



USFWS & NDDDB Compliance Determination

April 8, 2019

**Phoenix Partnership, LLC
110 Washington Avenue
North Haven, CT 06473**

APT Project No.: CT445180

**Re: Proposed Wireless CT1209 Windsor
Telecommunication Facility
780 Prospect Hill Road
Windsor, Hartford County, CT
Lat: 41 31' 33.06" N
Long: 72 25' 22.51" W
Overall Height: 130-feet AGL**

On behalf of Phoenix Partnership, LLC ("Phoenix"), All-Points Technology Corporation, P.C. ("APT") performed an evaluation with respect to possible federally- and state-listed, threatened, endangered or special concern species in order to determine if the proposed referenced communications facility ("Facility") would result in a potential adverse effect to listed species.

The proposed communications tower would be located on a property currently developed with an industrial office complex comprised of four buildings, associated paved accesses and parking areas and landscaping. The proposed Facility would be located in an area currently maintained as lawn and landscaping that would require minimal tree clearing.

USFWS The federal consultation was completed in accordance with Federal Communications Commission ("FCC") rules implementing the National Environmental Policy Act ("NEPA") and Section 7 of the Endangered Species Act through the U.S. Fish and Wildlife Service's ("USFWS") Information, Planning, and Conservation System ("IPaC"). Based on the results of the IPaC review, one federally-listed¹ threatened species is known to occur in the vicinity of the subject property documented as the northern long-eared bat ("NLEB"; *Myotis septentrionalis*). As a result of this preliminary finding, APT performed an evaluation to determine if the proposed referenced Facility would result in a likely adverse effect to NLEB.

Consultation with the Connecticut Department of Energy & Environmental Protection ("DEEP") Wildlife Division Natural Diversity Data Base ("NDDDB") revealed that the proposed Facility is not within 150 feet of a known occupied maternity roost tree and is not within 0.25 mile of a known NLEB hibernaculum. The nearest NLEB habitat resource to the proposed Facility is located in East Granby ±4.6 miles to the northwest.

APT submitted the USFWS's Northern Long Eared Bat final 4(d) rule Streamlined Consultation Form on October 26, 2018 under the consultation framework that allows federal agencies to rely upon the USFWS January 5, 2016, intra-Service Programmatic Biological Opinion ("BO") on the Final 4(d) Rule for the NLEB for section 7(a)(2) compliance. If the USFWS does not respond within 30 days from submittal of this form, one may presume that USFWS determination is informed by the best available information and that

¹ Listing under the federal Endangered Species Act

Phoenix's project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS' BO. No response was received from USFWS; therefore, the project will have no effect on NLEB.

In addition, Phoenix would consider following additional recommended measures for NLEB conservation, noted below, as encouraged in the April 29, 2016 FCC Public Notice², as the project schedule allows.

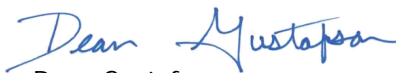
- Conduct tree removal activities outside of the NLEB pup season (June 1-July 31) and/or active season (April 1-October 31) to minimize the chance of impacting unidentified maternity roosts.
- Avoid clearing suitable spring staging and fall swarming habitat within a five-mile radius of known or assumed NLEB hibernacula during the staging and swarming seasons (April 1-May 15 and August 15-November 14, respectively). NOT APPLICABLE.
- Maintain dead trees (snags) and large trees when possible.
- Use herbicides and pesticides only if unavoidable. If necessary, spot treatment is preferred over aerial application.
- Minimize exterior lighting, opting for down-shielded, motion-sensor security lights under towers instead of constant illumination or other light minimization measures.

NDDB No known areas of state-listed species are currently depicted on the most recent DEEP NDDB Maps in the location of the proposed Phoenix development or on the subject property. However, the subject property is located ±0.06 mile southeast from a NDDB buffer area. Since the NDDB buffer area is located less than a 0.25-mile away, DEEP NDDB was consulted in accordance with the Connecticut Siting Council's review policy.

DEEP issued a January 8, 2019 determination letter indicating State Special Concern *Terrapene carolina carolina* (Eastern Box Turtle) and *Heterodon platirhinos* (Eastern Hognose Snake) in the vicinity of the project site and that protection strategies were recommended to protection these rare species; please refer to the enclosed letter. Phoenix will adhere to the attached rare species protection plan during construction to avoid potential impact to these State-listed species. Should this Facility be approved by the Connecticut Siting Council, these protection plan notes will be incorporated onto the Development and Management Plan.

Therefore, with implementation of these protective measures the proposed Phoenix Facility is not anticipated to adversely impact any federal or state threatened, endangered or species of special concern.

Sincerely,



Dean Gustafson
Senior Biologist

Enclosures

² Federal Communications Commission. *Tower Construction Guidance for Protection of Northern Long-Eared Bat Under the Endangered Species Act*. Public Notice DA 16-476. April 29, 2016.

NDDB Correspondence



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

January 8, 2019

Mr. Dean Gustafson
All-Points Technology Corporation, P.C.
3 Saddlebrook Drive
Killingworth, CT 06419
dgustafson@allpointstech.com

Project: Construction of a Cell Tower Facility and Monopole at 780 Prospect Hill Rd in Windsor, Connecticut
NDDB Determination No.: 201813695

Dear Dean Gustafson,

I have reviewed Natural Diversity Data Base maps and files regarding the area delineated on the map you provided for the proposed Construction of a Cell Tower Facility and Monopole at 780 Prospect Hill Rd in Windsor Replacement of 2 Wooden Pedestrian Bridges at Day Pond State Park in Colchester, Connecticut. According to our information there are extant known populations of state special concern *Terrapene carolina carolina* (Eastern box turtle) and *Heterodon platirhinos* (eastern hognose snake) within the project boundaries.

Eastern Box Turtle

Eastern box turtles inhabit old fields and deciduous forests, which can include power lines and logged woodlands. They are often found near small streams and ponds. The adults are completely terrestrial but the young may be semiaquatic, and hibernate on land by digging down in the soil from October to April. They have an extremely small home range and can usually be found in the same area year after year. Eastern box turtles have been negatively impacted by the loss of suitable habitat. Some turtles may be killed directly by construction activities, but many more are lost when important habitat areas for shelter, feeding, hibernation, or nesting are destroyed. As remaining habitat is fragmented into smaller pieces, turtle populations can become small and isolated. Reducing the frequency that motorized vehicles enter box turtle habitat would be beneficial in minimizing direct mortality of adults.

Recommended Protection Strategies for Turtles:

Work should occur when these turtles are active (April 1st to September 30th). Conducting land clearing while the turtle is active will allow the animal to move out of harm's way and minimize mortality to hibernating individuals. I recommend the additional following protection strategies in order to protect these turtles:

- Hiring a qualified herpetologist to be on site to ensure these protection guidelines remain in effect and to prevent turtles from being run over when moving heavy equipment. This is especially important in the month of June when turtles are selecting nesting sites.
- Exclusionary practices will be required to prevent any turtle access into construction areas. These measures will need to be installed at the limits of disturbance.
- Exclusionary fencing must be at least 20 in tall and must be secured to and remain in contact with the ground and be regularly maintained (at least bi-weekly and after major weather events) to secure any gaps or openings at ground level that may let animal pass through. Do not use plastic or netted silt-fence.
- All staging and storage areas, outside of previously paved locations, regardless of the duration of time they will be utilized, must be reviewed to remove individuals and exclude them from re-entry.
- All construction personnel working within the turtle habitat must be apprised of the species description and the possible presence of a listed species, and instructed to relocate turtles found inside work areas or notify the appropriate authorities to relocate individuals.
- Any turtles encountered within the immediate work area shall be carefully moved to an adjacent area outside of the excluded area and fencing should be inspected to identify and remove access point.

- In areas where silt fence is used for exclusion, it shall be removed as soon as the area is stable to allow for reptile and amphibian passage to resume.
- No heavy machinery or vehicles may be parked in any turtle habitat.
- Special precautions must be taken to avoid degradation of wetland habitats including any wet meadows and seasonal pools.
- The Contractor and consulting herpetologist must search the work area each morning prior to any work being done.
- When felling trees adjacent to brooks and streams please cut them to fall away from the waterway and do not drag trees across the waterway or remove stumps from banks.
- Avoid and limit any equipment use within 50 feet of streams and brooks.
- Any confirmed sightings of box, wood or spotted turtles should be reported and documented with the NDDDB (nddbrequestdep@ct.gov) on the appropriate special animal form found at (http://www.ct.gov/deep/cwp/view.asp?a=2702&q=323460&depNav_GID=1641)

Eastern Hognose Snake

The eastern hognose snake has been declining due to loss of suitable habitat. It favors areas of well drained sandy and gravelly soils along the edges of second-growth deciduous forest. This species is dormant from November 1st to April 15th.

Recommended Protection Strategies for Eastern Hognose Snake:

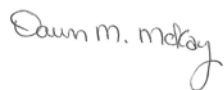
- Any snakes observed should be moved, unharmed, to an area immediately outside of the work area, and positioned in the same direction that it was traveling;
- Vehicles and heavy machinery should operate at slower speeds to allow animals the time to move out of harm's way on their own;
- Work conducted during early morning, evening hours or shortly after rain events shall occur with special care not to harm basking or foraging individuals;
- Vehicles shall be parked on graveled surfaces only;
- Material used for this project should only be placed on existing graveled surfaces

If these protection strategies are followed then the proposed activities will lessen the impact on these state-listed species. This determination is good for two years. Please re-submit an NDDDB Request for Review if the scope of work changes or if work has not begun on this project by January 8, 2021.

Natural Diversity Data Base information includes all information regarding critical biological resources available to us at the time of the request. This information is a compilation of data collected over the years by the Department of Energy and Environmental Protection's Natural History Survey and cooperating units of DEEP, private conservation groups and the scientific community. This information is not necessarily the result of comprehensive or site-specific field investigations. Consultations with the Data Base should not be substitutes for on-site surveys required for environmental assessments. Current research projects and new contributors continue to identify additional populations of species and locations of habitats of concern, as well as, enhance existing data. Such new information is incorporated into the Data Base as it becomes available.

Please contact me if you have further questions at (860) 424-3592, or dawn.mckay@ct.gov . Thank you for consulting the Natural Diversity Data Base. A more detailed review may be conducted as part of any subsequent environmental permit applications submitted to DEEP for the proposed site.

Sincerely,



Dawn M. McKay
Environmental Analyst 3

Rare Species Protection Plan

ENVIRONMENTAL NOTES: RARE SPECIES PROTECTION MEASURES

Eastern Box Turtle (*Terrapene carolina carolina*) and Eastern Hognose Snake (*Heterodon platirhinos*), State Special Concern species afforded protection under the Connecticut Endangered Species Act, are known to occur within the vicinity of the proposed communications tower facility at 780 Prospect Hill Road in Windsor, Connecticut. The following rare species protection measures satisfy requirements from the Connecticut Department of Energy & Environmental Protection ("DEEP") Wildlife Division in accordance with their Natural Diversity Data Base ("NDDB") determination letter (No. 201813695) dated January 8, 2019; this determination is valid until January 8, 2020 provided the scope of the project has not changed and work has begun on the project prior to the expiration date.

It is of the utmost importance that the Contractor complies with the requirement for implementation of these protective measures and the education of its employees and subcontractors performing work on the project site.

All-Points Technology Corporation, P.C. ("APT") will serve as the Environmental Monitor for this project to ensure that these protection measures are implemented properly and will provide an education session on rare species that may be encountered and the project's proximity to sensitive habitat prior to the start of construction activities. The Contractor shall contact Dean Gustafson, Senior Environmental Scientist at APT, at least 5 business days prior to the start of any construction activities. Mr. Gustafson can be reached by phone at (860) 663-1697 ext. 201 or via email at dgustafson@allpointstech.com.

Eastern Box Turtle Protection Program

This turtle protection plan shall be implemented if work will occur during the turtle's active period (April 1st to October 30th). The proposed communications tower facility would be sited in a maintained lawn area adjacent to the industrial office complex which does not provide suitable hibernating habitat for Eastern Box Turtle; hibernation habitat typically includes woodlands, woodland edges and forested wetlands. Therefore, protection measures during the turtle's inactive period (October 1st through March 30th) are not necessary for this project.

The proposed protection program consists of several components: education of all contractors and sub-contractors prior to initiation of work on the site; protective measures; periodic inspection of the construction project; and, reporting.

1. Isolation Measures & Sedimentation and Erosion Controls

- a. Plastic netting used in a variety of erosion control products (i.e., erosion control blankets, fiber rolls [wattles], reinforced silt fence) has been found to entangle wildlife, including reptiles, amphibians, birds and small mammals, but particularly snakes. No permanent erosion control products or reinforced silt fence will be used on the project. Temporary erosion control products will use either erosion control blankets and fiber rolls composed of processed fibers mechanically bound together to form a continuous matrix (netless) or netting composed of planar woven natural biodegradable fiber to avoid/minimize wildlife entanglement.
- b. Installation of sedimentation and erosion controls, required for erosion control compliance and creation of a barrier to possible migrating/dispersing turtles, shall be performed by the Contractor following clearing activities and prior to any earthwork. The Environmental Monitor will inspect the work zone area prior to and following erosion control barrier installation to ensure the area is free of Eastern Box Turtle and document barriers have been satisfactorily installed. The intent of the barrier is to segregate the majority of the work zone and isolate it from foraging/migrating/dispersing turtles, snakes and other herpetofauna. Oftentimes

complete isolation of a work zone is not feasible due to accessibility needs and locations of staging/material storage areas, etc. Although the barriers may not completely isolate the work zone, they will be positioned to deflect migrating/dispersal routes away from the work zone to minimize potential encounters with turtles, snakes and other herpetofauna.

- c. The Contractor is responsible for daily inspections of the sedimentation and erosion controls for tears or breeches and accumulation levels of sediment, particularly following storm events that generate a discharge. APT will provide periodic inspections of the sedimentation and erosion controls throughout the duration of construction activities only as it pertains to protection of rare species. Third party monitoring of sedimentation and erosion controls will be performed by other parties, as necessary, under applicable local, state and/or federal regulations.
- d. The extent of the sedimentation and erosion controls will be as shown on the site plans. The Contractor shall have additional sedimentation and erosion controls stockpiled on site should field or construction conditions warrant extending the controls as directed by APT.
- e. No equipment, vehicles or construction materials shall be stored outside of the sedimentation and erosion controls within 100 feet of wetlands or watercourses.
- f. All sedimentation and erosion controls shall be removed within 30 days of completion of work and permanent stabilization of site soils so that reptile and amphibian movement between uplands and wetlands is not restricted.

2. Contractor Education

- a. Prior to work on site, the Contractor shall attend an educational session at the pre-construction meeting with APT. This orientation and educational session will consist of an introductory meeting with APT providing photos of Eastern Box Turtle emphasizing the non-aggressive nature of these species, the absence of need to destroy animals that might be encountered and the need to follow Protective Measures as described in Section 4 below. Workers will also be provided information regarding the identification of other turtles, snakes and common herpetofauna species that could be encountered.
- b. The education session will also focus on means to discriminate between the species of concern and other native species to avoid unnecessary "false alarms". Encounters with any species of turtles or snakes will be documented.
- c. The Contractor will be provided with cell phone and email contacts for APT personnel to immediately report any encounters with eastern box turtle or other species. Educational poster materials will be provided by APT and displayed on the job site to maintain worker awareness as the project progresses.

3. Petroleum Materials Storage and Spill Prevention

- a. Certain precautions are necessary to store petroleum materials, refuel and contain and properly clean up any inadvertent fuel or petroleum (i.e., oil, hydraulic fluid, etc.) spill to avoid possible impact to nearby habitats.
- b. A spill containment kit consisting of a sufficient supply of absorbent pads and absorbent material will be maintained by the Contractor at the construction site throughout the duration of the project. In addition, a waste drum will be kept on site to contain any used absorbent pads/material for proper and timely disposal off site in accordance with applicable local, state and federal laws.

- c. The following petroleum and hazardous materials storage and refueling restrictions and spill response procedures will be adhered to by the Contractor.
 - i. Petroleum and Hazardous Materials Storage and Refueling
 - 1. Refueling of vehicles or machinery shall occur a minimum of 100 feet from wetlands or watercourses and shall take place on an impervious pad with secondary containment designed to contain fuels.
 - 2. Any fuel or hazardous materials that must be kept on site shall be stored on an impervious surface utilizing secondary containment a minimum of 100 feet from wetlands or watercourses.
 - ii. Initial Spill Response Procedures
 - 1. Stop operations and shut off equipment.
 - 2. Remove any sources of spark or flame.
 - 3. Contain the source of the spill.
 - 4. Determine the approximate volume of the spill.
 - 5. Identify the location of natural flow paths to prevent the release of the spill to sensitive nearby waterways or wetlands.
 - 6. Ensure that fellow workers are notified of the spill.
 - iii. Spill Clean Up & Containment
 - 1. Obtain spill response materials from the on-site spill response kit. Place absorbent materials directly on the release area.
 - 2. Limit the spread of the spill by placing absorbent materials around the perimeter of the spill.
 - 3. Isolate and eliminate the spill source.
 - 4. Contact the appropriate local, state and/or federal agencies, as necessary.
 - 5. Contact a disposal company to properly dispose of contaminated materials in accordance with all local, state and federal regulations.
 - iv. Reporting
 - 1. Complete an incident report.
 - 2. Submit a completed incident report to the appropriate Town of Farmington, Connecticut Siting Council and other applicable local, state and federal officials.

4. Turtle Protective Measures

- a. Prior to the start of construction each day, the Contractor shall search the entire work area for turtles.
- b. If a turtle is found, it shall be immediately moved, unharmed, by carefully grasped in both hands, one on each side of the shell, between the turtle's forelimbs and the hind limbs, and placed just outside of the isolation barrier in the same approximate direction it was walking.
- c. Special care shall be taken by the Contractor during early morning and evening hours so that possible basking or foraging turtles are not harmed by construction activities.

5. Herbicide and Pesticide Restrictions

- a. The use of herbicides and pesticides at the proposed communications tower facility shall be avoided when possible. In the event herbicides and/or pesticides are required at the proposed facility, their use will be used in accordance with Integrated Pest Management ("IPM") principles with particular attention to minimize applications within 100 feet of wetland or watercourse resources.

6. Reporting

- a. Compliance Monitoring Reports (brief narrative and applicable photos) documenting each APT inspection will be submitted to Phoenix Partnership LLC for compliance verification. Any observations of turtles will be included in the reports.
- b. Following completion of the construction project, APT will provide a Compliance Monitoring Summary Report to Phoenix Partnership LLC documenting implementation of the rare species protection program, monitoring and any species observations. Phoenix Partnership LLC will provide a copy of the Compliance Monitoring Summary Report to the Connecticut Siting Council for compliance verification.
- c. Any observations of Eastern Box Turtle will be reported to CTDEEP by APT, with photo-documentation (if possible) and with specific information on the location and disposition of the animal.

Eastern Hognose Snake Protection Program

The proposed snake protection program consists of education of all contractors and sub-contractors prior to initiation of work on the site and monitoring of removal of any logs, stumps or other materials that snakes may have taken cover under.

1. Contractor Environmental Awareness Training

- a. Prior to work on site, the Contractor shall attend an environmental awareness training session at the pre-construction meeting with APT. This orientation and educational session will consist of an introductory meeting with APT providing photos of Eastern Hognose Snakes and emphasizing the non-aggressive nature of these snakes, the absence of need to destroy animals that might be encountered.
- b. The environmental awareness training session will also focus on means to discriminate between the species of concern and other native species to avoid unnecessary "false alarms". Encounters with any species of snakes will be documented.
- c. The Contractor will be provided with cell phone and email contacts for the APT Environmental Monitor to immediately report any encounters with Eastern Hognose Snake or other snake species. Educational poster materials will be provided by APT and displayed on the job site to maintain worker awareness as the project progresses.

2. Snake Protective Measures

- a. APT will monitor the removal of logs, stumps and other material currently located at the site which may serve as cover for Eastern Hognose Snakes. Material will be carefully removed to avoid injury to any possible snakes that may be using this material for cover. Any observations of snakes will be reported.

- b. If a snake is found, it shall be immediately moved, unharmed, and placed just outside of the isolation barrier in the same approximate direction it was moving. Since wild snakes can be sometimes difficult to handle without injury by an untrained individual, APT will provide snake handling training to a dedicated member of the Contractor.
- c. Prior to the start of construction each day, the Contractor shall search the entire work area for snakes. Special care shall be taken by the Contractor during early morning and evening hours so that possible basking or foraging snakes are not harmed by construction activities.

3. Herbicide and Pesticide Restrictions

- a. The use of herbicides and pesticides at the proposed communications tower facility shall be avoided when possible. In the event herbicides and/or pesticides are required at the proposed facility, their use will be used in accordance with Integrated Pest Management ("IPM") principles with particular attention to minimize applications within 100 feet of wetland or watercourse resources.

4. Reporting

- a. Compliance Monitoring Reports (brief narrative and applicable photos) documenting each APT inspection will be submitted to Phoenix Partnership LLC for compliance verification. Any observations of turtles will be included in the reports.
- b. Following completion of the construction project, APT will provide a Compliance Monitoring Summary Report to Phoenix Partnership LLC documenting implementation of the rare species protection program, monitoring and any species observations. Phoenix Partnership LLC will provide a copy of the Compliance Monitoring Summary Report to the Connecticut Siting Council for compliance verification.
- c. Any observations of Eastern Hognose Snake will be reported to CTDEEP by APT, with photo-documentation (if possible) and with specific information on the location and disposition of the animal.