

Use an IPaC Determination Key (if available and applicable)

Determination keys (Dkeys) are logically structured sets of questions designed to assist users in determining if a project qualifies for a pre-determined consultation outcome based on existing programmatic consultations or internal USFWS standing analyses. Qualifying projects may generate USFWS concurrence letters instantly through IPaC. Dkeys provide consistent and transparent outcomes, and significantly reduce the time to complete consultation for qualifying projects.

Several Dkeys are available for projects in North Dakota (Table 1). Please note that only one assisted Dkey may be completed per species for each project, so you should carefully review the descriptions of all available Dkeys to select the most appropriate key for your project. Completing a key for a species will disable other keys that cover the same species for your project.

Table 1. Description of Dkeys available in North Dakota

Name of key available in ND	Species covered	Types of projects that the key covers	Types of projects that do not qualify
North Dakota Endangered Species Dkey	All species in ND	Routine, small scale projects in some areas of North Dakota may be able to get automatic concurrence if the projects contain certain conservation measures for some species.	Wind energy development and purposeful take,
FHWA, FRA, FTA Programmatic Consultation for Transportation Projects	Indiana bat and northern longeared bat (NLEB)	Federal transportation projects with potential effects to covered bats. Note that this key does not cover any other Federally listed species that may be affected by project activities. Therefore, additional consultation or coordination may be necessary for other species.	Projects other than Federally funded or authorized transportation projects
NLEB Consultation and 4(d) Rule Consistency	Northern longeared bat (NLEB)	Projects with potential effects (e.g., tree clearing) to NLEB. Note that this key does not cover other Federally listed species that may be affected by project activities. Therefore, additional consultation or coordination may be necessary for other species.	Projects that fall within an area containing a known NLEB roost tree or hibernaculum

To use a Dkey, follow the instructions below:

- After requesting an official species list, you can click **Next Step: Determination Keys**.

Or, from the Project Home, Click **Start Review**.

- Select **Evaluate** for the appropriate key.
- Review the key description and click **Check If My Project Qualifies**

You will also be asked questions to help you reach an effects determination for species that are on your species list and covered by the key. The Dkey will ask you a series of yes/no questions. Select the appropriate radio button to indicate your response. If you make an incorrect selection, you can click on Change Answer to go back and change your response. For some questions, you can click on hyperlinks or hover over underlined text to get additional clarification. Some questions, called “semantic questions”, are answered for you automatically based on previous input or spatial data embedded within the Dkey.

After you finish answering questions about your project, you will be given a preliminary determination for species covered by the Dkey. IPaC can then generate a letter for your records with the determinations and copies of all of the questions and answers about your project.

- Select **Generate Consistency (Verification) Letter** to receive a copy of the letter. At any time from your Project Home Page, you can view the species list and letter in **Documents**.

There are three potential determinations that can be generated by a Dkey (Table 2). If you receive “no effect” and “not likely to adversely affect” determinations for all species, IPaC will generate a letter that documents your Endangered Species Act compliance. Be advised that some letters may require a verification period (i.e., a waiting period to allow the Service to review project details) before the project can proceed. If your project reaches “no effect” and “not likely to adversely affect” determinations for all species, and your letter does not require a verification period or the verification period has passed without additional contact from the Service, then you’ve met your consultation requirements under the ESA and no further coordination is required for those species.

Table 2. Possible effects determinations at conclusion of North Dakota Endangered Species

Dkey Determination	Description	Dkey Result
No effect	There will be no impacts, positive or negative, to Federally-listed species or designated critical habitat from the proposed action.	Consistency letter that shows you've met your consultation requirements under the Endangered Species Act. No further concurrence will be provided for "no effect" determinations.
Not likely to adversely affect	All effects to Federally-listed species or designated critical habitat from the proposed action would be insignificant, discountable, and/or completely beneficial.	Verification letter (if Federal agency) or Consistency letter (if non-Federal representative); 30 day "verification period" for concurrence for Federal projects.
May affect	The Dkey could not rule out the potential for adverse effects. In some cases, additional information is required in order to complete the review. Other times, the activity is covered by an existing 4(d) rule or formal consultation.	May Affect letter – review language carefully to see whether additional coordination is needed or if a "verification period" applies (i.e., for NLEB 4(d) Dkey).

Dkey

If you receive a "May Affect" determination, review your letter carefully. A "May Affect" determination generally means additional information is needed to fully evaluate potential effects to covered listed species; thus, additional documentation or coordination is likely needed in order to complete your review. If you have enough information to conclude "no effect" outside of the Dkey for those species for which the Dkey was not able to reach a conclusion (i.e., species that received a "may affect" determination in your output letter), you may do so using an internal evaluation process (Option 3). As a reminder, no concurrence from the Service is provided if you make a "no effect" determination.

If you have site-specific information that leads you to believe a different determination is more appropriate for your project than what the Dkey concludes, you can and should proceed based on the best available information.

If additional coordination with NDFO is needed, please review our consultation website (<https://www.fws.gov/service/esa-section-7-consultation/>) prior to proceeding with informal or formal consultation. Please include a copy of your output letter in your correspondence with our office as it will help expedite our review of your project. If you have questions specific to the North Dakota Dkey that aren't addressed in these instructions, you can contact ndfieldoffice@fws.gov or call 701-250-4481.

Finally, remember that if your project doesn't qualify for a determination key, or if you prefer for any reason, you can proceed to Option 2, Consultation Package Builder, or Option 3, Make a Determination on Your Own.

In summary, if you use a Dkey and your output letter indicates no further action is needed for all species, your ESA section 7 review is complete. If you choose not to use an available Dkey, your project does not qualify for a Dkey, or your Dkey output letter indicates further action is needed to one or more species, you should continue on to another option in order to evaluate the effects of your projects to those species. If you evaluate the details of your project and conclude "no effect" based on the best available information, document your findings and your ESA section 7 review is complete.