project proposal), when the Commission becomes aware of any post-approval activities by a licensee, exemptee, or certificate or permit holder that result in take, or adverse effects to migratory birds, in particular,

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<sup>4</sup> See 40 CFR §§ 1508.7-8.

<sup>5</sup> Under § 4(e) of the Federal Power Act, hydropower projects located within a Federal reservation are subject to terms and conditions to protect the reservation.

species of concern (e.g., unanticipated bird mortality during operations and maintenance).

9. Identify and make available internal and external training regarding measures and practices to avert detrimental impacts to migratory bird species and techniques used in habitat restoration and enhancement measures.
10. Address, as appropriate, the potential introduction, establishment and spread of non-native plants and animals that could result from actions under the consideration of the Commission.
11. Retain pertinent records of the Commission actions and the conservation measures to be implemented as part of the public record for the project.
12. Advise the public of the availability of this MOU through a notice published in the Federal Register.

**G. Obligations of the Fish and Wildlife Service:**

1. Continue to participate in the Commission's hydroelectric power activities, gas projects certifications/authorizations, and electric transmission line construction permitting processes pursuant to applicable laws and strive to meet deadlines established in Commission proceedings.
2. Provide the Commission and applicants with consultation and technical information to assist in identifying bird conservation measures and practices, for consideration in the Commission's decision-making processes. This assistance may aid the Commission in issuing exemptions, surrenders, licenses, amendments, and non-project use of project lands for hydroelectric projects, certificating/authorizing natural gas projects, and issuing transmission line construction permits, as it strives to avoid or minimize adverse impacts of those projects on migratory birds and their habitats, as well as identifying conservation actions that would benefit migratory bird species.
3. Continue to cooperate and coordinate with other Federal agencies, State agencies, universities, and independent non-governmental organizations to develop and conduct surveys that provide reliable information on the status and trends of migratory bird populations on national or regional scales. Existing information will be made available in a timely manner to aid the Commission and/or applicants in assessing impacts of energy projects to migratory birds.
4. Share, with the Commission and/or the applicant during the initial stages of a project's review, survey protocols for bird and habitat surveys and inventories; methods and criteria to evaluate habitat quality; information on migratory bird distribution, status, and natural habitats; and conservation guidelines to assist in the Commission's individual hydropower license, natural gas project certificate/authorization, and transmission line permit reviews. This includes

updating the FWS *Birds of Conservation Concern* at regular intervals.

5. Provide the Commission and/or applicants, in a timely manner, updated measures for reducing human-caused bird mortality as new information becomes available from ongoing research.
6. Provide training (e.g., regional workshops, outreach materials, web-based training) on migratory bird inventory, management, and monitoring methods and practices for migratory birds and their habitats. This includes developing and sponsoring training regarding:
  - a. Up-to-date measures and practices that avert detrimental impacts to migratory bird species, including nesting, rearing, feeding, migration, or over-wintering populations and habitats.
  - b. Appropriate protocols and criteria for determining habitat and population conditions and trends, and studies for evaluating effects of activities on migratory birds and their habitats.<sup>6</sup>
  - c. Conservation measures and practices for migratory bird habitat restoration and/or enhancement, including evaluation of the effectiveness of such conservation measures.
  - d. Procedures for coordinating with the applicable Joint Venture and Landscape Conservation Cooperative Coordinator to ensure the best available data and use of resources are being utilized.
7. Encourage applicants to use the best available scientific information in the management of migratory bird populations.
8. Conduct informational and educational programs oriented toward migratory bird conservation, including habitat restoration.
9. File with the Secretary of the Commission comprehensive plans relating to migratory bird conservation pursuant to § 10(a)(2) of the Federal Power Act.
10. Continue to maintain a permits web page that provides links to all offices responsible for issuing permits for intentional take of migratory birds. Identify mechanisms, alternate approaches, or other activities that would reduce or eliminate take, or advance migratory bird conservation consistent with the objectives of the Executive Order 13186.
11. Inform the Commission of any new FWS regulation or policy associated with take of migratory birds. This includes providing training on such regulations or

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<sup>6</sup> Examples include: (1) Breeding Bird Survey; (2) the Avian Power Line Interaction Committee (APLIC) Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006; and (3) APLIC Mitigating Bird Collisions with Power Lines: The State of the Art in 1994.



policies, when practicable.

12. When applicable, request annual reporting by applicants on migratory bird conservation efforts.

## **H. Definitions**

Birds of Conservation Concern - published and periodically updated by the FWS Division of Migratory Bird Management, refers to the list of nongame birds, gamebirds without hunting seasons, subsistence-hunted nongame birds in Alaska; and ESA candidate, proposed endangered or threatened, and recently delisted species in the United States in its entirety, including island "territories" in the Pacific and Caribbean. The overall goal of this list is to identify the migratory and non-migratory bird species that, in addition to species already listed under the ESA, represent the FWS's highest conservation priorities. The most current version of the list, Birds of Conservation Concern 2008, is available at <http://www.fws.gov/migratorybirds>.

Important Bird Area (IBA) - sites that are identified to provide essential habitat for one or more species of bird. IBAs include sites for breeding, wintering, and/or migrating birds. IBAs may include public or private lands, or both, and they may be protected or unprotected. The Important Bird Areas Program is a global effort to identify and conserve areas that are vital to birds and other biodiversity.

Incidental take – see Take.

Intentional take – see Take.

Landscape Conservation Cooperatives – conservation-science partnerships between the FWS, Federal agencies, States, Tribes, non-governmental organizations, universities, and other entities. They provide science support to managers and partnerships responsible for developing and implementing conservation strategies at landscape scales, with an emphasis on biological planning and conservation design, acquisition of biological and spatial data, research, and related activities.

Migratory Bird - an individual bird of any species protected by the MBTA. A list of migratory birds can be found in 50 CFR § 10.13 or <http://www.fws.gov/migratorybirds>.

Mitigation – a) avoiding the impact altogether by not taking a certain action or parts of an action, b) minimizing impacts by limiting the degree or magnitude of the action and its implementation, c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment, d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, or e) compensating for the impact by replacing or providing substitute resources or environments (from 40 CFR, § 1508.20, CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act).

North American Waterbird Conservation Plan (NAWCP) - an international partnership of

Federal, State, Provincial, and Tribal government agencies, non-governmental organizations, and private interests focusing on the conservation of colonial and non-colonial waterbirds, including marshbirds and inland, coastal, and pelagic waterbirds (<http://www.waterbirdconservation.org>).

North American Waterfowl Management Plan (NAWMP) - an international partnership of Federal, State, and Provincial and Tribal government agencies, non-governmental organizations, and private interests focusing on restoring waterfowl populations through habitat restoration, protection, and enhancement (<http://www.fws.gov/birdhabitat/NAWMP/index.shtm>).

Partners in Flight (PIF) - a collaborative effort of more than 300 partners, including Federal and State government agencies, non-governmental organizations, conservation groups, foundations, universities, and industry, focusing on the conservation of land birds (<http://www.partnersinflight.org>).

Species of Concern - refers to several categories of birds including: 1) species listed in the periodic report, Birds of Conservation Concern, published by the FWS Division of Migratory Bird Management (<http://www.fws.gov/migratorybirds>); 2) priority migratory bird species documented in the comprehensive bird conservation plans (North American Waterbird Conservation Plan, United States Shorebird Conservation Plan, Partners in Flight Bird Conservation Plans); 3) species or populations of waterfowl identified as high, or moderately high, continental priority in the North American Waterfowl Management Plan; 4) listed threatened and endangered bird species in 50 CFR § 17.11; and 5) MBTA-listed gamebirds of management concern (as listed in the Birds of Management Concern list, <http://www.fws.gov/migratorybirds>).

Take - to pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to pursue, hunt, wound, kill, trap, capture or collect (50 CFR § 10.12). The Executive Order further defines “take” to include intentional take, meaning take that is the purpose of the activity in question, and unintentional (incidental) take, meaning take that results from, but is not the purpose of, the activity in question. Both intentional and unintentional take constitute take as defined by the MBTA. The regulations implementing the BGEPA define take to mean pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb bald and golden eagles (50 CFR § 22.3).

Unintentional take – See Take.

United States Shorebird Conservation Plan (USSCP) - an international effort undertaken by a partnership of Federal, State, Tribal, and Provincial government agencies, non-governmental organizations, and private entities to promote stable and self-sustaining populations of all shorebird species. The plan provides a scientific framework to determine species, sites, and habitats that most urgently need conservation action (<http://www.fws.gov/shorebirdplan>).

## **I. Dispute Resolution**

The Parties agree to work collaboratively and in good faith to prevent potential conflicts or disputes. However, any substantive disputes concerning this MOU which involve an ongoing proceeding that is on the record according to the Commission's regulations (18 CFR § 385.2201) shall be resolved within the proceeding pursuant to the applicable regulations. In the event of a conflict or dispute between the Parties on the procedural implementation of this MOU (e.g., general interpretation, applicability, or execution of the MOU), the Parties agree to timely resolution of such conflict or dispute by elevating through the respective organizational levels, if necessary. A Party must notify the other Party in writing of a potential conflict or dispute in order to initiate the dispute resolution process. The Parties shall attempt to resolve the dispute at the Field/staff level no later than 20 days after receipt of written Notification of a Dispute. If there is no resolution at this level, either Party may elevate the issue to the appropriate official(s) at the Regional Office of the FWS, and the appropriate, commensurate level within the Commission. In the event that there is no resolution at that level within 20 days, the dispute may be further elevated by either Party to the Washington D.C. office of FWS, and the appropriate, commensurate level within the Commission. In certain, limited circumstances the timing for resolution of a conflict or dispute may need to be accelerated. In those circumstances, the Notification of Dispute shall explicitly describe the reasons why dispute resolution should be accelerated and the timeline under which the Parties are operating. The Parties will work in good faith to meet the unique timing requirements.

## **J. Agreement**

It is Mutually Agreed and Understood That:

This MOU in no way alters or diminishes either Party's obligations or responsibilities under any statute or other legal authority.

1. This MOU in no way restricts either Party from participating in similar activities with other public or private agencies, governments, organizations, or individuals.
2. Any information furnished to the Parties under this MOU is subject to the Freedom of Information Act (5 U.S.C. 552).
3. This MOU in no way affects the respective Party's requirements for conducting environmental analyses, including NEPA and ESA requirements.
4. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement, contribution of funds, or transfer of anything of value between the Parties will be handled in accordance with applicable laws, regulations, and procedures, including those for government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the Parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Specifically, this MOU does not establish authority for noncompetitive

award of any contract or other agreement. Any contract or agreement for training or other service must fully comply with all applicable requirements for competition.

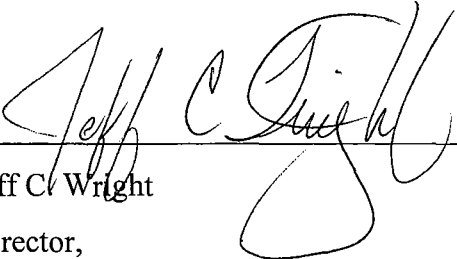
5. Any news release that announces the issuance of this MOU shall be jointly developed by both Parties.
6. Meetings will be scheduled at the headquarters level periodically to review progress and identify opportunities for advancing the purpose of this MOU. Each party will designate a point of contact to carry out the terms of this MOU.
7. This MOU does not require changes to current contracts, permits, licenses, certificates, or other third party agreements.
8. This MOU does not relieve applicants from the requirements of 50 CFR parts 21 and 22, governing the permits for intentional take of migratory birds and both intentional and non-purposeful take of eagles, and reporting numbers taken.
9. This MOU does not create any right or benefit, substantive or procedural, separately enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.
10. Modifications within the scope of the MOU shall be made in writing by mutual consent of the Parties. A modification shall be signed and dated by all Parties and incorporated into this MOU, prior to any changes being performed.
11. If either Party wishes to terminate the MOU, such Party shall provide to the other, a written notice of its intent, including a written explanation and justification of its intent, at least 30 days in advance.
12. The principal contacts for this instrument are as follows:

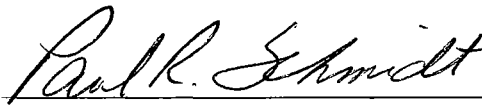
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**K. Execution: Effective Date**

This Memorandum of Understanding between the Federal Energy Regulatory Commission and the United States Fish and Wildlife Service regarding implementation of Executive Order 13186, "Responsibilities of Federal Agencies to Protect Migratory Birds" shall become effective as of the last date signed below.

  
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Jeff C. Wright  
Director,  
Office of Energy Projects  
Federal Energy Regulatory Commission

  
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Paul Schmidt  
Assistant Director,  
Migratory Bird Program  
U.S. Fish and Wildlife Service

Date 3/30/11

Date 3/11/11