

Appendix D – Biological Review



MEMORANDUM

TO: Virginia Department of Transportation – NOVA District Environmental
DATE: 3/21/2024, Updated 12/17/2024
FROM: Carter Teague, JMT
PROJECT: Marina Way Extension
RE: Biological Review Update (USFWS Project Codes: 2024-0040139, 2025-0033165)

Prince William County, in coordination with the Virginia Department of Transportation (VDOT), has initiated the preparation of an Environmental Assessment (EA) for the Marina Way Extension project (Project) in Woodbridge, Virginia. Project improvements consist of connecting Annapolis Way to Horner Road with a four-lane divided roadway and associated pedestrian facilities. The extension will function as a main street for the proposed North Woodbridge Town Center and will help mitigate the congestion on surrounding Route 1 and Route 123 by better distributing traffic demand to multiple intersections. The EA is being prepared in accordance with the National Environmental Policy Act. Construction is scheduled to begin in March 2026 and last until August 2027.

The proposed project site is depicted on the attached General Location Map (Figure 1) and Natural Color Aerial Imagery (Figure 2). The project's forest impacts are illustrated on Figure 3.

The following is updated information concerning Biological Review included in the Marina Way Environmental Assessment (EA). The following information within Appendix E has been updated:

- USFWS Official Species List dated December 17, 2024 (Project Code: 2025-0033165)
- The Center for Conservation Biology Mapping Portal dated December 17, 2024
- DWR northern long-eared bat locations and roost tree map dated December 17, 2024
DWR tricolored bat hibernaculum map dated December 17, 2024
- Species Conclusion Table dated March 21, 2024, updated December 19, 2024
- USFWS Consistency Letter dated December 17, 2024
- USFWS verification letter to FHWA regarding the northern long eared bat and conference for the tricolored bat dated April 15, 2024.



Figures

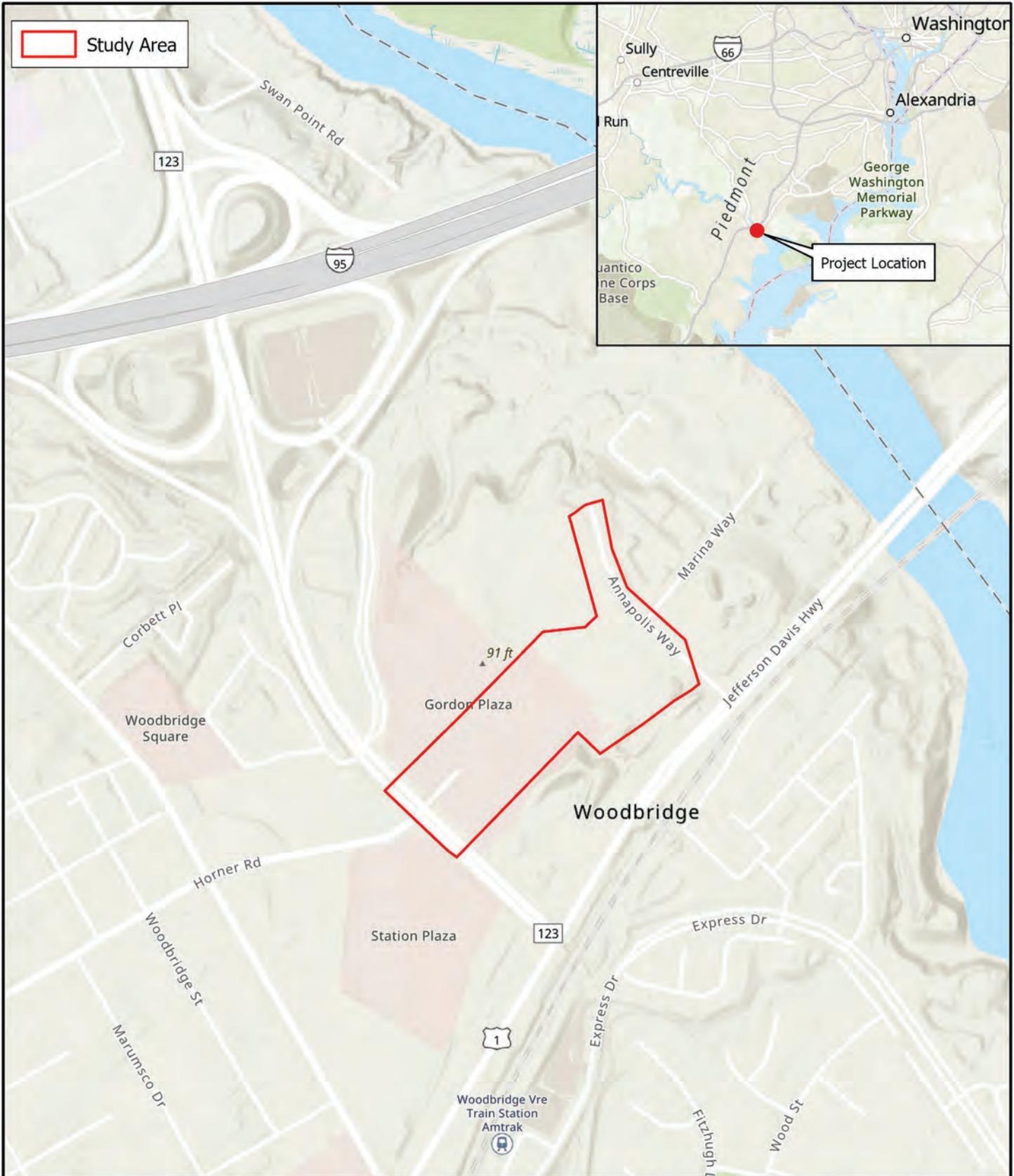
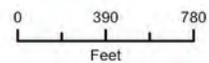


FIGURE 1
PROJECT LOCATION
 MARINA WAY EXTENSION (UPC 120778)



Prince William County, VA

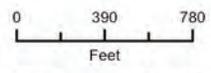
Sources: World Topographic Map; Fairfax County, VA, VGN, Esri, TomTom, Garmin, SafeGraph, FAO, METRASA, USGS, EPA, NPS, USFWS; World Topographic Map; Esri Community, Mass Contributors, County of Prince William, Fairfax County, VA, VGN, Esri, TomTom, Garmin, SafeGraph; GeoTechnologies, Inc., METRASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS; WorldHillside; Esri, NASA, NOAA, USGS, FEMA; WorldHillside; Esri, CGAR, USGS



 Study Area



FIGURE 2
AERIAL IMAGERY
 MARINA WAY EXTENSION (UPC 120778)



Prince William County, VA

Sources: Hybrid Reference Layer; Esri Community Maps Contributors; County of Prince William, Fairfax County, VA; VGN; Esri; TomTom; Garmin; SafeGraph; GeoTechnologies, Inc.; METRASA; USGS; EPA; IPS; US Census Bureau; USDA; USFWS; World Imagery; Earthstar Geographics; Hybrid Reference Layer; Fairfax County, VA; VGN; Esri; TomTom; Garmin; SafeGraph; FAO; METRASA; USGS; EPA; IPS; USFWS; World Imagery; Maxar

Category	Impacted Area (acres)
Total Forest	1.12
Forest 0-100 ft From Pavement	0.66
Forest 100-300 ft From Pavement	0.46



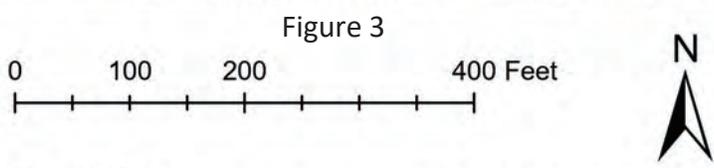
Forest Impacts

Distance from Pavement

- 0-100 ft
- 100-300 ft

Limit of Disturbance (LOD)

Total Forested Area Within LOD



Sources: World Imagery: Maxar, Microsoft
 Hybrid Reference Layer: Esri Community Maps Contributors, County of Prince William, Fairfax County, VA, VGIN, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS



Photolog



Photograph #1 - Entrance to property from the south (7/13/2023)



Photograph #2 - View of onsite buildings from west (7/13/2023)



Photograph #3 - View of rear (north) side of on-site buildings (7/13/2023)



Photograph #4 - Asphalt parking area in central area of site, immediately north of commercial buildings (7/13/2023)



Photograph # 5 - View of soil stockpiles on vacant property east of site (7/13/2023)



Photograph # 6 - View of entrance to property from the east (7/13/2023)



Photograph # 7 - Asphalt paved area located in central portion of property. (7/13/2023)



Photograph # 8 - Loading dock on east side of commercial buildings (7/13/2023)



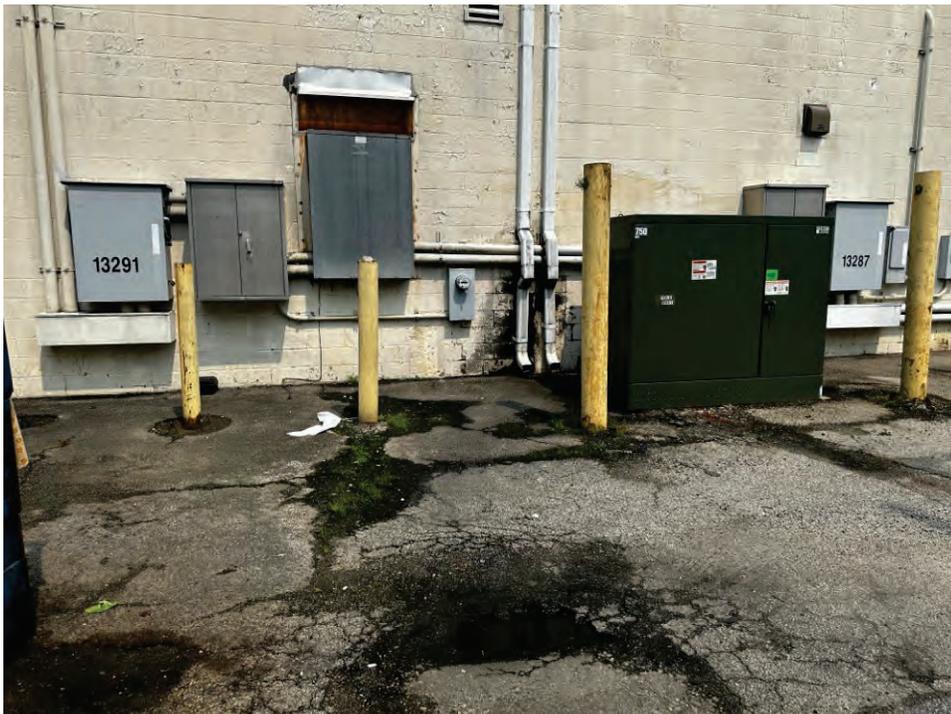
Photograph # 9 - View of location of restaurant site adjacent to southwest corner of property (7/13/2023)



Photograph # 10 - Groundwater monitoring wells observed on north side of onsite buildings (7/13/2023)



Photograph # 11 - Rear/north side of onsite buildings (7/13/2023)



Photograph # 12 - Utility connections for onsite buildings (typical) (7/13/2023)



Photograph # 13 - Pole mounted transformer on eastern property line (7/13/2023)



Photograph # 14 - Heavily wooded area on northern portion of property (7/13/2023)



Photograph #15 - Densely wooded/vegetated area on northern portion of the property (7/13/2023)



Photograph # 16 - Residential development on north adjacent property (7/13/2023)



Photograph #17 - Entrance to Vulcan Materials facility located immediately north/northeast of property (7/13/2023)



Photograph #18 – Office building located to the northwest, adjacent to property (7/13/2023)



Photograph # 19 – Looking east towards Annapolis Way from study area (3/1/2024)



Photograph # 20 – Looking southwest towards forested portion of study area from Annapolis Way (3/1/2024)



Photograph # 21 – Looking west along Annapolis Way (3/1/2024)



Photograph # 22 – Looking westward along Annapolis Way from Route 1 outside of study area (3/1/2024)



Photograph # 23 – Power poles and transformers adjacent to Vulcan materials plant; “Non PCB” labeling visible from ground. Also visible in Photo # 21. (3/1/2024)



Photograph # 24 – Active roadway construction occurring immediately northwest of study area at existing terminus of Annapolis Way (3/1/2024)



Photograph # 25 – Residential development (right) and office building (left) adjacent to study area along Annapolis Way (3/1/2024)



Photograph # 26 – Gordon Plaza Main Building exterior; west side (3/1/2024)



Photograph # 27 - Gordon Plaza Main Building exterior; east side and connection with Gordon Plaza South Building (3/1/2024)



Photograph # 28 - Gordon Plaza South Building Exterior (3/1/2024)



Photograph # 29 – Rear exterior of Gordon Plaza South Building (3/1/2024)



Photograph # 30 - Rear exterior of Gordon Plaza Main Building (3/1/2024)



Photograph # 31 – Representative portion of asphalt parking area in central area of site, immediately north of commercial buildings (3/1/2024)



Official Species List and Maps



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Virginia Ecological Services Field Office
6669 Short Lane
Gloucester, VA 23061-4410
Phone: (804) 693-6694

In Reply Refer To:
Project Code: 2025-0033165
Project Name: Marina Way Extension

12/17/2024 17:56:07 UTC

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). Any activity proposed on National Wildlife Refuge lands must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Project Code in the header of this

letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Bald & Golden Eagles
- Migratory Birds

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Virginia Ecological Services Field Office

6669 Short Lane

Gloucester, VA 23061-4410

(804) 693-6694

PROJECT SUMMARY

Project Code: 2025-0033165

Project Name: Marina Way Extension

Project Type: New Constr - Above Ground

Project Description: The Prince William County (County) Department of Transportation, in coordination with the Virginia Department of Transportation (VDOT), is to construct the Marina Way Extension between Annapolis Way and Gordon Boulevard (Route 123) in Woodbridge, Virginia. The proposed four-lane, 0.26-mile roadway would be on new alignment. It would be a four-lane median-divided roadway with curb and gutter, a 4-foot buffer, and 5-foot-wide sidewalks on both sides of the road. Lane widths will be 11 feet wide with turn lanes present at the Route 123 intersection and main entrances into the Home Depot and Aldi grocery store. The proposed raised grass median will be 15 feet in width and will transition down to 4 feet at intersections where turn lanes are needed. The project does not involve additional capacity on existing Marina Way.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.665164399999995,-77.24634004906409,14z>



Counties: Prince William County, Virginia

ENDANGERED SPECIES ACT SPECIES

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Proposed Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

BALD & GOLDEN EAGLES

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act¹ and the Migratory Bird Treaty Act².

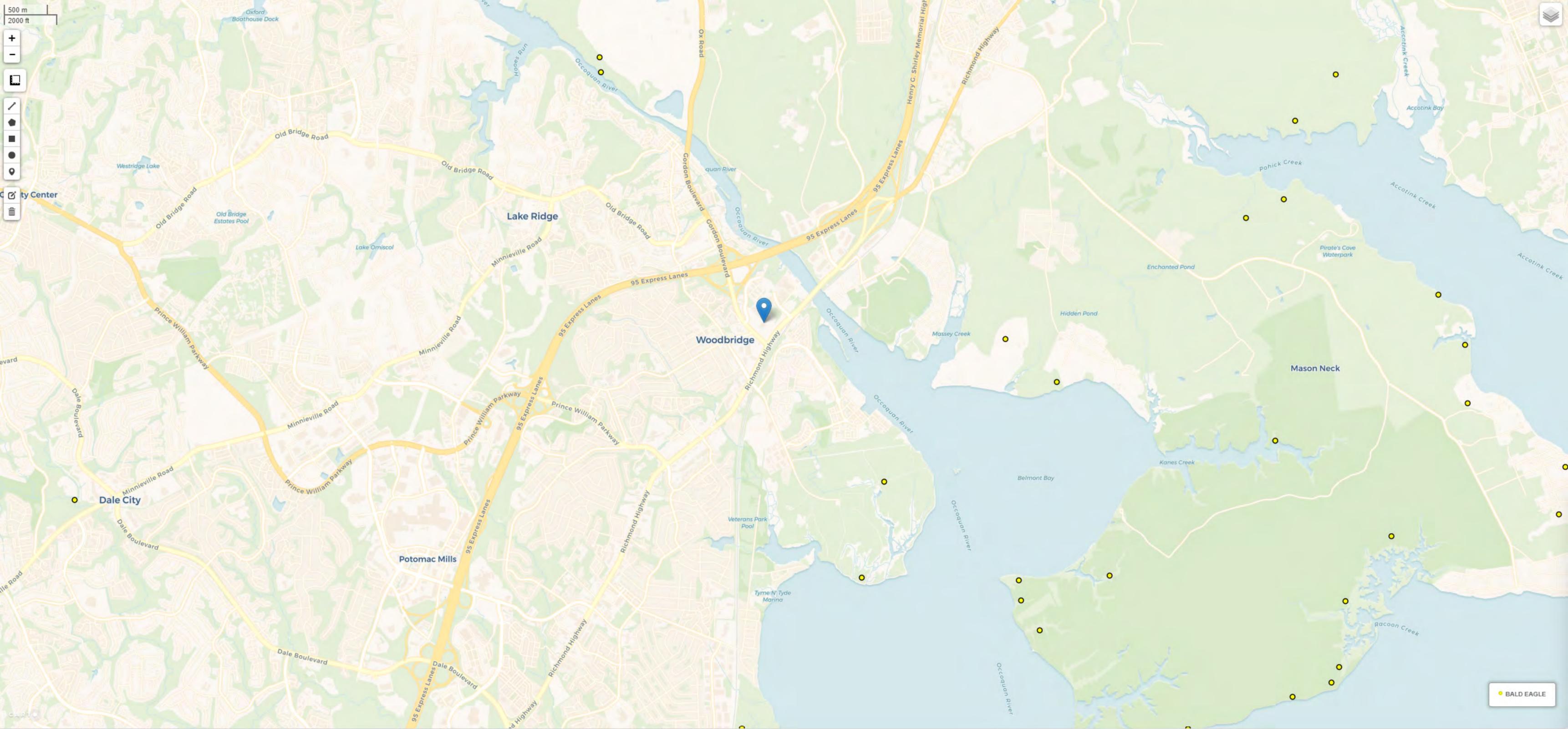
Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats³, should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the ["Supplemental Information on Migratory Birds and Eagles"](#).

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1. The [Bald and Golden Eagle Protection Act](#) of 1940.
 2. The [Migratory Birds Treaty Act](#) of 1918.



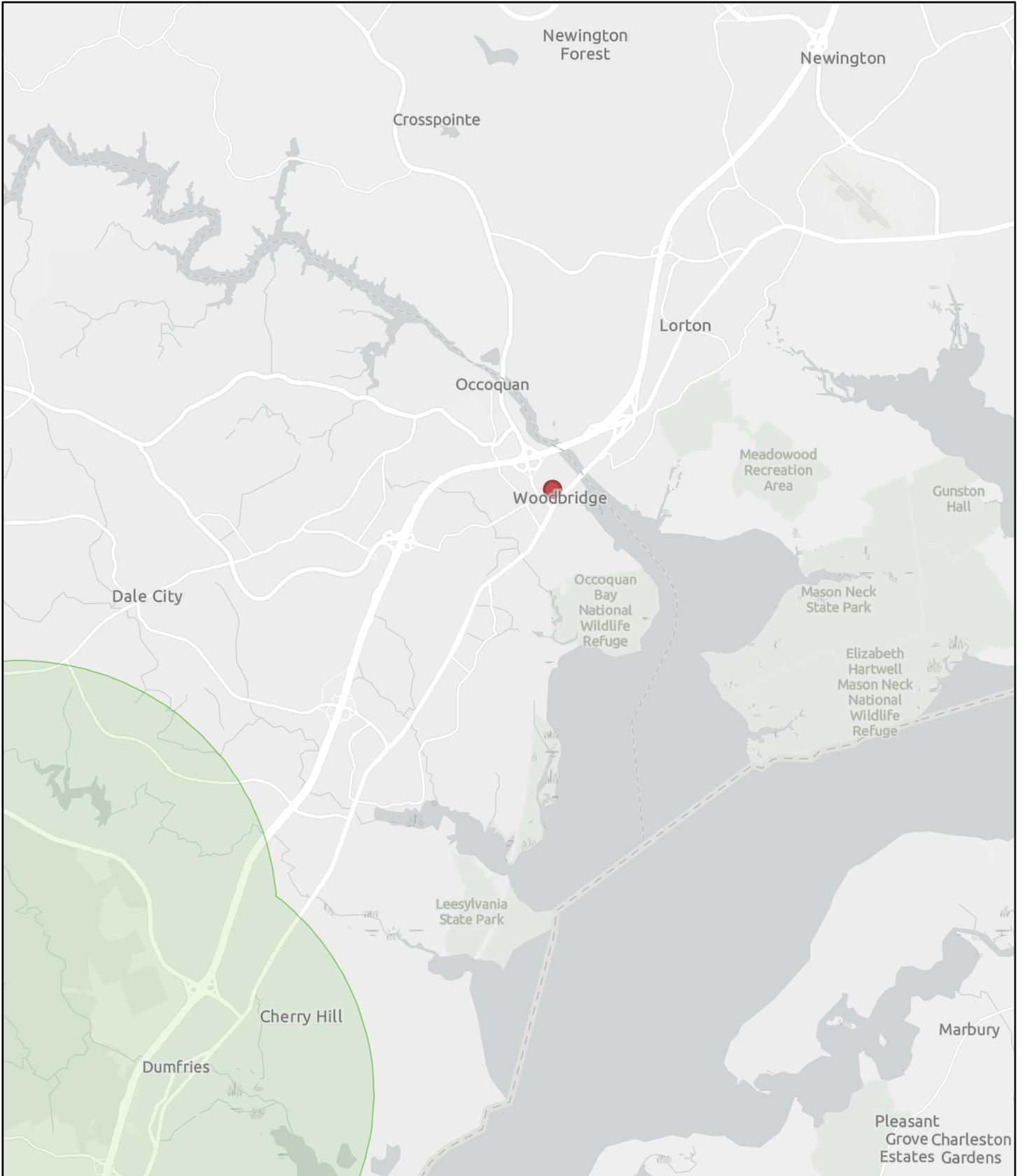
[Toggle Draw Tools](#) [Generate Link](#) [Print Report](#) [Search](#)

Leaflet | © OpenStreetMap contributors, CartoDB attribution



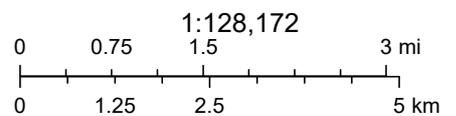
● BALD EAGLE

NLEB Locations and Roost Trees



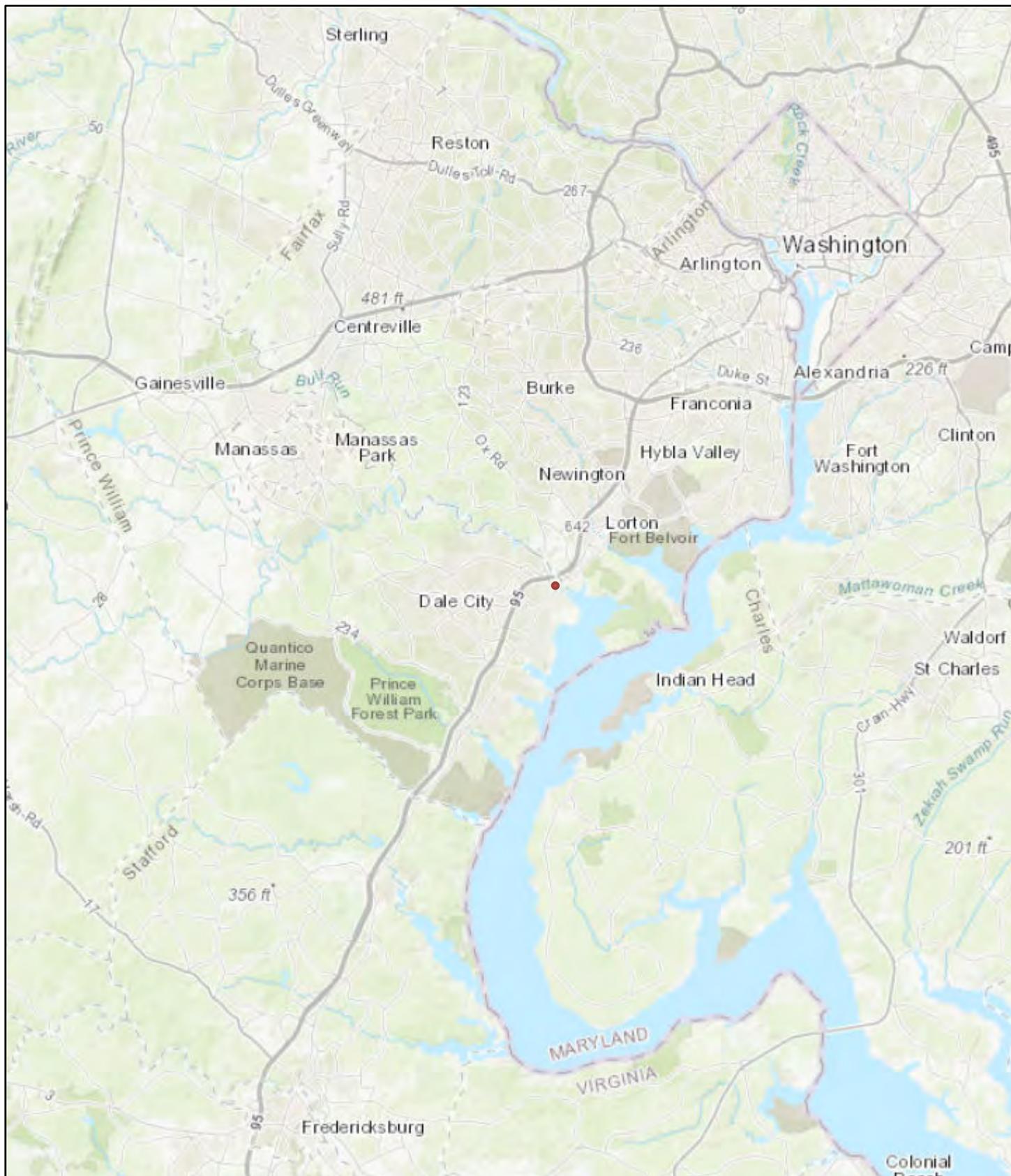
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 NLEB Capture 3 Mile Buffer

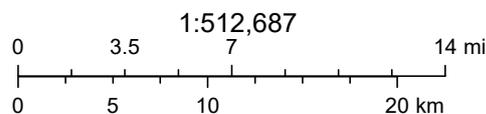


County of Prince William, Fairfax County, VA, VGIN, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA, USFWS

Tricolored Bat Hibernaculum Map



12/17/2024, 9:40:29 AM



Esri, HERE, Garmin, USGS, NGA, EPA, USDA, NPS



Endangered Species Act Determination Table

Endangered Species Act (ESA) Section 7 Determination Table

Project Name: Marina Way Extension **Project (UPC 120778)**

Date: March 21, 2024, Updated December 19, 2024

Consultation Code: 2024-0040139, 2025-0033165

Species / Resource Name	Habitat/Species Presence in Action Area	Sources of Info	ESA Section 7 Determination	Project Elements that Support Determination
<i>Insert name of species or resource as listed on Official Species List.</i>	<i>Indicate if suitable habitat and species are present in the Action Area (see examples in Step 5).</i>	<i>Explain what info suitable habitat/species presence is based on.</i>	<i>Using reasoning and decision tables in Step 5, select determination for each species (e.g. no effect, not likely to adversely affect, or likely to adversely affect).</i>	<i>Explain which project elements may impact the habitat or individuals of each species and any Avoidance and Minimization Measures being implemented.</i>
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	There are forested areas with trees greater than 3” DBH in the project area. There are no bridge structures in the project area.	IPaC and field review.	May affect – likely to adversely affect.	VDGIF NLEB Winter Habitat & Roost Trees Map indicates that there are roost trees within 10 miles of the project area. There are forested areas or trees greater than 3” DBH and 1.12 acres of tree impacts anticipated. There will be no work on bridge structures. Programmatic Consultation Key was used for this determination. In accordance with the USFWS project response letter dated April 15, 2024, tree removal will occur outside the time-of-year when bats are likely to be present (April 1 through November 14).
Tricolored Bat (<i>Perimyotis subflavus</i>)	There are forested areas within the project area.	IPaC and field review	May affect – Not likely to adversely affect.	There are forested areas within the project area. The project will result in 1.12 acres of forest impacts. In accordance with the USFWS project response letter dated April 15, 2024, tree removal will occur outside the time-of-year when bats are likely to be present (April 1 through November 14).
Monarch Butterfly (<i>Danaus plexippus</i>)	No impacts to monarch butterfly habitat is expected to result from project construction. Habitat is	IPaC and field review	No Effect	Milkweed and flowering plants are needed for monarch habitat. Adult monarchs feed on the nectar of many flowers during breeding and migration, but they lay eggs on milkweed plants

Species / Resource Name	Habitat/Species Presence in Action Area	Sources of Info	ESA Section 7 Determination	Project Elements that Support Determination
	developed commercial, scrubby forest and a small amount of old field species (on the north end).			as that is the only food the caterpillars can eat.



Consistency Letter



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Virginia Ecological Services Field Office
6669 Short Lane
Gloucester, VA 23061-4410
Phone: (804) 693-6694

In Reply Refer To:
Project code: 2025-0033165
Project Name: Marina Way Extension

12/17/2024 18:00:44 UTC

Subject: Consistency letter for the 'Marina Way Extension' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated December 17, 2024 to verify that the **Marina Way Extension** (Proposed Action) may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures. **At least one of the qualification interview questions indicated an activity or portion of your project is consistent with a likely to adversely affect therefore, the overall determination for your project is, may affect, and is likely to adversely affect the endangered Indiana bat (*Myotis sodalis*) and/or the endangered northern long-eared bat (*Myotis septentrionalis*).** Consultation with the Service pursuant to section 7(a)(2) of the ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) is required.

This "may affect - likely to adversely affect" determination becomes effective when the lead Federal action agency or designated non-federal representative requests the Service rely on the PBO to satisfy the agency's consultation requirements for this project. Please provide this consistency letter to the lead Federal action agency or its designated non-federal representative for review, and as the agency deems appropriate, transmit to this Service Office for verification that the project is consistent with the PBO.

This Service Office will respond by letter to the requesting Federal action agency or designated non-federal representative within 30 calendar days after receiving request for verification to:

- verify that the Proposed Action is consistent with the scope of actions covered under the PBO;
- verify that all applicable avoidance, minimization, and compensation measures are included in the action proposal;
- identify any action-specific monitoring and reporting requirements, consistent with the monitoring and reporting requirements of the PBO, and
- identify anticipated incidental take.

ESA Section 7 compliance for this Proposed Action is not complete until the Federal action agency or its designated non-federal representative receives a verification letter from the Service.

If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or Northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities: If your initial bridge/culvert or structure assessments failed to detect Indiana bats, but you later detect bats prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office. In these instances, potential incidental take of Indiana bats may be exempted provided that the take is reported to the Service.

If the Proposed Action may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.

The following species may occur in your project area and **are not** covered by this determination:

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

PROJECT DESCRIPTION

The following project name and description was collected in IPaC as part of the endangered species review process.

NAME

Marina Way Extension

DESCRIPTION

The Prince William County (County) Department of Transportation, in coordination with the Virginia Department of Transportation (VDOT), is to construct the Marina Way Extension between Annapolis Way and Gordon Boulevard (Route 123) in Woodbridge, Virginia. The proposed four-lane, 0.26-mile roadway would be on new alignment. It would be a four-lane median-divided roadway with curb and gutter, a 4-foot buffer, and 5-foot-wide sidewalks on both sides of the road. Lane widths will be 11 feet wide with turn lanes present at the Route 123 intersection and main entrances into the Home Depot and Aldi grocery store. The proposed raised grass median will be 15 feet in width and will transition down to 4 feet at intersections where turn lanes are needed. The project does not involve additional capacity on existing Marina Way.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.665164399999995,-77.24634004906409,14z>



DETERMINATION KEY RESULT

Based on your answers provided, this project is likely to adversely affect the endangered Indiana bat and/or the endangered northern long-eared bat. Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the conclusion and Incidental Take Statement provided in the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

QUALIFICATION INTERVIEW

1. Is the project within the range of the Indiana bat^[1]?

[1] See [Indiana bat species profile](#)

Automatically answered

No

2. Is the project within the range of the northern long-eared bat^[1]?

[1] See [northern long-eared bat species profile](#)

Automatically answered

Yes

3. Which Federal Agency is the lead for the action?

A) *Federal Highway Administration (FHWA)*

4. Are *all* project activities limited to non-construction^[1] activities only? (examples of non-construction activities include: bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales)

[1] Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

No

5. Does the project include *any* activities that are **greater than** 300 feet from existing road/rail surfaces^[1]?

[1] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.

No

6. Does the project include *any* activities **within** 0.5 miles of a known Indiana bat and/or NLEB hibernaculum^[1]?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

No

7. Is the project located **within** a karst area?

No

8. Is there *any* suitable^[1] summer habitat for Indiana Bat or NLEB **within** the project action area^[2]? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). Further clarification is provided by the [User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat](#).

Yes

9. Will the project remove *any* suitable summer habitat^[1] and/or remove/trim any existing trees **within** suitable summer habitat?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

10. Will the project clear more than 20 acres of suitable habitat per 5-mile section of road/rail?

No

11. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

No

12. Does the project include activities **within documented NLEB habitat**^{[1][2]}?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry triangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

No

13. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors?

Yes

14. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors occur?

B) During the inactive season

15. Will *any* tree trimming or removal occur **within** 100 feet of existing road/rail surfaces?

Yes

16. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?

Yes

17. Are *all* trees that are being removed clearly demarcated?

Yes

18. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?

Yes

19. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?

No

20. Does the project include slash pile burning?

No

21. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?

No

22. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)

No

23. Will the project involve the use of **temporary** lighting *during* the active season?
Yes
24. Is there *any* suitable habitat **within** 1,000 feet of the location(s) where **temporary** lighting will be used?
Yes
25. Will the project install *any* new or replace any existing **permanent** lighting in addition to the lighting already indicated for habitat removal (including the removal or trimming of trees) or bridge/structure removal, replacement or maintenance activities?
Yes
26. Is there *any* suitable habitat **within** 1,000 feet of the location(s) where **permanent** lighting (other than the lighting already indicated for habitat removal (including the removal or trimming of trees) or bridge/structure removal, replacement or maintenance activities) will be installed or replaced?
Yes
27. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?
No
28. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

Examples: lining roadways, unlighted signage , rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.
Yes
29. Will the project raise the road profile **above the tree canopy**?
No
30. Are the project activities that are not associated with habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives consistent with a No Effect determination in this key?
Automatically answered
Yes, other project activities are limited to actions that DO NOT cause any additional stressors to the bat species as described in the BA/BO

31. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the tree removal/trimming that occurs outside of the NLEB's active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost.

32. Is the habitat removal portion of this project consistent with a Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the tree removal that occurs outside the NLEB's active season is 100-300 feet from the existing road/rail surface, and is not in documented roosting/foraging habitat or travel corridors.

33. **General AMM 1**

Will the project ensure *all* operators, employees, and contractors working in areas of known or presumed bat habitat are aware of *all* FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable Avoidance and Minimization Measures?

Yes

34. **Tree Removal AMM 1**

Can *all* phases/aspects of the project (e.g., temporary work areas, alignments) be modified, to the extent practicable, to avoid tree removal^[1] in excess of what is required to implement the project safely?

Note: Tree Removal AMM 1 is a minimization measure, the full implementation of which may not always be practicable. Projects may still be NLAA as long as Tree Removal AMMs 2, 3, and 4 are implemented and LAA as long as Tree Removal AMMs 3, 5, 6, and 7 are implemented.

[1] The word "trees" as used in the AMMs refers to trees that are suitable habitat for each species within their range. See the USFWS' current summer survey guidance for our latest definitions of suitable habitat.

Yes

35. **Tree Removal AMM 3**

Can tree removal be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits)?

Yes

36. **Lighting AMM 2**

Does the lead agency use the BUG (Backlight, Uplight, and Glare) system developed by the Illuminating Engineering Society^[1] to rate the amount of light emitted in unwanted directions?

[1] Refer to [The BUG System—A New Way To Control Stray Light](#)

Yes

37. **Lighting AMM 2**

Will the **permanent** lighting used during removal of suitable habitat and/or the removal/trimming of trees within suitable habitat be designed to be as close to 0 for all three BUG ratings as possible, with a priority of "uplight" of 0 and "backlight" as low as practicable?

Yes

38. **Lighting AMM 1**

Will *all* **temporary** lighting be directed away from suitable habitat during the active season?

Yes

39. **Lighting AMM 2**

Does the lead agency use the BUG (Backlight, Uplight, and Glare) system developed by the Illuminating Engineering Society^[1] to rate the amount of light emitted in unwanted directions?

[1] Refer to [The BUG System—A New Way To Control Stray Light](#)

Yes

40. **Lighting AMM 2**

Will the **permanent** lighting (other than any lighting already indicated for tree clearing or bridge/structure removal, replacement or maintenance activities) be designed to be as close to 0 for all three BUG ratings as possible, with a priority of "uplight" of 0 and "backlight" as low as practicable?

Yes

41. For Indiana bat, if applicable, compensatory mitigation measures are required to offset adverse effects on the species (see Section 2.10 of the BA). Please select the mechanism in which compensatory mitigation will be implemented:

6. *Not Applicable*

PROJECT QUESTIONNAIRE

1. How many acres^[1] of trees are proposed for removal between 100-300 feet of the existing road/rail surface?

[1] If described as number of trees, multiply by 0.09 to convert to acreage and enter that number.

0.46

2. **Please verify:**

All tree removal will occur greater than 0.5 mile from any hibernaculum.

Yes, I verify that all tree removal will occur greater than 0.5 miles from any hibernaculum.

3. Is the project location 0-100 feet from the edge of existing road/rail surface?

Yes

4. Is the project location 100-300 feet from the edge of existing road/rail surface?

Yes

5. Have you made a No Effect determination for *all* other species indicated on the FWS IPaC generated species list?

No

6. Have you made a May Affect determination for *any* other species on the FWS IPaC generated species list?

Yes

7. **Please verify:**

No documented NLEB roosts or surrounding summer habitat within 150 feet of documented roosts will be impacted between June 1 and July 31.

Yes, I verify that no documented NLEB roosts or surrounding summer habitat within 150 feet of documented roosts will be impacted during this period.

8. How many acres^[1] of trees are proposed for removal between 0-100 feet of the existing road/rail surface?

[1] If described as number of trees, multiply by 0.09 to convert to acreage and enter that number.

0.66

9. You have indicated that the following Avoidance and Minimization Measures (AMMs) will be implemented as part of the proposed project:

- *Tree Removal AMM 1*
- *Lighting AMM 1*
- *Lighting AMM 2*
- *Tree Removal AMM 3*
- *General AMM 1*

AVOIDANCE AND MINIMIZATION MEASURES (AMMS)

This determination key result includes the commitment to implement the following Avoidance and Minimization Measures (AMMs):

TREE REMOVAL AMM 1

Modify all phases/aspects of the project (e.g., temporary work areas, alignments) to avoid tree removal.

LIGHTING AMM 1

Direct temporary lighting away from suitable habitat during the active season.

LIGHTING AMM 2

When installing new or replacing existing permanent lights, use downward-facing, full cut-off lens lights (with same intensity or less for replacement lighting); or for those transportation agencies using the BUG system developed by the Illuminating Engineering Society, be as close to 0 for all three ratings with a priority of "uplight" of 0 and "backlight" as low as practicable.

TREE REMOVAL AMM 3

Ensure tree removal is limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).

GENERAL AMM 1

Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs.

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on November 04, 2024. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion \(dated March 23, 2023\) for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

IPAC USER CONTACT INFORMATION

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LEAD AGENCY CONTACT INFORMATION

Lead Agency: Department of Transportation



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Virginia Field Office
6669 Short Lane
Gloucester, VA 23061

April 15, 2024



John Simkins
Planning, Environment, Realty, and Freight Team Leader
Federal Highway Administration
Virginia Division Office
400 North 8th Street
Richmond, VA 23219-4825

Re: Marina Way Extension (between
Annapolis Way and Gordon Boulevard
(Route 123)/Horner Road) Project,
Prince William County, VA, VDOT
UPC 120778, Project code: 2024-
0040139

Dear John Simkins:

The U.S. Fish and Wildlife Service (Service) is responding to your request dated March 25, 2024 to verify that the proposed Marina Way Extension (from Annapolis Way to Horner Road) Project (the Project) may rely on the amended February 5, 2018, Programmatic Biological Opinion (BO) (dated March 23, 2023) for federally funded or approved transportation projects that may affect the federally listed endangered Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) (NLEB). We received your request and the associated Project Review Package on March 25, 2024.

This letter provides the Service's response as to whether the Federal Highway Administration may rely on the BO to comply with Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) (ESA) for the Project's effects to the NLEB.

The Federal Highway Administration has determined that the Project is likely to adversely affect the NLEB.

The Federal Highway Administration requested a conference for the federally proposed endangered tricolored bat (*Perimyotis subflavus*) pursuant to Section 7(a)(4) of the ESA and determined that the Project is not likely to adversely affect (NLAA) the tricolored bat. The Service concurs with the NLAA determination for the tricolored bat because there are no known tricolored bat hibernacula or roost trees within the Project limits, the Project involves 1.12 acres of tree removal, which is a small portion of the total suitable habitat available in the vicinity of the Project location (based on a desktop analysis by the Service), and tree removal will occur outside the time-of-year when bats are likely to be present (April 1 through November 14). This concurrence concludes your ESA Section 7 responsibilities relative to tricolored bat for this Project, subject to the Reinitiation Notice below.

Conclusion

The Service has reviewed the effects of the proposed Project, which includes the Federal Highway Administration's commitment to implement any applicable mitigation measures as indicated in the Project Review Package. We confirm that the proposed Project's effects are consistent with those analyzed in the BO. The Service has determined that projects consistent with the conservation measures and scope of the program analyzed in the BO are not likely to jeopardize the continued existence of the NLEB. In coordination with your agency and the other sponsoring Federal Transportation Agencies, the Service will reevaluate this conclusion annually in light of any new pertinent information under the adaptive management provisions of the BO.

Incidental Take

Northern Long-eared Bat

Tree Removal

The Service anticipates that tree removal associated with the proposed Project will cause incidental take of NLEBs. As described in the Incidental Take Statement (ITS) of the BO, quantifying the specific number of individuals affected is not practicable. Therefore, the Services uses a surrogate (acreage of tree removal) to provide a means of expressing and monitoring take of the NLEB.

The proposed Project will remove a total of 1.12 acres of trees from habitat that is suitable for the NLEB. All tree removal will occur in winter and comply with all other conservation measures in the BO. Based on the BO, 0.66 acres of the removal are not anticipated to result in any adverse effects (acreage located 0 to 100 feet from the edge of the road) and 0.46 acres are anticipated to result in adverse effects (acreage located 100 to 300 feet from the edge of the road)¹. Mitigation is not required for the NLEB.

Reasonable and Prudent Measures

The Service will add the acreage of Project-related tree removal to the annual total acreage attributed to the BO as a surrogate measure of NLEB incidental take and exempted from the prohibitions of Section 9 of the ESA. Such exemption is effective as long as your agency implements the reasonable and prudent measure (RPM) and accompanying terms and conditions of the BO's ITS.

The sole RPM of the BO's ITS requires the Federal Transportation Agencies to ensure that State/Local transportation agencies, who choose to include eligible projects under the programmatic action, incorporate all applicable conservation measures in the project proposals submitted to the Service for ESA Section 7 compliance using the BO. The implementing terms and conditions for this RPM require the Federal Transportation Agencies to offer training to appropriate personnel about using the BO, and promptly report sick, injured, or dead bats (regardless of species) or any other federally listed species located at the project site.

Reporting Dead or Injured Bats

¹Table 1; <https://www.fws.gov/sites/default/files/documents/user-guide-for-range-wide-programmatic-consultations-for-indiana-bat-march-2022.docx>

The Federal Highway Administration, its State/Local cooperators, and any contractors must take care when handling dead or injured NLEBs, or any other federally listed species that are found at the project site to preserve biological material in the best possible condition and to protect the handler from exposure to diseases, such as rabies. Project personnel are responsible for ensuring that any evidence about determining the cause of death or injury is not unnecessarily disturbed. Reporting the discovery of dead or injured listed species is required in all cases to enable the Service to determine whether the level of incidental take exempted by this BO has been exceeded, and to ensure that the terms and conditions are appropriate and effective. Parties finding a dead, injured, or sick specimen of any endangered or threatened species must promptly notify this Service Office.

Reinitiation Notice

This letter concludes consultation for the Project, which qualifies for inclusion in the BO issued to the Federal Transportation Agencies. To maintain this inclusion, a reinitiation of this Project-level consultation is required where the Federal Highway Administration'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 NLEBs 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 BO or in the Project information that supported Service concurrence with NLAA determinations;
3. the Project is subsequently modified in a manner that causes an effect to listed species or designated critical habitat not considered in the BO or in the Project information that supported Service concurrence with NLAA determinations; or
4. a new species is listed or critical habitat designated that may be affected by the Project.

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

- the Project removes more than 0.46 acres of habitat suitable for the NLEB.

In instances where the amount or extent of incidental take is exceeded, the Federal Highway Administration is required to immediately request a reinitiation of this Project-level consultation.

We appreciate your continued efforts to ensure that this Project is fully consistent with all applicable provisions of the BO. If you have any questions regarding our response or if you need additional information, please contact Troy Andersen at 804-728-0695 or troy_andersen@fws.gov.

Sincerely,

Cindy Schulz
Field Office Supervisor
Virginia Ecological Services

cc: VDOT, Fairfax, VA (Attn: Nick Krause)
VDOT, Fairfax, VA (Attn: John Muse)
VDOT, Richmond, VA (Attn: Kerri Nicholas)
VDOT, Richmond, VA (Attn: Scott Smizik)
VDOT, Richmond, VA (Attn: Chris Swanson)