



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994



September 14, 2018

Timothy M. Hill, Administrator
Ohio Department of Transportation
Office of Environmental Services
1980 West Broad Street, Mail Stop 4170
Columbus, OH 43223

TAILS: 03E15000-2018-F-0406 (PID 93744)

Attn: Matt Raymond

RE: **ROS-207 (PID 93744)**

Dear Mr. Hill,

The U.S. Fish and Wildlife Service (Service) is responding to your request dated August 17, 2018 to verify that the proposed **BEL-70-14.45** project (the Project), PID 93744, may rely on the February 29, 2016¹, Framework Programmatic Biological Opinion (PBO) for the Ohio Department of Transportation (ODOT) Federal-Aid Highway Program projects that may affect the federally listed endangered Indiana bat (*Myotis sodalis*) and/or federally listed threatened northern long-eared bat (NLEB) (*Myotis septentrionalis*)². ODOT has determined that the Project *may affect and is likely to adversely affect* the Indiana bat and/or the NLEB.

This letter provides the Service's response as to whether ODOT may rely on the PBO to comply with Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) for the Project's effects to the Indiana bat and/or NLEB. ODOT has determined that this project will have no effect on any other federally listed species or designated critical habitat other than the Indiana bat and NLEB.

The Project, as proposed, will involve the construction of 0.91 linear miles of paved roadway through undeveloped wooded lots and active agricultural fields, north of Chillicothe, in Green Township, Ross County, Ohio. The new road will serve to connect SR-207 from the US-23 interchange, east to SR-159, near its intersection with SR-180. We understand that the project will result in impacts to small sections of Kinnikinnick Creek and one unnamed tributary, however no wetlands are expected to be impacted. In addition, up to 2.983 acres of suitable wooded habitat (SWH) for the Indiana bat and/or NLEB, as defined by the 2016 PBO, will be removed for the project.

¹ As revised.

² Note: The Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions is included in the ODOT PBO by reference.

Conclusion

The Service has reviewed the August 17, 2018 letter and supporting materials submitted by your office, which describe the effects of the proposed Project and include ODOT's commitment to implement the impact avoidance, minimization, and compensation measures as described for CC3-b projects in the 2016 PBO. These measures include the implementation of:

- Avoidance Measure A-1, which will avoid and/or minimize impacts to summer roosting bats by clearing SWH only between 1 October and 31 March; and
- CM-1a, which will offset the acreage of SWH to be removed in the Eastern Management Unit, as follows:
 - **0.422** acres of SWH will be removed during the **inactive** season within 100 feet from the edge of pavement, for which impacts are expected to be insignificant or discountable; this acreage will not be replaced; and
 - **0.453** acres of SWH will be removed during the **inactive** season between 100 and 300 feet from the edge of pavement, and at least one of the thresholds defined within the 2016 PBO and listed on its associated flowchart will be exceeded; this acreage will be replaced at a ratio of 1.5:1; and
 - **2.108** acres of SWH will be removed during the **inactive** season beyond 300 feet from the edge of pavement, and at least one of the thresholds defined within the 2016 PBO and listed on its associated flowchart will be exceeded; this acreage will be replaced at a ratio of 2.25:1.
 - Therefore, **5.423** acres of credits will be subtracted from the acreage credit available at the SCCC2 Bat Conservation Area (BCA).

We confirm that the proposed Project's effects are consistent with those analyzed in the PBO. The Service has determined that projects consistent with the conservation measures and scope of the program analyzed in the PBO are not likely to jeopardize the continued existence of the Indiana bat and/or the NLEB.

Incidental Take

Indiana Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of Indiana bats. As described in the Framework Incidental Take Statement (ITS) of the PBO, such taking will be difficult to detect. The Service determined that it is appropriate to measure the amount or extent of incidental taking resulting from PBO projects using the proposed acreage of tree removal from Indiana bat suitable habitat as a surrogate for the numbers of individuals taken.

The proposed Project will remove 2.983 acres of SWH for the Indiana bat, and the avoidance, minimization, and compensation measures to be implemented (see the Conclusion section above) comply with those in CC3-b consultation category of the PBO. Based on the PBO, 0.422 acres of the removal are **not** anticipated to result in any adverse effects, and 2.561 acres *are* anticipated to result in adverse effects.

ODOT used the appropriate mitigation ratios from Table 2 of the PBO to calculate the compensatory mitigation required to offset these adverse impacts for a total of 5.423 acres³ of trees that are suitable for the Indiana bat. (See details in Conclusion section above.)

The Service will add the acreage of Project-related tree removal to the annual total acreage attributed to the PBO as a surrogate measure of Indiana bat take and exempted from the prohibitions of Section 9 of the

³ XX acres * XX ratio

ESA. Such exemption is effective so long as ODOT implements the reasonable and prudent measures (RPM) and accompanying terms and conditions of the PBO's ITS.

Northern Long-eared Bat

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of NLEBs. However, the Project is consistent with the PBO, and such projects will not cause take of NLEB that is prohibited under the ESA section 4(d) rule for this species (50 CFR §17.40(o)). Therefore, the incidental take of NLEBs resulting from the Project does not require exemption from the Service.

Reinitiation Notice

This letter concludes consultation for the proposed Project, which qualifies for inclusion in the PBO issued to ODOT on February 26, 2016, as revised. To maintain this inclusion, a reinitiation of this Project-level consultation is required where ODOT's and/or FHWA's discretionary involvement or control over the Project has been retained (or is authorized by law) and if:

1. the amount or extent of incidental take of Indiana bat is exceeded;
2. new information reveals that the Project may affect listed species or critical habitat in a manner or to an extent not considered in the PBO;
3. the Project is subsequently modified in a manner that causes an effect to listed species or designated critical habitat not considered in the PBO; or
4. a new species is listed or critical habitat is designated that the Project may affect.

Per condition #1 above, the anticipated incidental take is exceeded when:

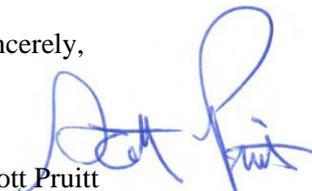
- the Project removes trees from more than 2.983 acres of SWH for the Indiana bat

In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease and reinitiation of this Project-level consultation must be requested immediately.

As of this date, we are currently unable to run a report reflecting up-to-date impacts, but we will include the cumulative information as soon as we regain access to the database query.

We appreciate your continued efforts to ensure that this Project is fully consistent with all applicable provisions of the PBO. If you have any questions regarding our response or if you need additional information, please contact Lindsey Korfel at extension 29 or Karen Hallberg at extension 23 in this office.

Sincerely,



Scott Pruitt
Acting Ohio Field Supervisor

cc (*all email only*):

- M. Michael, ODOT, OES, Columbus, OH
- C. Staron, ODOT, OES, Columbus, OH
- B. Trivisonno-Muncy, ODOT, OES, Columbus, OH
- S. Vonderwell, ODOT, OES, Columbus, OH
- J. Kessler, ODNR, Office of Real Estate, Columbus, OH
- P. Clingan, USACE, Ohio Regulatory Transportation Office, Columbus, OH
- B. Beck, OEPA, Columbus, OH
- N. Reardon, ODNR, Division of Wildlife, Columbus, OH
- M. Pettegrew, ODNR, Office of Real Estate, Columbus, OH
- K. Maunz, ODNR, Office of Real Estate, Columbus, OH



Korfel, Lindsey <lindsey_korfel@fws.gov>

[EXTERNAL] ROS-207 (PID 93744) Tier II bat coordination

3 messages

Chris.Staron@dot.ohio.gov <Chris.Staron@dot.ohio.gov> Fri, Aug 17, 2018 at 1:39 PM
To: "Karen_Hallberg@fws.gov" <Karen_Hallberg@fws.gov>, "Korfel, Lindsey" <lindsey_korfel@fws.gov>, "Mike.Pettegrew@dnr.state.oh.us" <Mike.Pettegrew@dnr.state.oh.us>, "Kyla.Maunz@dnr.state.oh.us" <Kyla.Maunz@dnr.state.oh.us>
Cc: "Greg.Manson@dot.ohio.gov" <Greg.Manson@dot.ohio.gov>, "Curt.Hatton@dot.ohio.gov" <Curt.Hatton@dot.ohio.gov>, "Stephanie.Vonderwell@dot.ohio.gov" <Stephanie.Vonderwell@dot.ohio.gov>, "Matt.Raymond@dot.ohio.gov" <Matt.Raymond@dot.ohio.gov>, "Brittany.Trivisonno-Muncy@dot.ohio.gov" <Brittany.Trivisonno-Muncy@dot.ohio.gov>

Karen and Mike,

A Level 1 ESR has been uploaded to the Environet. This project proposes construction of a new 0.91 mile road from US 23 to SR 180 in Ross County. The project may impact approximately 2.98 acres of SWH, 0.422 acre of SWH within 100 of EOP, 0.453 acre within 100' to 300' and 2.108 acre greater than 300'. The USFWS bat buffer coordination indicated that the project is not located within a bat buffer. These trees will be removed during the winter cutting dates. Per the 2016 OHPBO (revised 12/17), 6.31 acres of credit will be deducted from the SCCC2 balance sheet to mitigate for the inactive season impacts to SWH greater than 100 feet from the roadway (0.453*1.25 and 2.108*2.25 ratios). ODOT will not be conducting any summer surveys for bats at this location. Because this is MALAA for bats (Tier II individual consultation) and No Effect for all other species, a Consultation Form will not be submitted.

Summary of Effect Calls:

Indiana bat and Northern long eared bat: May Affect, Likely to Adversely Affect

Bald Eagle: No Effect

Clubshell: No Effect

Northern Riffleshell: No Effect

Snuffbox: No Effect

Rayed Bean: No Effect

Eastern Hellbender: No Effect

Timber Rattlesnake: No Effect

Running Buffalo Clover: No Effect

Please let me know if you have any questions regarding this submission. We are requesting a 2 week turn around, if possible. Thanks.

This is an OES coordination document and has been uploaded to EnviroNet.

Christopher Staron

Environmental Specialist

ODOT Office of Environmental Services

1980 West Broad Street, Mail Stop 4170

Columbus, Ohio 43223

(614) 466-5112

transportation.ohio.gov

Korfel, Lindsey <lindsey_korfel@fws.gov>
 To: "Chris.Staron@dot.ohio.gov" <Chris.Staron@dot.ohio.gov>
 Cc: "Karen_Hallberg@fws.gov" <Karen_Hallberg@fws.gov>

Mon, Aug 27, 2018 at 3:23 PM

Hi Chris,

I was reviewing this project and I believe the calculations were not done correctly. My calculations show that only 5.423 acres of credit should be deducted from SCCC2 (see my math below). I'm not entirely certain how you got 6.31 and just wanted to make sure I wasn't missing anything. I also believe your ratio for the 100-300' was incorrect; you had it as 1.25 but I think it should be 1.5.

My ratios and calculations are:

0'-100'	$0.422 * 0 = 0$
100'-300'	$0.453 * 1.5 = 0.680$
300'+	$2.108 * 2.25 = 4.743$

$0.000 + 0.680 + 4.743 = \mathbf{5.423}$ total acres to be deducted from SCCC2

Please let me know if you agree or disagree with my calculations and we can discuss.

Thanks,

Lindsey M. Korfel

Wildlife Biologist
 Transportation Liaison
 U.S. Fish and Wildlife Service
 Ohio Field Office
 4625 Morse Road, Suite 104
 Columbus, OH 43230
 614.416.8993 x. 29

On Fri, Aug 17, 2018 at 1:39 PM, Chris.Staron@dot.ohio.gov <Chris.Staron@dot.ohio.gov> wrote:

Karen and Mike,

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(0.566+4.743=5.309) ODOT will not be conducting any summer surveys for bats at this location.

Because this is MALAA for bats (Tier II individual consultation) and No Effect for all other species, a Consultation Form will not be submitted.

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Christopher Staron

Environmental Specialist

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Chris.Staron@dot.ohio.gov <Chris.Staron@dot.ohio.gov>
To: "Korfel, Lindsey" <lindsey_korfel@fws.gov>

Thu, Aug 30, 2018 at 10:05 AM

Ok great, that was a cut and paste error from an earlier coordination.

Christopher Staron

Environmental Specialist

ODOT Office of Environmental Services

1980 West Broad Street, Mail Stop 4170

9/11/2018

DEPARTMENT OF THE INTERIOR Mail - [EXTERNAL] ROS-207 (PID 93744) Tier II bat coordination

Columbus, Ohio 43223

(614) 466-5112

transportation.ohio.gov



From: Korfel, Lindsey <lindsey_korfel@fws.gov>

Sent: Monday, August 27, 2018 3:24 PM

To: Staron, Christopher <Chris.Staron@dot.ohio.gov>

Cc: Karen_Hallberg@fws.gov

Subject: Re: [EXTERNAL] ROS-207 (PID 93744) Tier II bat coordination

[Quoted text hidden]