

**From:** [susan\\_zimmermann@fws.gov](mailto:susan_zimmermann@fws.gov) on behalf of [Ohio, FW3](#)  
**To:** [Leslie Nelson](#)  
**Cc:** [nathan.reardon@dnr.state.oh.us](mailto:nathan.reardon@dnr.state.oh.us); [Jenny Norris](#)  
**Subject:** Project in Tiltonsville, Jefferson Co. OH  
**Date:** Monday, December 29, 2014 2:09:41 PM  
**Attachments:** [Jeromy1.bmp](#)

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UNITED STATES DEPARTMENT OF THE INTERIOR  
U.S. Fish and Wildlife Service  
Ecological Services Office  
4625 Morse Road, Suite 104  
Columbus, Ohio 43230  
(614) 416-8993 / Fax (614) 416-8994



TAILS# 03E15000-2015-TA-0386

Dear Ms. Nelson,

We have received your recent correspondence requesting information about the subject proposal. There are no federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area. The following comments and recommendations will assist you in fulfilling the requirements for consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA).

The Service recommends that proposed developments avoid and minimize water quality impacts and impacts to high quality fish and wildlife habitat (e.g., forests, streams, wetlands). Additionally, natural buffers around streams and wetlands should be preserved to enhance beneficial functions. If streams or wetlands will be impacted, the Corps of Engineers should be contacted to determine whether a Clean Water Act section 404 permit is required. Best management practices should be used to minimize erosion, especially on slopes. All disturbed areas should be mulched and revegetated with native plant species. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats.

**LISTED SPECIES COMMENTS:** All projects in the State of Ohio lie within the range of the Indiana bat (*Myotis sodalis*), a federally listed endangered species. Since first listed as endangered in 1967, their population has declined by nearly 60%. Several factors have contributed to the decline of the Indiana bat, including the loss and degradation of suitable hibernacula, human disturbance during hibernation, pesticides, and the loss and degradation of forested habitat, particularly stands of large, mature trees. Fragmentation of forest habitat may also contribute to declines. During winter, Indiana bats hibernate in caves and abandoned mines. Summer habitat requirements for the species are not well defined but the following are considered important:

- (1) dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas;
- (2) live trees (such as shagbark hickory and oaks) which have exfoliating bark;
- (3) stream corridors, riparian areas, and upland woodlots which provide forage sites.

The proposed project is in the vicinity of one or more confirmed records of Indiana bats. Should habitat exhibiting the characteristics described above be present at the

proposed project site, we recommend that they, as well as surrounding trees, be saved wherever possible. Because the project will result in a small amount of forest clearing relative to the available habitat in the immediately surrounding area, habitat removal is unlikely to result in significant impacts to this species. However, because Indiana bat presence in the vicinity of the project has been confirmed, clearing of trees during the summer roosting season may result in direct take of individuals. Therefore, we recommend that any unavoidable tree clearing at the site occur only from October 1 through March 31. Following these seasonal tree clearing restrictions should ensure that any effects to Indiana bats are insignificant or discountable. Please note that, because Indiana bat presence has already been confirmed in the project vicinity, any additional surveys would not constitute presence/absence surveys.

If there is a federal nexus for the project (federal funding provided, federal permits required to construct, etc.) then no tree clearing on any portion of the parcel should occur until consultation under section 7 of the Endangered Species Act of 1973, as amended, between the Service and the federal action agency is completed. We recommend that the federal action agency submit to this office a determination of effects to the Indiana bat for our review and concurrence.

**PROPOSED SPECIES COMMENTS:** The proposed project lies within the range of the northern long-eared bat (*Myotis septentrionalis*), a species that is currently proposed for listing as federally endangered under the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). The final listing decision for the northern long-eared bat will occur no later than April 2, 2015. No critical habitat has been proposed at this time. Recently white-nose syndrome (WNS), a novel fungal pathogen, has caused serious declines in the northern long-eared bat population in the northeastern U.S. WNS has also been documented in Ohio, but the full extent of the impacts from WNS in Ohio is not yet known.

During winter, northern long-eared bats hibernate in caves and abandoned mines. Summer habitat requirements for the species are not well defined but the following are considered important:

- (1) Roosting habitat in dead or live trees and snags with cavities, peeling or exfoliating bark, split tree trunk and/or branches, which may be used as maternity roost areas;
- (2) Foraging habitat in upland and lowland woodlots and tree lined corridors;
- (3) Occasionally they may roost in structures like barns and sheds.

Pursuant to section 7(a)(4) of the ESA, federal action agencies are required to confer with the Service if their proposed action is likely to jeopardize the continued existence of the northern long-eared bat (50 CFR 402.10(a)). Federal action agencies may also voluntarily confer with the Service if the proposed action may affect a proposed species. Nevertheless, species proposed for listing are not afforded protection under the ESA; however as soon as a listing becomes effective, the prohibition against jeopardizing its continued existence and "take" applies regardless of an action's stage of completion. If the federal agency retains any discretionary involvement or control over on-the-ground actions that may affect the species after listing, section 7 applies.

The proposed project is in the vicinity of one or more confirmed records of northern long-eared bats. Therefore, we recommend that trees exhibiting any of the

characteristics listed above, as well as any wooded areas or tree lined corridors be saved wherever possible. If any caves or abandoned mines may be disturbed, further coordination with this office is requested to determine if fall or spring surveys are warranted. If no caves or abandoned mines are present and tree removal is unavoidable, we recommend that any tree removal occur between October 1 and March 31 to avoid impacts to northern long-eared bats. Incorporating these conservation measures into your project at this time may avoid significant future project delays should the listing become official.

Due to the project type, size, and location, we do not anticipate adverse effects to any other federally endangered, threatened, proposed, or candidate species. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be initiated to assess any potential impacts.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (ESA), as amended, and are consistent with the intent of the National Environmental Policy Act of 1969 and the U. S. Fish and Wildlife Service's Mitigation Policy. This letter provides technical assistance only and does not serve as a completed section 7 consultation document. We recommend that the project be coordinated with the Ohio Department of Natural Resources due to the potential for the project to affect state listed species. Contact John Kessler, Environmental Services Administrator, at (614) 265-6621 or at [john.kessler@dnr.state.oh.us](mailto:john.kessler@dnr.state.oh.us).

Sincerely,



Jeromy Applegate  
Acting Field Supervisor

cc: Nathan Reardon, ODNR-DOW

Jennifer Norris, ODNR-DOW

## Leslie Nelson

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**From:** Ohio, FW3 <ohio@fws.gov>  
**Sent:** Monday, December 15, 2014 1:35 PM  
**To:** Leslie Nelson  
**Subject:** Thank you for contacting the U.S. Fish and Wildlife Service Re: Indiana Bat and Northern Long Eared Bat Critical Habitat

This email serves as your confirmation that we have received your project and/or inquiry. This is also a reminder that the USFWS has 30 days from the date we received your project to respond to your request.

We thank you for your patience. To expedite your request we ask that you provide both a latitude and longitude on all your projects.

Regards from  
Ecological Services Office  
Columbus Ohio  
614-416-8993