



United States Department of the Interior



FISH AND WILDLIFE SERVICE
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In Reply Refer To:

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Project code: 2026-0007396

Project Name: NAO-2025-02389-RRS (Virginia Economic Development Authority/JPA-Dillard Tract D/Amherst)

Federal Nexus: yes

Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Technical assistance for 'NAO-2025-02389-RRS (Virginia Economic Development Authority/JPA-Dillard Tract D/Amherst)'

Dear Rowen Schmidt:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on October 27, 2025, for 'NAO-2025-02389-RRS (Virginia Economic Development Authority/JPA-Dillard Tract D/Amherst)' (here forward, Project). This project has been assigned Project Code 2026-0007396 and all future correspondence should clearly reference this number. **Please carefully review this letter. Your Endangered Species Act (Act) requirements are not complete.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project. **Failure to accurately represent or implement the Project as detailed in IPaC or the Northern Long-eared Bat and Tricolored Bat Range-wide Determination Key (Dkey), invalidates this letter.**

Determination for the Northern Long-Eared Bat and Tricolored Bat

Based on your IPaC submission and a standing analysis completed by the Service, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Tricolored Bat (<i>Perimyotis subflavus</i>)	Proposed Endangered	May affect

Federal agencies must consult with U.S. Fish and Wildlife Service under section 7(a)(2) of the Endangered Species Act (ESA) when an action *may affect* a listed species. Tricolored bat is proposed for listing as endangered under the ESA, but not yet listed. For actions that may affect a proposed species, agencies cannot consult, but they can *confer* under the authority of section 7(a)(4) of the ESA. Such conferences can follow the procedures for a consultation and be adopted as such if and when the proposed species is listed. Should the tricolored bat be listed, agencies must review projects that are not yet complete, or projects with ongoing effects within the tricolored bat range that previously received a NE or NLAA determination from the key to confirm that the determination is still accurate. Projects that receive a may affect determination for tricolored bat through the key, should contact the appropriate Ecological Services Field Office if they want to conference on this species.

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination key for the northern long-eared bat and tricolored bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Green Floater *Lasmigona subviridis* Proposed Threatened
- James Spiny mussel *Parvaspina collina* Endangered
- Monarch Butterfly *Danaus plexippus* Proposed Threatened

You may coordinate with our Office to determine whether the Action may cause prohibited take of the species listed above.

Conclusion

Consultation with the Service is not complete. Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of “May Affect.” A “May Affect” determination in this key indicates that the project, as entered, is not consistent with the questions in the key. Not all projects that reach a “May Affect” determination are anticipated to result in adverse impacts to listed species. These projects may result in a “No Effect”, “May Affect, Not Likely to Adversely Affect”, or “May Affect, Likely to Adversely Affect” determination depending on the details of the project. Please contact our Virginia Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

DETERMINATION KEY RESULT

Based on the answers provided, the proposed Action is consistent with a determination of “may affect” for a least one species covered by this determination key.

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed bats or any other listed species?

Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

No

2. Is the action area wholly within Zone 2 of the year-round active area for northern long-eared bat and/or tricolored bat?

Automatically answered

No

3. Does the action area intersect Zone 1 of the year-round active area for northern long-eared bat and/or tricolored bat?

Automatically answered

No

4. Does any component of the action involve leasing, construction or operation of wind turbines? Answer 'yes' if the activities considered are conducted with the intention of gathering survey information to inform the leasing, construction, or operation of wind turbines.

No

5. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

Note for projects in Pennsylvania: Projects requiring authorization under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act would be considered as having a federal nexus. Since the U.S. Army Corps of Engineers (Corps) has issued the Pennsylvania State Programmatic General Permit (PASPGP), which may be verified by the PA Department of Environmental Protection or certain Conservation Districts, the need to receive a Corps authorization to perform the work under the PASPGP serves as a federal nexus. As such, if proposing to use the PASPGP, you would answer ‘yes’ to this question.

Yes

6. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

No

7. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

Yes

8. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

No

9. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

No

10. [Semantic] Is the action area located within 0.5 miles of a known bat hibernaculum or winter roost? Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

Automatically answered

No

11. Does the action area contain any winter roosts or caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating bats?

No

12. Will the action cause effects to a bridge?

Note: Covered bridges should be considered as bridges in this question.

No

13. Will the action result in effects to a culvert or tunnel at any time of year?

No

14. Are trees present within 1000 feet of the action area?

Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

Yes

15. Does the action include the intentional exclusion of bats from a building or building-like structure? **Note:** Exclusion is conducted to deny bats' entry or reentry into a building. To be effective and to avoid harming bats, it should be done according to established standards. If your action includes bat exclusion and you are unsure whether northern long-eared bats or tricolored bats are present, answer "Yes." Answer "No" if there are no signs of bat use in the building/structure. If unsure, contact your local Ecological Services Field Office to help assess whether northern long-eared bats or tricolored bats may be present. Contact a Nuisance Wildlife Control Operator (NWCO) for help in how to exclude bats from a structure safely without causing harm to the bats (to find a NWCO certified in bat standards, search the Internet using the search term "National Wildlife Control Operators Association bats"). Also see the White-Nose Syndrome Response Team's guide for bat control in structures.

No

16. Does the action involve removal, modification, or maintenance of a human-made building-like structure (barn, house, or other building) **known or suspected to contain roosting bats?**

No

17. Will the action cause construction of one or more new roads open to the public?

For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

Yes

18. Will any new road go through any area of contiguous forest that is greater than or equal to 10 acres in total extent?

Note: "Contiguous forest" of 10 acres or more may include areas where multiple forest patches are separated by less than 1,000 feet of non-forest if the forested patches, added together, comprise at least 10 acres.

Yes

19. For every 1,000 feet of new road that crosses between contiguous forest patches, will there be at least one place where bats could cross the road corridor by flying less than 33 feet (10 meters) between trees whose tops are at least 66 feet (20 meters) higher than the road surface?

No

20. Will the proposed Action involve the creation of a new water-borne contaminant source (e.g., leachate pond, pits containing chemicals that are not NSF/ANSI 60 compliant)?

Note: For information regarding NSF/ANSI 60 please visit <https://www.nsf.org/knowledge-library/nsf-ansi-standard-60-drinking-water-treatment-chemicals-health-effects>

No

21. Will the proposed action involve the creation of a new point source discharge from a facility other than a water treatment plant or storm water system?

No

22. Will the action include drilling or blasting?

No

23. Will the action involve military training (e.g., smoke operations, obscurant operations, exploding munitions, artillery fire, range use, helicopter or fixed wing aircraft use at night)?

No

24. Will the proposed action involve the use of herbicides or pesticides (e.g., fungicides, insecticides, or rodenticides)?

No

25. Will the action include or cause activities that are reasonably certain to cause chronic or intense nighttime noise (above current levels of ambient noise in the area) in suitable summer habitat for the northern long-eared bat or tricolored bat during the active season?

Chronic noise is noise that is continuous or occurs repeatedly again and again for a long time. Sources of chronic or intense noise that could cause adverse effects to bats may include, but are not limited to: road traffic; trains; aircraft; industrial activities; gas compressor stations; loud music; crowds; oil and gas extraction; construction; and mining.

Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

No

26. Does the action include, or is it reasonably certain to cause, the use of permanent or temporary artificial lighting within 1000 feet of suitable northern long-eared bat or tricolored bat roosting habitat?

Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

Yes

27. Will the action cause an increase in the extent of suitable forested habitat exposed to artificial lighting?

Yes

28. Will the action use only downward-facing, full cut-off lens lights (with same intensity or less for replacement lighting) when installing new or replacing existing permanent lights?

Or for those transportation agencies using the Backlight, Uplight, Glare (BUG) system developed by the Illuminating Engineering Society, will all three ratings (backlight, uplight, and glare) be as close to zero as is possible, with a priority of "uplight" of 0?

No

29. Does the action area intersect the tricolored bat species list area?

Automatically answered

Yes

30. Is the action area located within 0.5-mile of radius of an entrance/opening to any known tricolored bat hibernacula or winter roost?

Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your state wildlife agency.

Automatically answered

No

31. [Semantic] Is the action area located within 0.25 miles of a culvert that is known to be occupied by northern long-eared or tricolored bats? **Note:** The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

Automatically answered

No

32. Is suitable summer habitat for the tricolored bat present within 1000 feet of project activities?

(If unsure, answer ""Yes."")

Note: If there are trees within the action area that may provide potential roosts for tricolored bats (e.g., clusters of leaves in live and dead deciduous trees, Spanish moss (*Tillandsia usneoides*), clusters of dead pine needles of large live pines) answer ""Yes."" For a complete definition of suitable summer habitat for the tricolored bat, please see Appendix A in the [Service's Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines](#).

Yes

33. Do you have any documents that you want to include with this submission?

No

PROJECT QUESTIONNAIRE

IPAC USER CONTACT INFORMATION

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