



United States Department of the Interior

FISH AND WILDLIFE SERVICE
West Virginia Ecological Services Field Office
6263 Appalachian Highway
Davis, WV 26260-8061
Phone: (304) 866-3858 Fax: (304) 866-3852



In Reply Refer To:

10/29/2024 21:15:41 UTC

Project code: 2023-0061130

Project Name: Town of Marmet - Sanitary Sewer Line Installation

Federal Nexus: yes

Federal Action Agency (if applicable): Environmental Protection Agency

Subject: Record of project representative's no effect determination for 'Town of Marmet - Sanitary Sewer Line Installation'

Dear Timothy Ferguson:

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 29, 2024, for 'Town of Marmet - Sanitary Sewer Line Installation' (here forward, Project). This project has been assigned Project Code 2023-0061130 and all future correspondence should clearly reference this number. **Please carefully review this letter.**

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 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 Northern Long-eared Bat Rangewide Determination Key (Dkey), invalidates this letter.

Determination for the Northern Long-Eared Bat

Based upon your IPaC submission and a standing analysis, your project has reached the determination of "No Effect" on the northern long-eared bat. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative), 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 consultation with 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" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13].

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

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

- Fanshell *Cyprogenia stegaria* Endangered
- Gray Bat *Myotis grisescens* Endangered
- Indiana Bat *Myotis sodalis* Endangered
- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Riffleshell *Epioblasma rangiana* Endangered
- Pink Mucket (pearlymussel) *Lampsilis abrupta* Endangered
- Round Hickorynut *Obovaria subrotunda* Threatened
- Sheepnose Mussel *Plethobasus cyphus* Endangered
- Snuffbox Mussel *Epioblasma triquetra* Endangered
- Spectaclecase (mussel) *Cumberlandia monodonta* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

Critical Habitats:

- Round Hickorynut *Obovaria subrotunda* Threatened

You may coordinate with our Office to determine whether the Action may affect the animal species listed above and, if so, how they may be affected.

Next Steps

Based upon your IPaC submission, your project has reached the determination of “No Effect” on the northern long-eared bat. If there are no updates on listed species, no further consultation/coordination for this project is required with respect to the northern long-eared bat. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional coordination with the Service should take place to ensure compliance with the Act.

If you have any questions regarding this letter or need further assistance, please contact the West Virginia Ecological Services Field Office and reference Project Code 2023-0061130 associated with this Project.

Action Description

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

1. Name

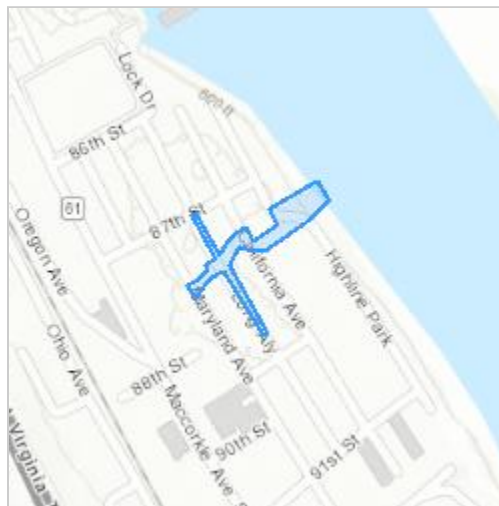
Town of Marmet - Sanitary Sewer Line Installation

2. Description

The following description was provided for the project 'Town of Marmet - Sanitary Sewer Line Installation':

Preliminary design of the Project includes installation of approximately 1,200 linear feet of sanitary sewer line, 150 linear feet of “overflow” line, and establishment of a headwall for the new location of Outlet No. 003. Installation of the sanitary sewer pipes is anticipated to be completed via open cut excavation. Based on the elevation of the existing overflow, the new overflow will be constructed below the Ordinary High Water Mark (OHWM) at approximately normal pool elevation. Excavation at the overflow will be limited to what is necessary for installation of the headwall. Some small amount of brush and tree clearing may occur at the overflow.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.2500758,-81.56892123513848,14z>



DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the Endangered northern long-eared bat (*Myotis septentrionalis*). Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for those species.

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat 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. Do you have data that indicates that northern long-eared bats may be present in the action area?

No

3. Does any component of the action involve construction or operation of wind turbines?

Note: For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

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

Yes

5. 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

6. 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.

No

7. 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?

Yes

8. Have you determined that your proposed action will have no effect on the northern long-eared bat? Remember to consider the [effects of any activities](#) that would not occur but for the proposed action.

If you think that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, answer “No” below and continue through the key. If you have determined that the northern long-eared bat does not occur in your project’s action area and/or that your project will have no effects whatsoever on the species despite the potential for it to occur in the action area, you may make a “no effect” determination for the northern long-eared bat.

Note: Federal agencies (or their designated non-federal representatives) must consult with USFWS on federal agency actions that may affect listed species [50 CFR 402.14(a)]. Consultation is not required for actions that will not affect listed species or critical habitat. Therefore, this determination key will not provide a consistency or verification letter for actions that will not affect listed species. If you believe that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, please answer “No” and continue through the key. Remember that this key addresses only effects to the northern long-eared bat. Consultation with USFWS would be required if your action may affect another listed species or critical habitat. The definition of [Effects of the Action](#) can be found here: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

No

9. Have you contacted the appropriate agency to determine if your action is near any known northern long-eared bat hibernacula?

Note: A document with links to Natural Heritage Inventory databases and other state-specific sources of information on the locations of northern long-eared bat hibernacula is available [here](#). Location information for northern long-eared bat hibernacula is generally kept in state natural heritage inventory databases – the availability of this data varies by state. Many states provide online access to their data, either directly by providing maps or by providing the opportunity to make a data request. In some cases, to protect those resources, access to the information may be limited.

Yes

10. Is any portion of the action area within 0.5-mile radius of any known northern long-eared bat hibernacula? If unsure, contact your local Ecological Services Field Office.

No

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

No

12. Does the action area contain or occur within 0.5 miles of (1) talus or (2) anthropogenic or naturally formed rock crevices in rocky outcrops, rock faces or cliffs?

No

13. Is suitable summer habitat for the northern long-eared bat present within 1000 feet of project activities?

(If unsure, answer "Yes.")

Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats (i.e., live trees and/or snags ≥ 3 inches (12.7 centimeter) dbh), answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat can be found at: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

Yes

14. Will the action cause effects to a bridge?

No

15. Will the action result in effects to a culvert or tunnel?

No

16. Does the action include the intentional exclusion of northern long-eared bats from a building or 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 are present, answer "Yes." Answer "No" if there are no signs of bat use in the building/structure. If unsure, contact your local U.S. Fish and Wildlife Services Ecological Services Field Office to help assess whether northern long-eared 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

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

No

18. 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.).

No

19. Will the action include or cause any construction or other activity that is reasonably certain to increase average daily traffic on one or more existing roads?

Note: 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.). .

No

20. Will the action include or cause any construction or other activity that is reasonably certain to increase the number of travel lanes on an existing thoroughfare?

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.).

No

21. 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)?

No

22. 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

23. Will the action include drilling or blasting?

No

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

No

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

No

26. Will the action include or cause activities that are reasonably certain to cause chronic nighttime noise in suitable summer habitat for the northern long-eared bat? Chronic noise is noise that is continuous or occurs repeatedly again and again for a long time.

Note: Additional information defining suitable summer habitat for the northern long-eared bat can be found at: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

No

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

Note: Additional information defining suitable roosting habitat for the northern long-eared bat can be found at: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

No

28. Will the action include tree cutting or other means of knocking down or bringing down trees, tree topping, or tree trimming?

No

29. Will the action result in the use of prescribed fire?

No

30. Will the action cause noises that are louder than ambient baseline noises within the action area?

No

PROJECT QUESTIONNAIRE

Will all project activities be completed by April 1, 2024?

No

IPAC USER CONTACT INFORMATION

Agency: Marmet city
Name: Timothy Ferguson
Address: 7012 Maccorkle Ave. S.E.
City: Charleston
State: WV
Zip: 25560
Email: trferguson@potesta.com
Phone: 3043828217

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Environmental Protection Agency