

Limits: Drummond Lake Rd to East Junction CTH E

## **Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form**

Federal agencies should use this form for the optional streamlined consultation framework for the northern long-eared bat (NLEB). This framework allows federal agencies to rely upon the U.S. Fish and Wildlife Service's (USFWS) January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule for the NLEB for section 7(a)(2) compliance by: (1) notifying the USFWS that an action agency will use the streamlined framework; (2) describing the project with sufficient detail to support the required determination; and (3) enabling the USFWS to track effects and determine if reinitiation of consultation is required per 50 CFR 402.16.

This form is not necessary if an agency determines that a proposed action will have no effect to the NLEB or if the USFWS has concurred in writing with an agency's determination that a proposed action may affect, but is not likely to adversely affect the NLEB (i.e., the standard informal consultation process). Actions that may cause prohibited incidental take require separate formal consultation. Providing this information does not address section 7(a)(2) compliance for any other listed species.

<b>Information to Determine 4(d) Rule Compliance:</b>	<b>YES</b>	<b>NO</b>
1. Does the project occur wholly outside of the WNS Zone <sup>1</sup> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you contacted the appropriate agency <sup>2</sup> to determine if your project is near known hibernacula or maternity roost trees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the project disturb hibernating NLEBs in a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Could the project alter the entrance or interior environment of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Does the project remove any trees within 0.25 miles of a known hibernaculum at any time of year?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Would the project cut or destroy known occupied maternity roost trees, or any other trees within a 150-foot radius from the maternity roost tree from June 1 through July 31.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You are eligible to use this form if you have answered yes to question #1 **or** yes to question #2 **and** no to questions 3, 4, 5 and 6. The remainder of the form will be used by the USFWS to track our assumptions in the BO.

**Agency and Applicant<sup>3</sup>** (Name, Email, Phone No.):

Nicholas Schaff  
Wisconsin Department of Transportation  
718 W. Clairemont Ave.  
Eau Claire, Wisconsin 54701  
[Nicholas.Schaff@dot.wi.gov](mailto:Nicholas.Schaff@dot.wi.gov)  
(715) 836-2068

**Project Name:** WisDOT Project ID: 1560-07-01 (70)  
USH 63 (Drummond – USH 2)  
Drummond Lake Road to East Junction CTH E  
Bayfield County, WI  
Construction Year: 2023

<sup>1</sup> <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

<sup>2</sup> See <http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html>

<sup>3</sup> If applicable - only needed for federal actions with applicants (e.g., for a permit, etc.) who are party to the consultation.

**Project Location** (include coordinates if known):

Project located at : 46°32'14.22"N, 91°03'11.09"W

Refer to the attached Bayfield County Map illustrating the project boundaries.

**Basic Project Description** (provide narrative below or attach additional information):

The Wisconsin Department of Transportation (WisDOT) is in the process of developing plans for a project on United States Highway (USH) 63 in Bayfield County. The proposed project on USH 63 is located between Drummond Lake Road and East Junction CTH E between Drummond and US 2.

The pavement structure along this section of USH 63 is in need of repair. The condition of the existing pavement warrants a resurfacing project.

Currently, the proposed concept being planned to address the aging pavement on this section of USH 63 includes a 2" pre-mill, 4" cold in-place recycle, and 2" HMA overlay. Also included are culvert cleaning and replacements, apron end-wall replacements, riprap placement, spot concrete curb and gutter replacement, gravel shouldering, pavement marking, and rumble strips. Clearing will occur at the culvert and apron end-wall replacements. All proposed work will take place within the right-of-way.

General Project Information	YES	NO
Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project include forest conversion <sup>4</sup> ? (if yes, report acreage below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of forest conversion	<1 acre	
If known, estimated acres <sup>5</sup> of forest conversion from April 1 to October 31		
If known, estimated acres of forest conversion from June 1 to July 31 <sup>6</sup>		
Does the project include timber harvest? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of timber harvest		
If known, estimated acres of timber harvest from April 1 to October 31		
If known, estimated acres of timber harvest from June 1 to July 31		
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of prescribed fire		
If known, estimated acres of prescribed fire from April 1 to October 31		
If known, estimated acres of prescribed fire from June 1 to July 31		
Does the project install new wind turbines? (if yes, report capacity in MW below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated wind capacity (MW)		

Agency Determination:

By signing this form, the action agency determines that this project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

If the USFWS does not respond within 30 days from submittal of this form, the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

<sup>4</sup> Any activity that temporarily or permanently removes suitable forested habitat, including, but not limited to, tree removal from development, energy production and transmission, mining, agriculture, etc. (see page 48 of the BO).

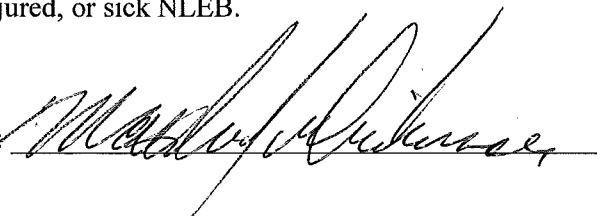
<sup>5</sup> If the project removes less than 10 trees and the acreage is unknown, report the acreage as less than 0.1 acre.

<sup>6</sup> If the activity includes tree clearing in June and July, also include those acreage in April to October.

with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

The action agency understands that the USFWS presumes that all activities are implemented as described herein. The action agency will promptly report any departures from the described activities to the appropriate USFWS Field Office. The action agency will provide the appropriate USFWS Field Office with the results of any surveys conducted for the NLEB. Involved parties will promptly notify the appropriate USFWS Field Office upon finding a dead, injured, or sick NLEB.

Signature:

A handwritten signature in black ink, appearing to read "Matthew J. Dumas", written over a horizontal line.

Date Submitted:

01/02/19



### Effect Determination for Federally Listed Species

WisDOT is also submitting the following information and determination to fulfil Section 7(a)(2) responsibilities under the ESA pertaining to potential impacts to the Fassett's Lowcowed, Canada Lynx, and Gray Wolf, in addition to the Northern long-eared bat.

Effect determination for federally listed species identified in the Official Species List:

Species Common Name	Species Scientific Name	Effect Determination	Justification
Fassett's Lowcowed	<i>Oxytropis campestris var. chartacea</i>	No effect	No known habitat at project site per coordination with WDNR.
Gray Wolf	<i>Canis lupus</i>	No effect	No known habitat at project site per coordination with WDNR.
Northern long-eared bat	<i>Myotis septentrionalis</i>	May affect, not likely to adversely affect	No roost trees or hibernacula near project area, per coordination with WDNR
Canada Lynx	<i>Canadensis</i>	No effect	No known habitat at project site per coordination with WDNR.



November 9, 2018

Caitlin Bukovitz  
DOT NW Region – Superior

*Transmitted electronically via e-mail*

**Subject: DNR Initial Project Review**

Project I.D. 1560-07-01/70  
USH 63 (Drummond Lake Rd. – CTH E East)  
Bayfield County  
Sec. 32, T45N, R7W through Sec. 1, T45N, R6W

Dear Caitlin:

The Wisconsin Department of Natural Resources (DNR) has received the information you provided for the above-referenced project. According to your proposal, the purpose of this project is a 2" pre-mill, 4" cold in-place recycle, and 2" HMA overlay. Proposed improvements include culvert cleaning and replacements, apron end-wall replacements, riprap placement, spot concrete curb and gutter replacement, gravel shouldering, pavement marking, and rumble strips.

Preliminary information has been reviewed by DNR staff for the project under the DNR/DOT (Wisconsin Department of Transportation) Cooperative Agreement. Initial comments on the project as proposed are included below, and we assume that additional information will be provided that addresses all resource concerns identified. To ensure compliance with resource protections, we are recommending that Special Provisions be developed for specific resource protections described below. DNR expects that the full range of DOT roadway standards will be applied throughout the design and construction process.

**A. Project-Specific Resource Concerns**

**Wetlands:**

There is potential for wetland impacts to occur as a result of this project. Wetland impacts must be avoided and/or minimized to the greatest extent practicable. Unavoidable wetland losses must be compensated for in accordance with the DNR/DOT Cooperative Agreement and the DOT Wetland Mitigation Banking Technical Guideline. DNR requests information regarding the amount and type of unavoidable wetland impacts.

**Fisheries/Stream Work:**

Initial review of the preliminary plans does not appear to show any culverts on navigable waterbodies, although it is difficult to tell based on the fact that no culvert sizes or waterbodies were identified on the plans. Keep in mind as the plans progress that if there are any culverts on navigable streams, timing restrictions will likely be applied.

- ❖ *Disclaimer: Requests to modify the in-stream timeout dates may be made, if seasonal conditions and/or extra best management practices (BMPs) would allow it. These requests must be submitted to the DNR for review, and will be handled on a case-by-case basis.*

If erosion control matting is to be used along stream banks, DNR recommends biodegradable non-netted matting (e.g. Class I Type A Urban, Class I Type B Urban, or Class II Type C). Long-term netted mats may cause animal entrapment. Avoid the use of fine mesh matting that is tied or bonded at the mesh intersection such that the openings in the mesh are fixed in size.

### Endangered Resources:

- There are no known Northern Long-eared Bat (NLEB) maternity roost trees within 150 feet of the project, or known hibernacula within 0.25 miles of the proposed project area.
- This project is located outside of any High Potential Zones (HPZ) for the Rusty Patched Bumblebee (RPBB), and therefore should have no impact on this federally endangered species.

Based upon a review of the Natural Heritage Inventory (NHI) and other DNR records dated November 9, 2018, the following Endangered Resources are known to occur in the project area or its vicinity and could be impacted by this project.

- Sweet Colt's-foot, *Petasites sagittatus*, state threatened

The following measures will be needed:

Plant surveys should be performed in the area of the Bibon Swamp, from N. Sweden Rd. to CTH E East, in any areas that will be disturbed beyond toe of slope, including staging areas. The surveys should be completed during late May – late August.

The Transportation Liaison will initiate coordination with DNR Conservation Biologist, Stacy Rowe.

- ❖ *NHI Disclaimer: This review letter may contain NHI data, including specific locations of endangered resources, which are considered sensitive and are not subject to Wisconsin's Open Records Law. As a result, information contained in this review letter may be shared only with individuals or agencies that require this information in order to carry out specific roles in the permitting, planning and implementation of the proposed project. Specific locations of endangered resources may not be released or reproduced in any publicly disseminated documents.*

### Invasive Species and Viral Hemorrhagic Septicemia (VHS):

All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by utilizing other best management practices to avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. For more information, refer to <http://dnr.wi.gov/topic/Invasives/bmp.html>.

- **Emerald Ash Borer:** This project has the potential for spreading the Emerald Ash Borer (EAB) beetle. It is illegal to move or transport ash material, the emerald ash borer, and hardwood debris (i.e. firewood) from EAB quarantined areas to a non-quarantined area without a compliance agreement issued by WI Department of Agriculture, Trade and Consumer Protection. Regulated items include cut hardwood (non-coniferous) firewood, ash logs, ash mulch or bark fragments larger than one inch in diameter, or ash nursery stock (DATCP statute 21).
  - For more information regarding the EAB and quarantine areas please click on the following link: <http://datcpservices.wisconsin.gov/eab/article.jsp?topicid=20>

- Recommendations to reduce the spread of EAB in potentially infested Ash wood:  
<http://datcpservices.wisconsin.gov/eab/articleassets/Recommendations%20to%20reduce%20the%20spread%20of%20EAB.pdf>

### **Floodplains:**

A determination must be made as to whether the project lies within a mapped/zoned floodplain. Any proposed temporary or permanent changes to the road or waterway geometry in mapped floodplain areas requires that DOT coordinate with the Bayfield Zoning Administrator to ensure compliance with the local zoning ordinance and NR116. Examples of floodplain development activity includes, but not limited to, the following: changes to waterway crossings; culvert extensions; changes to road surface elevations and/or side-slopes; temporary causeways; temporary structures; general fill.

### **Storm Water Management & Erosion Control:**

- For projects disturbing an acre or more of land, erosion control and storm water measures must adhere to the Wisconsin Pollutant Discharge Elimination System Transportation Construction General Permit (TCGP) for Storm Water Discharges. Coverage under TCGP is required prior to construction. DOT should apply for permit coverage just before the project goes to final PS&E. Permit coverage will be issued by the DNR after design is complete and documentation shows that the project will meet construction and post-construction performance standards. For more information regarding the TCGP you can go to the following link, and click on the “Transportation” tab: <https://dnr.wi.gov/topic/Sectors/Transportation.html>.
- All projects require an Erosion Control Plan (ECP) that describes best management practices that will be implemented before, during and after construction to minimize pollution from storm water discharges. Additionally, the plan should address how post-construction storm water performance standards will be met for the specific site. The project design and Erosion Control Implementation Plan (ECIP) must comply with the TCGP in order to receive “permit-coverage” from the DNR.
- Once the project contract has been awarded, the contractor will be required to outline their construction methods in the ECIP. An adequate ECIP for the project must be developed by the contractor and submitted to this office for review at least 14 days prior to the preconstruction conference. For projects regulated under the TCGP, submit the ECIP as an amendment to the ECP.

### **Selected Site & Commercial Non-Metallic Mines:**

- The DOT Select Site process must be adhered to for clean fill or any other material that leaves the work site. The DNR liaison will review all proposed select sites and a site visit may be required. Filling of wetlands, waterways or floodplain is not allowed under the select site process, unless the site owner obtains required permits. No new impermeable surfaces can be left at a select site (including gravel roads or pads), unless the site owner obtains required permits. Contaminated materials leaving the site need to adhere to the Hazardous Material Management Plan.
- Use of Commercial Non-Metallic Mines must accompany documentation that such mines have received all applicable local, state and federal permits before being used on the project, including local non-metallic mining reclamation permits and applicable WPDES permits as issued by the DNR.



**Other Issues:**

This project may require a permit from the U.S. Army Corps of Engineers (USACE). For further permit details, you may contact Bill Sande of the USACE located in the Hayward office, at 715-934-2170. All local, state, and federal permits and/or approvals must be obtained prior to commencing construction activities.

The above comments represent the DNR's initial concerns for the proposed project and do not constitute final concurrence. Final concurrence will be granted after further review of refined project plans, and additional consultation if necessary. If any of the concerns or information provided in this letter requires further clarification, please contact this office at 715-635-4228, or email at [shawn.haseleu@wi.gov](mailto:shawn.haseleu@wi.gov).

Sincerely,

A handwritten signature in black ink that reads "Shawn Haseleu". The signature is written in a cursive, flowing style.

Shawn Haseleu  
Environmental Analysis & Review Specialist

cc: Nick Schaff, DOT NW Region – Eau Claire  
Matt Dickenson, DOT NW Region – Superior  
Stacy Rowe, DNR – ER - Madison  
Bill Sande, ACOE  
Bayfield County Zoning



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Green Bay Ecological Services Field Office  
2661 Scott Tower Drive  
New Franken, WI 54229-9565  
Phone: (920) 866-1717 Fax: (920) 866-1710



In Reply Refer To:

October 17, 2018

Consultation Code: 03E17000-2019-SLI-0108

Event Code: 03E17000-2019-E-00234

Project Name: Drummond - USH 2 Project ID 1560-07-01(70)

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

### To Whom It May Concern:

The attached species list identifies any federally threatened, endangered, proposed and candidate species that may occur within the boundary of your proposed project or may be affected by your proposed project. The list also includes designated critical habitat if present within your proposed project area or affected by your project. This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation.

Section 7 of the Endangered Species Act of 1973 requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service if they determine their project "may affect" listed species or critical habitat.

Under 50 CFR 402.12(e) (the regulations that implement Section 7 of the Endangered Species Act) the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally. You may verify the list by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation and completing the same process you used to receive the attached list. As an alternative, you may contact this Ecological Services Field Office for updates.

Please use the species list provided and visit the U.S. Fish and Wildlife Service's Region 3 Section 7 Technical Assistance website at - <http://www.fws.gov/midwest/endangered/section7/s7process/index.html>. This website contains step-by-step instructions which will help you determine if your project will have an adverse effect on listed species and will help lead you through the Section 7 process.

For all **wind energy projects** and **projects that include installing towers that use guy wires or are over 200 feet in height (e.g., communication towers)**, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*) and Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at <http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html> to help you determine if you can avoid impacting eagles or if a permit may be necessary.

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 Consultation Tracking Number 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
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## 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:

**Green Bay Ecological Services Field Office**

2661 Scott Tower Drive

New Franken, WI 54229-9565

(920) 866-1717

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## Project Summary

Consultation Code: 03E17000-2019-SLI-0108

Event Code: 03E17000-2019-E-00234

Project Name: Drummond - USH 2 Project ID 1560-07-01(70)

Project Type: TRANSPORTATION

Project Description: The project on US 63 in Bayfield County is approximately 12.789 miles from Drummond Lake Road to just north of East Junction CTH E with a proposed construction season of 2023.

The project planned is a 2" pre-mill, 4" cold in-place recycle, and 2" HMA overlay. Also included are culvert cleaning and replacements, apron endwall replacements, riprap placement, spot concrete curb and gutter replacement, gravel shouldering, pavement marking, and rumble strips.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/46.373702281382975N91.07206466292544W>



Counties: Bayfield, WI

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## Endangered Species Act Species

There is a total of 4 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 Fisheries<sup>1</sup>, 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.

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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
Canada Lynx <i>Lynx canadensis</i> Population: Wherever Found in Contiguous U.S. There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/3652">https://ecos.fws.gov/ecp/species/3652</a>	Threatened
Gray Wolf <i>Canis lupus</i> Population: U.S.A.: All of AL, AR, CA, CO, CT, DE, FL, GA, IA, IN, IL, KS, KY, LA, MA, MD, ME, MI, MO, MS, NC, ND, NE, NH, NJ, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, and WV; and portions of AZ, NM, OR, UT, and WA. Mexico. There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. Species profile: <a href="https://ecos.fws.gov/ecp/species/4488">https://ecos.fws.gov/ecp/species/4488</a>	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

## Flowering Plants

NAME	STATUS
Fassett's Locoweed <i>Oxytropis campestris</i> var. <i>chartacea</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/209">https://ecos.fws.gov/ecp/species/209</a>	Threatened

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## **Critical habitats**

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