

Henicheck, Michelle (DEQ)

Subject: WPX-XX-XXXX: Northern Long-Eared Bat Re-Coordination
Attachments: online_project_review_certification_SIGNED.PDF

Dear Project Manager:

You are receiving this email as your 12-SPGP-01 permit application requires Section 7 coordination with the U.S. Fish and Wildlife Service (the Service) for the federally threatened northern long-eared Bat (NLEB). In accordance with the final 4(d) rule (81 Federal Register 1900-1922), published January 14, 2016, your project, if authorized, will require the implementation of a time of year restriction (TOYR) or 30 day consultation with the Service and adherence to the formal programmatic biological opinion for the final 4(d) rule. Your application was previously coordinated with the Service for the NLEB on **Month DD, YYYY**; and as a result of that coordination the Service requested a TOYR. You may either choose to implement the TOYR as previously coordinated (Option 1), or pursue re-coordination (Option 2). Please let DEQ know how you would like to proceed.

Please inform DEQ as to which of the following two options you wish to pursue (choosing option 1 eliminates the need to pursue option 2):

Option 1: Time-of-Year Restriction

Complete the attached self-certification letter and a TOYR will be incorporated into the permit authorization as the following authorization note:

*The permittee shall comply with the following Time-of-Year Restriction (TOYR): No tree clearing shall occur from April 15 – September 15 of any year, in order to protect the Northern Long-Eared Bat (*Myotis septentrionalis*), a species listed as Threatened under the Federal Endangered Species Act. The permittee may elect to perform a survey, in accordance with the survey guidelines at <http://www.fws.gov/northeast/virginiafield/pdf/endspecies/2015IndianaBatSummerSurveyGuidelines01April2015.pdf>, for the Northern Long-Eared Bat within the project boundary and coordinate results with the U.S. Fish and Wildlife Service (the Service). Should the survey document the absence of the species within the project boundary, this TOYR is removed.*

Furthermore, permittees are encouraged to implement the voluntary conservation measures noted below.

Option 2: Consultation and Adherence to the Programmatic Biological Opinion

DEQ will initiate consultation with the Service once the applicant has provided DEQ **written self-certification with the project name and date filled-out, confirmation of understanding of and adherence to the programmatic biological opinion for the final 4(d) rule, a request to temporarily suspend the application process and the number of acres of habitat impacted**. The self-certification letter is attached. The Service has 30 days to review and respond to the consultation request. In the event that the Service requests additional information or specific permit conditions, further coordination may be necessary. If no response from the Service is received within 30 days, coordination is complete and DEQ will move forward with your permit application. Note that the applicant is responsible for implementing the programmatic biological opinion for the final 4(d) rule, as detailed below.

The Programmatic Biological Opinion is located here:

<http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/BOnlebFinal4d.pdf>

In Summary: The final rule addresses both purposeful take and incidental taking of the NLEB. Please be advised the Virginia is within the white nose syndrome zone and thus the NLEB in Virginia is subject to specific protections.

- The final 4(d) rule prohibits purposeful take of NLEBs throughout the species' range, except when (1) necessary to protect human health; (2) in instances of removal of NLEBs from human structures; or (3) the authorized capture and handling of NLEBs by individuals permitted to conduct these same activities for other bat species until May 3, 2016.
- Within the WNS zone, the final 4(d) rule prohibits incidental take of NLEBs in their hibernacula, which may be caused by activities that disturb or disrupt hibernating individuals when they are present as well as the physical or other alteration of the hibernaculum's entrance or environment when bats are not present.
- Incidental take of NLEBs outside of hibernacula resulting from activities other than tree removal is not prohibited provided they do not result in the incidental take of NLEBs inside hibernacula.
- Incidental take resulting from tree removal is prohibited if it: (1) occurs within 0.25 miles (0.4 km) of known NLEB hibernacula; or (2) cuts or destroys known, occupied maternity roost trees or any other trees within a 150-foot (45-meter) radius around the known, occupied maternity tree during the pup season (June 1 to July 31).
- Removal of hazardous trees for the protection of human life and property is not prohibited.

Voluntary Conservation Measures:

Conservation recommendations are discretionary activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. Service Headquarters recommends implementation of the following conservation measures for the NLEB:

1. Perform NLEB surveys according to the most recent Range-wide Indiana Bat/NLEB Summer Survey Guidelines.
2. Apply additional voluntary conservation measures, where appropriate, to reduce the impacts of activities on NLEBs.

Conservation measures include:

- i. Conduct tree removal activities outside of the NLEB pup season (June 1-July 31) and/or the active season (April 15-September 15).
- ii. Avoid clearing suitable spring staging and fall swarming habitat within a 5-mile radius of known or assumed NLEB hibernacula during the spring staging and fall swarming season (April 1-May 14 and August 16-November 15).
- iii. Manage forests to ensure a continual supply of snags and other suitable maternity roosts trees.
- iv. Conduct prescribed burns outside of the pup season (June 1-July 31) and/or the active season (April 1-October 31). Avoid high-intensity burns (causing tree scorch higher than NLEB roosting heights) during the summer maternity season to minimize direct impacts to NLEB.
- v. Perform bridge repair, retrofit, maintenance, and/or rehabilitation work outside of the NLEB active season (April 15-September 15) in areas where NLEB are known to roost on bridges or where such use is likely.
- vi. Do not use military smoke and obscurants within forested suitable NLEB habitat during the pup season (June 1-July 31) and/or the active season (April 15-September 15).
- vii. Minimize use of herbicides and pesticides. If necessary, spot treatment is preferred over aerial application.
- viii. Evaluate the use of outdoor lighting during the active season and seek to minimize light pollution by angling lights downward or via other light minimization measures.
- ix. Participate in actions to manage and reduce the impacts of WNS on NLEBs. Actions needed to investigate and manage WNS are described in a national plan the Service developed in coordination with other state and Federal agencies.

Please contact me if you have any questions or concerns.