



United States Department of the Interior

FISH AND WILDLIFE SERVICE
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In Reply Refer To:

10/27/2025 15:59:59 UTC

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.

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 the 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 Northeast Determination Key (Dkey), invalidates this letter. **Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.**

To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat. Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency

makes a no effect determination, no further consultation with, or concurrence from, the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Green Floater (<i>Lasmigona subviridis</i>)	Proposed Threatened	May affect
James Spiny mussel (<i>Parvaspina collina</i>)	Endangered	May affect

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". 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.

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

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Proposed Threatened
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or PermitsR5MB@fws.gov, with any questions regarding potential impacts to Eagles.

If you have any questions regarding this letter or need further assistance, please contact the Virginia Ecological Services Field Office and reference the Project Code associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

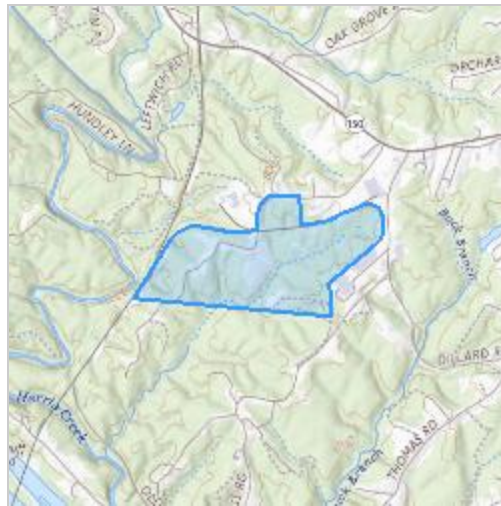
NAO-2025-02389-RRS (Virginia Economic Development Authority/JPA-Dillard Tract D/Amherst)

2. Description

The following description was provided for the project 'NAO-2025-02389-RRS (Virginia Economic Development Authority/JPA-Dillard Tract D/Amherst)':

Fill approximately 4371 linear feet of intermittent and perennial streams, and 8812 square feet of palustric forested wetland to construct a 1.25 million square foot building lot with attendant stormwater and utility infrastructure for industrial/commercial use on an approximately 236-acre forested property in Amherst County Virginia.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@37.458530350000004,-79.14585647597184,14z>



QUALIFICATION INTERVIEW

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

Yes

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

Note: This question 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

3. Is the 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

4. Are you including in this analysis all impacts to federally listed species that may result from the entirety of the project (not just the activities under federal jurisdiction)?

Note: If there are project activities that will impact listed species that are considered to be outside of the jurisdiction of the federal action agency submitting this key, contact your local Ecological Services Field Office to determine whether it is appropriate to use this key. If your Ecological Services Field Office agrees that impacts to listed species that are outside the federal action agency's jurisdiction will be addressed through a separate process, you can answer yes to this question and continue through the key.

Yes

5. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

Yes

6. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)?

No

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

No

8. Is the lead federal action agency the Natural Resources Conservation Service?

No

9. Will the proposed project involve the use or storage of herbicide?

No

10. Will the proposed project involve herbaceous native vegetation removal (including prescribed fire that would result in burning of plants) or mowing?

Yes

11. Will all activities occur within an area that is currently paved, graveled, routinely maintained lawn, and/or inside a structure?

No

12. Will the proposed project involve demolition, rehabilitation, property elevation, renovation, and/or rebuilding of one or more existing buildings (e.g., residential, commercial and industrial buildings, or utilities)? Note: if project activities include modification of bridges and/or culverts, answer this question "No".

No

13. Does the project area intersect the boundary of VAFO?

Automatically answered

Yes

14. Does any component of the project associated with this action include activities or structures that may pose a collision risk to **birds** (e.g., plane-based surveys, land-based or offshore wind turbines, new or enlarged communication towers or broadcast towers, high voltage transmission lines, any type of towers with or without guy wires)?

No

15. Are federally listed freshwater mussels known to be present in the action area?

Note: If unsure, contact the appropriate Ecological Services Field Office for additional information or answer "NO" and continue through the key.

No

16. Did a qualified surveyor conduct a survey for freshwater mussels within the action area with the appropriate level of search effort according to local survey guidance?

Note: Answer this question "Yes" if the project is located in WV and the action area is located outside the stream reaches where mussel surveys are required following the [West Virginia Mussel Survey Protocol](#)

No

17. Will the proposed project result in **permanent** changes to surface water or groundwater quantity, retention, quality or timing?

Note: Projects may affect stream flow, surface water, or groundwater through various activities such as; water withdrawal, water recharge, well drilling, infiltration impacts, stormwater outlets, hydropower production, water impoundments, intake structures, stream diversion, mining operations, dams, surface water drainage, or hydroelectric turbines.

If a project only involves temporary and limited reductions in water that will not displace listed species or significantly alter their water availability (meaning there are no changes to their feeding, breeding, or sheltering), you can answer "No" to this question.

This question specifically addresses the quantity of water in a stream. Other water quality issues, such as sedimentation and turbidity, will be covered in subsequent questions.

Yes

18. Does the project include activity in or within 300 feet of a freshwater wetland?

Note: This encompasses various project activities related to wetlands, including activities taking place within wetlands, activities occurring within 300 feet of wetlands that could impact them, and water withdrawals and/or discharge of contaminants, even if covered by a National Pollutant Discharge Elimination System (NPDES) permit

Examples of such activities include, but are not limited to; wetland draining, ditching, tilling, filling, excavation, stream diversion, impoundments, mowing, grazing vegetation, construction of access roads, creation of detention basins, installation of water or sewer lines, irrigation, increase of impervious surfaces, and application of pesticides, deicing agents, or fertilizers.

Yes

19. Will the proposed project activities (including upland project activities) occur within 0.5 miles of the water's edge of a stream or tributary of a stream where listed species may be present?

Yes

20. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream?

Yes

21. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream where listed species may be present?

No

22. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds, fracking fluid) including changes to pH, temperature and/or chemical composition (e.g., chloride, nickel, etc.)?

No

23. Will the proposed project involve the removal of sediment or debris, dredging or in-stream gravel mining where listed species may be present?

No

24. Will the proposed project involve the creation of a new water-borne contaminant source where listed species may be present?

Note: New water-borne contaminant sources occur through improper storage, usage, or creation of chemicals. For example: leachate ponds and pits containing chemicals that are not NSF/ANSI 60 compliant have contaminated waterways. Sedimentation will be addressed in a separate question.

No

25. Will the proposed project involve perennial stream loss, in a stream or tributary of a stream where listed species may be present, that would require an individual permit under 404 of the Clean Water Act?

Yes

26. Will the proposed project involve pesticide use or storage within 200 feet of a karst feature or

perennial stream bank where aquatic listed species may be present?

No

27. Will the proposed project include activities that could negatively affect fish movement temporarily or permanently (including fish stocking, harvesting, or creation of barriers to fish passage).

Yes

28. Will the proposed project involve earth moving or other ground disturbance that could cause erosion and sedimentation, and/or contamination within 300 feet of a freshwater wetland or along a stream?

Note: Answer "Yes" to this question if erosion and sediment control measures will be used.

Yes

29. Will the proposed project impact streams or tributaries of streams where listed species may be present through activities such as, but not limited to, valley fills, large-scale vegetation removal that could result in ground destabilization, and/or change in site topography?

Yes

30. Will the proposed project involve vegetation removal within 300 feet of a perennial stream bank where aquatic listed species may be present?

Yes

31. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project?

Note: If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

Yes

32. Is the project being funded, lead, or managed in whole or in part by U.S Fish and Wildlife Restoration and Recovery Program (e.g., Partners, Coastal, Fisheries, Wildlife and Sport Fish Restoration, Refuges)?

No

33. [Hidden Semantic] Does the project area intersect the species list area of the James Spiny mussel?

Automatically answered

Yes

34. Does the project area intersect the Species List Area of the Green Floater Mussel?

Automatically answered

Yes

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

No

PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?
473
2. Approximately how many total acres of disturbance are within the disturbance/
construction limits of the proposed project?
473
3. Briefly describe the habitat within the construction/disturbance limits of the project site.
forested uplands, streams, and wetlands

IPAC USER CONTACT INFORMATION

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