

ATTACHMENT B

Agency Coordination



January 5, 2023

Jefferson County Historic Landmarks Commission
116 E. Washington Street
Charlest Town, WV 25414

Re: Cultural Resources Inquiry
Corporation of Shepherdstown Water Distribution System Improvements Project
Jefferson County, West Virginia.

Dear Sir or Madam:

Shepherdstown's Water Distribution System Improvements Project (Project) consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection within multiple areas of Shepherdstown, WV. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways (ROWs). The new waterlines will be installed in previously disturbed areas.

The City of Shepherdstown, in conjunction with the U.S. Army Corps of Engineers, is requesting that the proposed project be considered for potential effects to Section 106 resources and would like to request the following information:

- Potential architectural resource concerns
- Potential archeological resource concerns

Project Location

The Project will be located within the Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane in Jefferson County, WV. The proposed project falls within the Potomac watershed and the Shepherdstown USGS 7.5-minute quadrangle. The project involves removing and replacing existing waterlines that currently are located within existing ROWs, and previously disturbed areas. Please refer to the attached location map with the Project's proposed limit of disturbance (LOD), as well as the Project's construction plans.

Project Description

This Project includes the construction of approximately 1,390 linear feet (LF) of 8" PVC C909 PVC; 11,530 LF of 6" C909 PVC; 600 LF of 4" PVC C909; 3,305 LF of 2" PVC SDR 17; 2,780 LF of 3/4" PE service line; 1,135 LF of 3/4" PE service punch; one (1) EA 8" Gate Valve w/Valve Box; sixteen (16) EA 6" Gate Valve w/Valve Box; one (1) EA 4" Gate Valve w/Valve Box; eight (8) EA 2" Gate Valve w/Valve Box; fifteen (15) EA Fire Hydrant Assemblies; one (1) EA Fire Hydrant Assembly on existing waterline; 100 LF of 16" Steel Casing (RR Bore & Jack); 30 LF of 16" Steel Casing (Bore & Jack); 215 LF of 12" Steel Casing (Open Cut); 185 EA service reconnections; thirteen (13) connections to existing waterline; ten (10)

Blow-Off Assembly; 180 LF of Type 'A' Trench Repair; 4,515 LF of Type "B" Trench Repair; 785 LF of Type 'C' Trench Repair; 6,125 SY of 2" Asphalt Pavement Overlay; 385 LF of Asphalt Driveway Restoration; 645 LF of Gravel Driveway Restoration; 28 LF of Concrete Driveway Restoration; three repairs of existing Rip Rap Ditch, and Erosion and Sediment Control. Project efforts will also include mobilization and demobilization efforts. Project efforts will be focused in previously disturbed areas within existing street, state road, and railroad ROWs in order to eliminate impacts.

Project Contact

Frank Welch
Public Works Director
T: 304-876-3322
E: fwelch@shepherdstown.us

Please copy me on all correspondence as well:

Shawn Huffman
Biologist
T: 304-776-3333 Ext. 107
E: shawnhuffman@decotaconsulting.com

If you require any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shawn Huffman", is written over a light blue horizontal line.

Shawn Huffman



January 5, 2023

Preservation Alliance of West Virginia
421 Davis Avenue, #4
Elkins, WV 26241

Re: Cultural Resources Inquiry
Corporation of Shepherdstown Water Distribution System Improvements Project
Jefferson County, West Virginia.

Dear Sir or Madam:

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Shawn Huffman



January 5, 2023

Shepherdstown Historic Landmarks Commission
P.O. Box 248
Shepherdstown, WV 25443

Re: Cultural Resources Inquiry
Corporation of Shepherdstown Water Distribution System Improvements Project
Jefferson County, West Virginia.

Dear Sir or Madam:

Shepherdstown's Water Distribution System Improvements Project (Project) consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection within multiple areas of Shepherdstown, WV. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways (ROWs). The new waterlines will be installed in previously disturbed areas.

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Shawn Huffman



November 29, 2022

Ms. Susan Pierce
West Virginia Division of Culture and History
Cultural Center
State Capitol Complex
Charleston, WV 25305

Re: Cultural Resources Inquiry
Corporation of Shepherdstown Water Distribution System Improvements Project
Jefferson County, West Virginia.

Dear Ms. Pierce:

Shepherdstown's Water Distribution System Improvements Project (Project) consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection within multiple areas of Shepherdstown, WV. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways (ROWs). The new waterlines will be installed in previously disturbed areas.

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Project Contact

Frank Welch
Public Works Director
T: 304-876-3322
E: fwelch@shepherdstown.us

Please copy me on all correspondence as well:

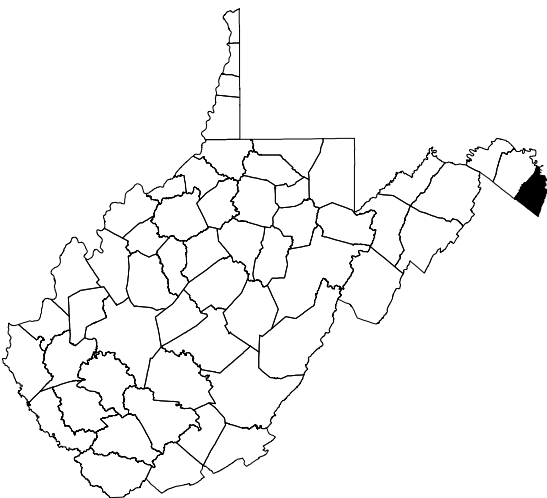
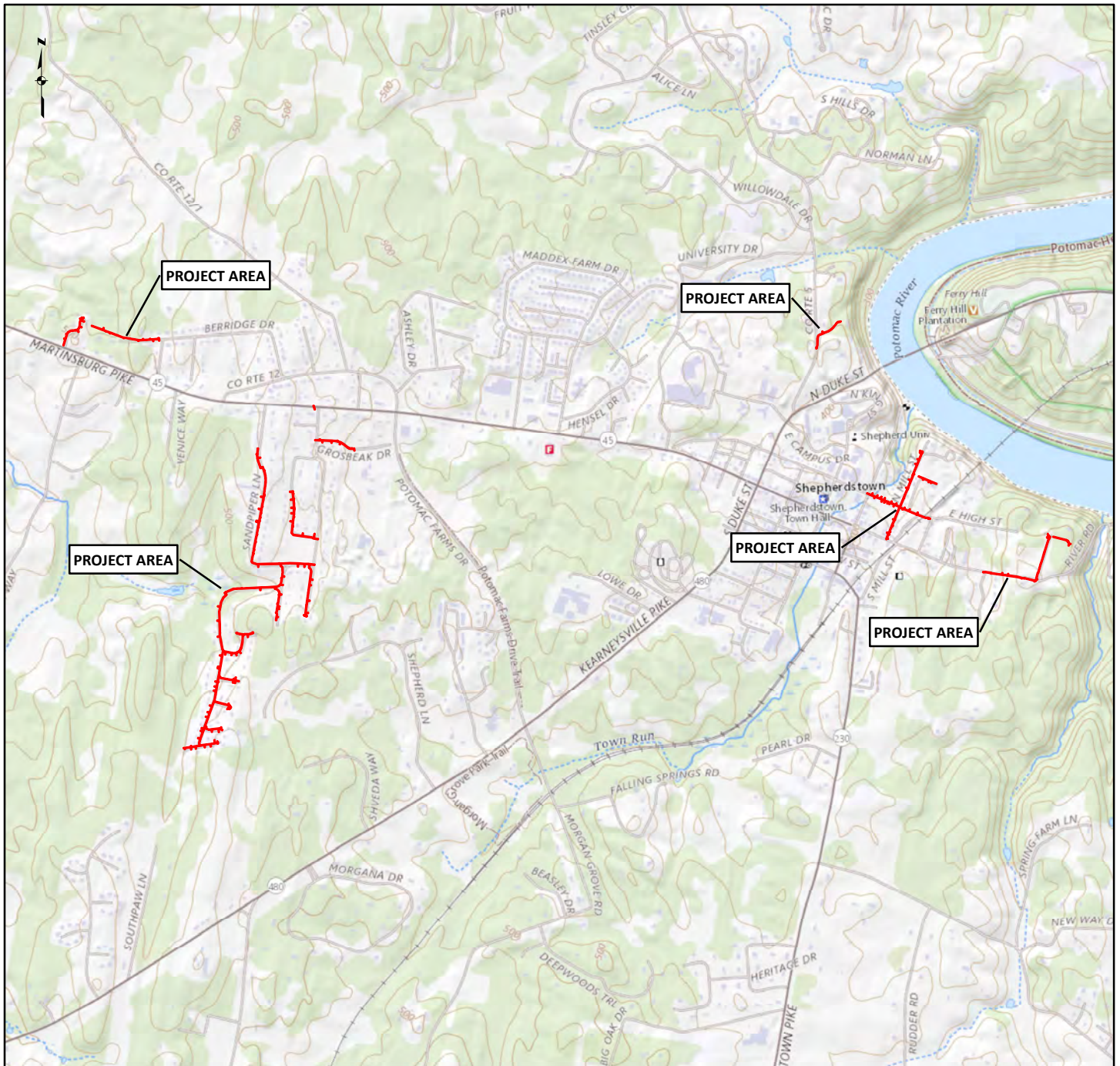
Shawn Huffman
Biologist
T: 304-776-3333 Ext. 107
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Shawn Huffman



DRAWN		CORPORATION OF SHEPHERDSTOWN JEFFERSON COUNTY, WEST VIRGINIA			
DATE	BY				
11/22	BJC				
REVISED					
DATE	BY	WATER SYSTEM IMPROVEMENTS LOCATION MAP			
APPROVED		Contour Interval Coordinate System Scale Sheet No. DATE BY 40' NAD 83 1" = 2,000' 1 of 1 WVSP North			
DATE		PATH W:\Projects\WORK\GHOSH\Shepardstown\GIS\consultation_exhibit.mxd			
DATE		DECOTA CONSULTING COMPANY, INC.			
DATE		PREPARED BY: DECOTA CONSULTING COMPANY, INC. 4984 WASHINGTON STREET, W. CROSS LANES, WV 25313			



West Virginia Department of
**ARTS, CULTURE
AND HISTORY**

The Culture Center
1900 Kanawha Blvd., E.
Charleston, WV 25305-0300

Randall Reid-Smith, Curator
Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562
EEO/AA Employer

December 29, 2022

Mr. Shawn Huffman
Biologist
Decota Consulting Company, Inc.
4984 Washington Street West
Cross Lanes, WV 25313
Via email: shawnhuffman@decotaconsulting.com

RE: Corporation of Shepherdstown Water Distribution System Improvements Project
FR#: 23-0167-JF

Dear Mr. Huffman:

We have reviewed the above referenced project to determine potential effects on cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties, we submit our comments.

According to the submitted information, the Corporation of Shepherdstown proposes to undertake a water distribution system improvements project in multiple areas of Shepherdstown in Jefferson County, West Virginia. The work will include the installation of the following: approximately 20,740 linear feet of water line of varying sizes, gate valves (sizes ranging from 2-inches to 8-inches) with valve boxes, 15 fire hydrant assemblies, one fire hydrant assembly on an existing waterline, 185 service reconnections, 13 connections to existing waterline, 10 Blow-Off Assembly, approximately 245 linear feet of steel casing (bore & jack locations). All disturbed asphalt pavement, asphalt driveway, and gravel driveways will be restored after construction activities are completed.

Architectural Resources:

We have reviewed the submitted information, and while we approve the project in general, we have some concerns regarding the potential effects of the proposed project on architectural resources eligible for or listed in the National Register of Historic Places. Of particular concern are the portions of the proposed project along North Mill Street and High Street within the Shepherdstown Historic District (Boundary Increase) (NR# 87001205, listed 1987) and the section along Katie Lane, just south of the Van Swearingen-Shepherd House (NR# 83003241, listed 1983). The National Register nomination for the historic district notes that "Shepherdstown's character is conveyed by its streets, many of which retain early brick walks, curb stones and other "furniture" such as stone mounting blocks." Based on publicly available streetview photographs of the proposed project area, there does not appear to be any brick sidewalks in any of the project areas, but limestone curbs and cut stone walls do appear to be within the project boundaries. While the project plans include restoration of the concrete, asphalt, and gravel driveways, no mention is made of the limestone curbs or the cut stone walls that may be impacted by the proposed project. It is our opinion that the proposed project will result

in *conditional no adverse effect* to both the Shepherdstown Historic District (Boundary Increase) or the Van Swearingen-Shepherd House if the following conditions are met:

- Effects to the stone curbs and cut stone walls will be avoided by the proposed project,
- Or, if the effects cannot be avoided, then the stone curbs will be reinstalled in their original locations and the cut stone walls rebuilt to their original condition following the completion of the project.

Please confirm if these conditions are acceptable, and we will provide additional comments upon receipt of the requested information.

Archaeological Resources:

According to our records, there are no previously recorded archaeological resources located within the areas that will be impacted by the proposed project activities. Available information indicates that a vast majority of the proposed ground disturbing activities will be confined to previously disturbed road, railroad, and utility rights-of-way. We understand that existing pipes will be abandoned in place after the installation of the new replacement water lines. Due to the prior disturbances, it is unlikely that significant archaeological resources will be encountered. In our opinion, no archaeological historic properties will be affected by the proposed water system improvement project. No further consultation is necessary regarding archaeological resources. However, if cultural materials are encountered during the project activities, cease all work within the area of discovery and contact this office immediately.

Consulting Parties/Public Comment:

Federal regulations in 36 CFR §§ 800.2(c) and 800.3(f) stress the importance of involving local government representatives and organizations that have a demonstrated interest in historic preservation or the undertaking in the Section 106 review process. If you have already completed this aspect of the requirements under Section 106, please provide written documentation along with any comments you have received, or any that you receive in the future, to this office. If you have not already done so, please consider forwarding a copy of the submitted information for the above-mentioned project to the Shepherdstown Historic Landmarks Commission, the Jefferson County Historic Landmarks Commission, and the Preservation Alliance of West Virginia to request their comments or opinions on the matter. Please forward any comments regarding cultural resources that you receive to this office. If you receive no comments within thirty (30) days, please indicate that *in writing* to this office.

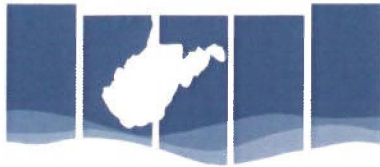
We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Benjamin M. Riggle, Structural Historian, or Carolyn M. Kender, Archaeologist, at (304) 558-0240.*

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/CMK/BMR

CC: Mr. Frank Welch, Public Works Director (fwelch@shepherdstown.us)



West Virginia Department of
**ARTS, CULTURE
AND HISTORY**

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EEO/AA Employer

May 31, 2023

Mr. Shawn Huffman
Biologist
Decota Consulting Company, Inc.
4984 Washington Street West
Cross Lanes, WV 25313
Via email: shawnhuffman@decotaconsulting.com

RE: Corporation of Shepherdstown Water Distribution System Improvements Project
FR#: 23-0167-JF-1

Dear Mr. Huffman:

We have reviewed the additional information submitted for the above-mentioned project to determine its effects to cultural resources. As required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the additional information, the community of Shepherdstown, with the assistance of Decota Consulting Company, agrees that any impacts to the stone curbs and cut stone walls will be avoided, and if they are unable to be avoided, the stone curbs will be reinstalled in their original locations and any impacted cut stone walls will be rebuilt to their current condition following the completion of the water distribution system improvements project in multiple areas of Shepherdstown in Jefferson County, West Virginia. Therefore, it is our opinion that the proposed project will result in *no adverse effect* to the Shepherdstown Historic District (Boundary Increase) (NR# 87001205, listed 1987), the Van Swearingen-Shepherd House (NR# 83003241, listed 1983), or any other architectural resource eligible for or listed in the National Register. The archaeological portion of the review was cleared in our initial review letter dated December 29, 2022. No further consultation is necessary regarding architectural resources; however, we ask that you contact our office if your project should change.

Public Comment and Participation

If the City of Shepherdstown has not already provided opportunities for the public to comment, we suggest that information be shared with at least the local historic landmark commission.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Benjamin M. Riggle, Structural Historian, at (304) 558-0240.*

Sincerely,


Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/BMR

CC: Mr. Frank Welch, Public Works Director (fwelch@shepherdstown.us)



November 29, 2022

Ms. Barbara Sargent
West Virginia Division of Natural Resources
Wildlife Resources Section
P.O. Box 67
Elkins, West Virginia 26241

Re: State Listed Rare, Threatened, or Endangered Species Inquiry
Corporation of Shepherdstown Water Distribution System Improvements Project
Jefferson County, West Virginia.

To Whom It May Concern:

Shepherdstown's Water Distribution System Improvements Project (Project) consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection within multiple areas of Shepherdstown, WV. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways (ROWs). The new waterlines will be installed in previously disturbed areas.

The City of Shepherdstown, in conjunction with the U.S. Army Corps of Engineers, is requesting that the proposed project be considered for potential effects to Section 7 species and would like to request the following information:

- Information regarding state listed rare, threatened, or endangered species within the project area

Project Location

The Project will be located within the Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane in Jefferson County, WV. The proposed project falls within the Potomac watershed and the Shepherdstown USGS 7.5-minute quadrangle. The project involves removing and replacing existing waterlines that currently are located within existing ROWs, and previously disturbed areas. Please refer to the attached location map with the Project's proposed limit of disturbance (LOD), as well as the Project's construction plans.

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If you require any additional information, please feel free to contact me.

Sincerely,



Shawn Huffman

Governor Jim Justice



Director Brett W. McMillion

December 8, 2022

Mr. Shawn Huffman
Decota Consulting Company, Inc.
4984 Washington Street West
Cross Lanes, WV 25313

Dear Mr. Huffman:

We have reviewed Natural Heritage Program files for information on rare, threatened and endangered (RTE) species and sensitive habitats for the area of the proposed Water Distribution System Improvements project for the Corporation of Shepherdstown in Jefferson County, WV.

We have no known recent records of any RTE species or sensitive habitats within the project area. The Wildlife Resources Section knows of no surveys that have been conducted in the area for rare species or rare species habitat. Consequently, this response is based on information currently available and should not be considered a comprehensive survey of the area under review. This response is valid for two years.

The information provided above is the product of a database search and retrieval. This information does not satisfy other consultation or permitting requirements for disturbances to the natural resources of the state, and further consultation may be required. Additionally, any concurrence requirements for federally listed species must come from the US Fish and Wildlife Service.

Thank you for your inquiry, and should you have any questions please feel free to contact me at the number below, or Danny.A.Bennett@wv.gov. An invoice is enclosed.

Sincerely,

A handwritten signature in black ink that reads "Danny Bennett". The signature is fluid and cursive, written over a horizontal line.

Danny Bennett
Natural Resources Program Manager
Environmental Coordination
Operations Unit

Drive\Invoices\Decota

WEST VIRGINIA DIVISION OF NATURAL RESOURCES | ELKINS OPERATION CENTER

P.O. Box 67 | 738 Ward Road | Elkins, WV 26241 | ph (304) 637-0245 | fax (304) 637-0250 | WVdnr.gov

Governor Jim Justice



Director Brett W. McMillion

INVOICE

NO. 223-416

In Account With: Decota Consulting Company, Inc.
4984 Washington Street West
Cross Lanes, WV 25313

Date: December 8, 2022

Attention: Mr. Shawn Huffman

For the retrieval and compilation of information on rare, threatened, and endangered species and sensitive habitats for the proposed Water Distribution System Improvements project for the Corporation of Shepherdstown in Jefferson County, WV.

AMOUNT DUE: \$75.00

Make check payable to the WV Division of Natural Resources, and mail to the attention of Jessica Swecker at the address below. Please include the invoice number on your check.

If paying by credit card, contact Jessica Swecker at the number below. Please have your invoice number available.

Please reference the invoice number on your check.



**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, BALTIMORE DISTRICT
2 HOPKINS PLAZA
BALTIMORE, MD 21201**

Paul Barton, THPO
Eastern Shawnee Tribe of Oklahoma
70500 E. 128 Road
Wyandotte, OK 74370

February 7, 2023

Dear Mr. Barton:

The purpose of this letter is to consult with your office in accordance with Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations at 36 CFR Part 800, regarding a U.S. Army Corps of Engineers, Baltimore District (USACE) Section 571 project to cost share a replacement of existing waterline in Shepherdstown, Jefferson County, West Virginia (Enclosure 1). The Corporation of Shepherdstown is proposing to replace the existing inadequate waterline with approximately 16,825 linear feet of PVC waterline ranging from 2 to 8 inches in diameter and 3,915 linear feet of ¾-inch diameter service lines, gate valves, fire hydrants, and other associated appurtenances. Other work includes steel casing (bore & jack open/cut), trench repair, asphalt overlay and driveway restoration, service reconnections, connections to existing waterline, and existing rip rap ditch repair. The purpose of the proposed replacement is to provide improved drinking water delivery and fire suppression to residential properties in the Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane. The project is authorized by Section 219 of the Water Resources Development Act of 1992 (Public Law 102-580), as amended, which directs USACE to aid non-Federal interests for carrying out water-related environmental infrastructure and resource protection projects.

The project's area of potential effect (APE) may be defined as the area of direct impacts and the areas within which the undertaking may directly or indirectly cause alterations to the character or use of historic properties, including visual effects. The proposed APE for this project includes the areas of waterline replacement as well as the other ground-disturbing activities described above. In a letter dated December 29, 2022, the West Virginia State Historic Preservation Office recommended that the proposed project would have no adverse effect on archaeological resources and a conditional no adverse effect on architectural resources, specifically the Shepherdstown Historic District (Enclosure 2). Given that the proposed project would take place in areas previously disturbed by waterline installation and would avoid adverse effects to the Shepherdstown Historic District, we believe the proposed project would have no effect on historic properties.

Please let us know if you are interested in consulting on this project on a Government-to-Government basis, and the extent to which you wish to participate. We will provide a USACE

representative at any consultation meetings, and we will fully consider any information you wish to provide.

Thank you for your assistance with this project. We ask that your office review the enclosed information and assist us in identifying and assessing the project's effects on historic properties. If you have any questions about the project, please contact Charles W. Leasure at (410) 962-5175 or charles.w.leasure@usace.army.mil.

Sincerely,



Daniel M. Bierly, P.E.
Chief, Civil Project Development Branch
Planning Division

Enclosure



United States Department of the Interior

FISH AND WILDLIFE SERVICE
West Virginia Ecological Services Field Office
6263 Appalachian Highway
Davis, WV 26260-8061
Phone: (304) 866-3858 Fax: (304) 866-3852



In Reply Refer To:

November 29, 2022

Project code: 2023-0019529

Project Name: Shepherdstown Water Distribution System Improvements Project

Federal Nexus: yes

Federal Action Agency (if applicable): Army Corps of Engineers

Subject: Federal agency coordination under the Endangered Species Act, Section 7 for
'Shepherdstown Water Distribution System Improvements Project'

Dear Shawn Huffman:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on [object Object], for "Shepherdstown Water Distribution System Improvements Project" (here forward, Project). This project has been assigned Project Code and all future correspondence should clearly reference this number.

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northeast Determination Key (DKey), invalidates this letter. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat. Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no further consultation with, or concurrence from, the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

The IPaC results indicated the following species is (are) potentially present in your project area and, based on your responses to the Service's Northeast DKey, you determined the proposed Project will have the following effect determinations:

Species	Listing Status	Determination
Indiana Bat (<i>Myotis sodalis</i>)	Endangered	No effect
Madison Cave Isopod (<i>Antrolana lira</i>)	Threatened	No effect

Conclusion If there are no updates on listed species, no further consultation/coordination for this project is required for the species identified above. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional consultation with the Service should take place before project implements any changes which are final or commits additional resources.

In addition to the species listed above, the following species and/or critical habitats may also occur in your project area and are not covered by this conclusion:

- Monarch Butterfly *Danaus plexippus* Candidate
- Northern Long-eared Bat *Myotis septentrionalis* Threatened

Please Note: If the Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) by the prospective permittee may be required. Please contact the Migratory Birds Permit Office, (413) 253-8643, or PermitsR5MB@fws.gov, with any questions regarding potential impacts to Eagles.

If you have any questions regarding this letter or need further assistance, please contact the West Virginia Ecological Services Field Office and reference the Project Code associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

Shepherdstown Water Distribution System Improvements Project

2. Description

The following description was provided for the project 'Shepherdstown Water Distribution System Improvements Project':

Shepherdstown's Water Distribution System Improvements Project (Project) consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection within multiple areas of Shepherdstown, WV. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways (ROWs). The new waterlines will be installed in previously disturbed areas.

The Project will be located within the Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane in Jefferson County, WV. The proposed project falls within the Potomac watershed and the Shepherdstown USGS 7.5-minute quadrangle. The project involves removing and replacing existing waterlines that currently are located within existing ROWs, and previously disturbed areas. Please refer to the attached location map with the Project's proposed limit of disturbance (LOD) (Exhibit 1).

This Project includes the construction of approximately 1,390 linear feet (LF) of 8" PVC C909 PVC; 11,530 LF of 6" C909 PVC; 600 LF of 4" PVC C909; 3,305 LF of 2" PVC SDR 17; 2,780 LF of 3/4" PE service line; 1,135 LF of 3/4" PE service punch; one (1) EA 8" Gate Valve w/Valve Box; sixteen (16) EA 6" Gate Valve w/Valve Box; one (1) EA 4" Gate Valve w/Valve Box; eight (8) EA 2" Gate Valve w/Valve Box; fifteen (15) EA Fire Hydrant Assemblies; one (1) EA Fire Hydrant Assembly on existing waterline; 100 LF of 16" Steel Casing (RR Bore & Jack); 30 LF of 16" Steel Casing (Bore & Jack); 215 LF of 12" Steel Casing (Open Cut); 185 EA service reconnections; thirteen (13) connections to existing waterline; ten (10) Blow-Off Assembly; 180 LF of Type 'A' Trench Repair; 4,515 LF of Type "B" Trench Repair; 785 LF of Type 'C' Trench Repair; 6,125 SY of 2" Asphalt Pavement Overlay; 385 LF of Asphalt Driveway Restoration; 645 LF of Gravel Driveway Restoration; 28 LF of Concrete Driveway Restoration; three repairs of existing Rip Rap Ditch, and Erosion and Sediment Control. Project efforts will also include mobilization and demobilization efforts. Project efforts will be focused in previously disturbed areas within existing street, state road, and railroad ROWs in order to eliminate impacts.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@39.4384067,-77.83940402503308,14z>



Qualification Interview

1. As a representative of this project, do you agree that all items submitted represent the complete scope of the project details and you will answer questions truthfully?

Yes

2. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed species?

Note: This question could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered, or proposed species.

No

3. Is the action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

Yes

4. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) the lead agency for this project?

No

5. Are you including in this analysis all impacts to federally listed species that may result from the entirety of the project (not just the activities under federal jurisdiction)?

Note: If there are project activities that will impact listed species that are considered to be outside of the jurisdiction of the federal agency submitting this key, contact your local Ecological Services Field Office to determine whether it is appropriate to use this key. If your Ecological Services Field Office agrees that impacts to listed species that are outside federal jurisdiction will be addressed through a separate process, you can answer yes to this question and continue through the key.

Yes

6. Are you the lead federal action agency or designated non-federal representative requesting concurrence on behalf of the lead Federal Action Agency?

Yes

7. Will the proposed project involve the use of herbicide?

No

8. Are there any caves or anthropogenic features suitable for hibernating or roosting bats within the area expected to be impacted by the project?

No

9. Does any component of the project associated with this action include structures that may pose a collision risk to birds or bats (e.g., wind turbines, communication towers, transmission lines, any type of towers with or without guy wires)?

Note For federal actions, answer 'yes' if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

10. Will the proposed project result in permanent changes to water quantity in a stream or temporary changes that would be sufficient to result in impacts to listed species? For example, will the proposed project include any activities that would alter stream flow, such as water withdrawal, hydropower energy production, impoundments, intake structures, diversion structures, and/or turbines? Projects that include temporary and limited water reductions that will not displace listed species or appreciably change water availability for listed species (e.g. listed species will experience no changes to feeding, breeding or sheltering) can answer "No". Note: This question refers only to the amount of water present in a stream, other water quality factors, including sedimentation and turbidity, will be addressed in following questions.

No

11. Will the proposed project affect wetlands?

This includes, for example, project activities within wetlands, project activities within 300 feet of wetlands that may have impacts on wetlands, water withdrawals and/or discharge of contaminants (even with a NPDES).

No

12. Will the proposed project activities (including upland project activities) occur within 0.5 miles of the water's edge of a stream or tributary of a stream?

Yes

13. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream or tributary?

No

14. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream?

No

15. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds)?

No

16. Will the proposed project involve the removal of excess sediment or debris, dredging or in-stream gravel mining?

No

17. Will the proposed project involve the creation of a new water-borne contaminant source (e.g., leachate pond, pits containing chemicals that are not NSF/ANSI 60 compliant)?

Note that sedimentation will be addressed in a separate question.

No

18. Will the proposed project involve perennial stream loss that would require an individual permit under 404 of the Clean Water Act?

No

19. Will the proposed project involve blasting?

No

20. Will the proposed project include activities that could result in an increase to recreational fishing or potentially affect fish movement temporarily or permanently (including fish stocking, harvesting, or creation of barriers to fish passage).

No

21. Will the proposed project involve earth moving that could cause erosion and sedimentation, and/or contamination along a stream?

No

22. Will the proposed project involve vegetation removal within 200 feet of a perennial stream bank?

No

23. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, or the equivalent to these BMPs, be applied to the project?

Yes

24. [Semantic] Is the project located on a Group 4 stream: the Ohio River downstream of Hannibal Locks and Dam, Little Kanawha River (slack-water section adjoining the Ohio River), and/or the Kanawha River downstream of Kanawha Falls?

Automatically answered

No

25. [Semantic] Does the project intersect the Virginia big-eared bat critical habitat?

Automatically answered

No

26. [Semantic] Does the project intersect the Indiana bat AOI?

Automatically answered

Yes

27. Is suitable summer habitat for the Indiana bat present within the action area?

Note: If unsure, answer “Yes.” Or refer to Appendix A of the Range-wide Indiana Bat and Northern Long-Eared Bat Survey Guidelines for definitions and an assessment form that will assist you in determining if suitable habitat is present within your project area. Suitable summer habitat for Indiana bat consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 5 inches dbh (12.7 centimeter) that have exfoliating bark, cracks, crevices, and/or hollows), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet (305 meters) of other forested/wooded habitat

No

28. [Semantic] Does the project intersect the Indiana bat critical habitat?

Automatically answered

No

29. [Semantic] Does the project intersect the candy darter critical habitat?

Automatically answered

No

30. [Semantic] Does the project intersect the diamond darter critical habitat?

Automatically answered

No

31. [Semantic] Does the project intersect the Big Sandy crayfish critical habitat?

Automatically answered

No

32. [Hidden Semantic] Does the project intersect the Guyandotte River crayfish critical habitat?

Automatically answered

No

33. [Hidden Semantic] Does the project intersect the Madison Cave isopod AOI?

Automatically answered

Yes

34. Do you have any other documents that you want to include with this submission?

No

Project Questionnaire

1. Approximately how many acres of trees would the proposed project remove?

0

2. Approximately how many total acres of disturbance are within the disturbance/
construction limits of the proposed project?

3.71

3. Briefly describe the habitat within the construction/disturbance limits of the project site.

The project involves removing and replacing existing waterlines that currently are located within existing right-of-ways, and previously disturbed areas. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways.

IPaC User Contact Information

Agency: Shepherdstown town
Name: Shawn Huffman
Address: 4984 Washington St. W
City: Cross Lanes
State: WV
Zip: 25313
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Phone: 3045423791

Lead Agency Contact Information

Lead Agency: Army Corps of Engineers
Name: Christine Danaher
Email: christine.m.danaher@usace.army.mil
Phone: 4432570368



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In Reply Refer To:

February 16, 2023

Project Code: 2023-0019529

Project Name: Shepherdstown Water Distribution System Improvements Project

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.*).

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 ECOS-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 ECOS-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:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.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/birds/policies-and-regulations.php>.

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/birds/bird-enthusiasts/threats-to-birds.php>.

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/birds/policies-and-regulations/executive-orders/e0-13186.php>.

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 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
 - Migratory Birds
 - Wetlands
-

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:

West Virginia Ecological Services Field Office

6263 Appalachian Highway

Davis, WV 26260-8061

(304) 866-3858

Project Summary

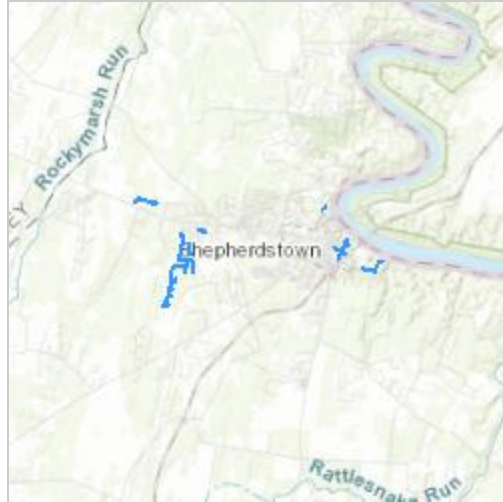
Project Code: 2023-0019529
Project Name: Shepherdstown Water Distribution System Improvements Project
Project Type: Water Supply Pipeline - Maintenance/Modification - Below Ground
Project Description: Shepherdstown's Water Distribution System Improvements Project (Project) consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection within multiple areas of Shepherdstown, WV. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways (ROWs). The new waterlines will be installed in previously disturbed areas.

The Project will be located within the Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane in Jefferson County, WV. The proposed project falls within the Potomac watershed and the Shepherdstown USGS 7.5-minute quadrangle. The project involves removing and replacing existing waterlines that currently are located within existing ROWs, and previously disturbed areas. Please refer to the attached location map with the Project's proposed limit of disturbance (LOD) (Exhibit 1).

This Project includes the construction of approximately 1,390 linear feet (LF) of 8" PVC C909 PVC; 11,530 LF of 6" C909 PVC; 600 LF of 4" PVC C909; 3,305 LF of 2" PVC SDR 17; 2,780 LF of 3/4" PE service line; 1,135 LF of 3/4" PE service punch; one (1) EA 8" Gate Valve w/ Valve Box; sixteen (16) EA 6" Gate Valve w/Valve Box; one (1) EA 4" Gate Valve w/Valve Box; eight (8) EA 2" Gate Valve w/Valve Box; fifteen (15) EA Fire Hydrant Assemblies; one (1) EA Fire Hydrant Assembly on existing waterline; 100 LF of 16" Steel Casing (RR Bore & Jack); 30 LF of 16" Steel Casing (Bore & Jack); 215 LF of 12" Steel Casing (Open Cut); 185 EA service reconnections; thirteen (13) connections to existing waterline; ten (10) Blow-Off Assembly; 180 LF of Type 'A' Trench Repair; 4,515 LF of Type "B" Trench Repair; 785 LF of Type 'C' Trench Repair; 6,125 SY of 2" Asphalt Pavement Overlay; 385 LF of Asphalt Driveway Restoration; 645 LF of Gravel Driveway Restoration; 28 LF of Concrete Driveway Restoration; three repairs of existing Rip Rap Ditch, and Erosion and Sediment Control. Project efforts will also include mobilization and demobilization efforts. Project efforts will be focused in previously disturbed areas within existing street, state road, and railroad ROWs in order to eliminate impacts.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@39.4383415,-77.83920193223166,14z>



Counties: Jefferson County, West Virginia

Endangered Species Act Species

There is a total of 5 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. Note that 1 of these species should be considered only under certain conditions.

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
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> ▪ All activities in this location should consider potential effects to this species. This project is not within a known-use area, but potentially occupied habitat may exist. Please contact the WVFO for additional consultation. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
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	Threatened
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> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

Crustaceans

NAME	STATUS
Madison Cave Isopod <i>Antrolana lira</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4162	Threatened

Critical habitats

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

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.

Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

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1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\)](#) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.	Breeds Sep 1 to Aug 31
Black-billed Cuckoo <i>Coccyzus erythrophthalmus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9399	Breeds May 15 to Oct 10

NAME	BREEDING SEASON
Bobolink <i>Dolichonyx oryzivorus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 20 to Jul 31
Canada Warbler <i>Cardellina canadensis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 20 to Aug 10
Cerulean Warbler <i>Dendroica cerulea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/2974	Breeds Apr 27 to Jul 20
Chimney Swift <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Mar 15 to Aug 25
Eastern Whip-poor-will <i>Antrostomus vociferus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Aug 20
Kentucky Warbler <i>Oporornis formosus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Apr 20 to Aug 20
Prairie Warbler <i>Dendroica discolor</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Jul 31
Prothonotary Warbler <i>Protonotaria citrea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Apr 1 to Jul 31
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10
Rusty Blackbird <i>Euphagus carolinus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds elsewhere
Wood Thrush <i>Hylocichla mustelina</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Aug 31

Probability Of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the

FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



Additional information can be found using the following links:

- Birds of Conservation Concern <https://www.fws.gov/program/migratory-birds/species>

- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>

Migratory Birds FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

THERE ARE NO WETLANDS WITHIN YOUR PROJECT AREA.

IPaC User Contact Information

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City: Cross Lanes
State: WV
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Lead Agency Contact Information

Lead Agency: Army Corps of Engineers
Name: Christine Danaher
Email: christine.m.danaher@usace.army.mil
Phone: 4432570368



United States Department of the Interior

FISH AND WILDLIFE SERVICE
West Virginia Ecological Services Field Office
6263 Appalachian Highway
Davis, WV 26260-8061
Phone: (304) 866-3858 Fax: (304) 866-3852



In Reply Refer To:

April 14, 2023

Project Code: 2023-0069325

Project Name: Shepherdstown Water Distribution System Improvements Project

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.*).

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 ECOS-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 ECOS-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:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.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/birds/policies-and-regulations.php>.

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/birds/bird-enthusiasts/threats-to-birds.php>.

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/birds/policies-and-regulations/executive-orders/e0-13186.php>.

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 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
 - Migratory Birds
 - Wetlands
-

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:

West Virginia Ecological Services Field Office

6263 Appalachian Highway

Davis, WV 26260-8061

(304) 866-3858

PROJECT SUMMARY

Project Code: 2023-0069325

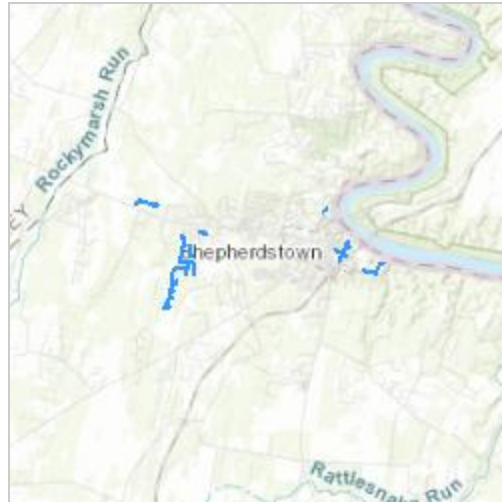
Project Name: Shepherdstown Water Distribution System Improvements Project

Project Type: Water Supply Pipeline - Maintenance/Modification - Below Ground

Project Description: Shepherdstown Water Distribution System Improvements Project (Project) consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection within multiple areas of Shepherdstown, WV. The new waterlines will mainly be located within existing street, state road, and railroad right-of-ways (ROWs). The new waterlines will be installed in previously disturbed areas. The Project will be located within the Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane in Jefferson County, WV. The proposed project falls within the Potomac watershed and the Shepherdstown USGS 7.5-minute quadrangle. The project involves removing and replacing existing waterlines that currently are located within existing ROWs, and previously disturbed areas. Please refer to the attached location map with the Project's proposed limit of disturbance (LOD) (Exhibit 1). This Project includes the construction of approximately 1,390 linear feet (LF) of 8" PVC C909 PVC; 11,530 LF of 6" C909 PVC; 600 LF of 4" PVC C909; 3,305 LF of 2" PVC SDR 17; 2,780 LF of 3/4" PE service line; 1,135 LF of 3/4" PE service punch; one (1) EA 8" Gate Valve w/ Valve Box; sixteen (16) EA 6" Gate Valve w/Valve Box; one (1) EA 4" Gate Valve w/Valve Box; eight (8) EA 2" Gate Valve w/Valve Box; fifteen (15) EA Fire Hydrant Assemblies; one (1) EA Fire Hydrant Assembly on existing waterline; 100 LF of 16" Steel Casing (RR Bore & Jack); 30 LF of 16" Steel Casing (Bore & Jack); 215 LF of 12" Steel Casing (Open Cut); 185 EA service reconnections; thirteen (13) connections to existing waterline; ten (10) Blow-Off Assembly; 180 LF of Type 'A' Trench Repair; 4,515 LF of Type "B" Trench Repair; 785 LF of Type 'C' Trench Repair; 6,125 SY of 2" Asphalt Pavement Overlay; 385 LF of Asphalt Driveway Restoration; 645 LF of Gravel Driveway Restoration; 28 LF of Concrete Driveway Restoration; three repairs of existing Rip Rap Ditch, and Erosion and Sediment Control. Project efforts will also include mobilization and demobilization efforts. Project efforts will be focused in previously disturbed areas within existing street, state road, and railroad ROWs in order to eliminate impacts.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@39.4383415,-77.83920193223166,14z>



Counties: Jefferson County, West Virginia

ENDANGERED SPECIES ACT SPECIES

There is a total of 5 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. Note that 1 of these species should be considered only under certain conditions.

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.

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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
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> ▪ All activities in this location should consider potential effects to this species. This project is not within a known-use area, but potentially occupied habitat may exist. Please contact the WVFO for additional consultation. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
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> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRUSTACEANS

NAME	STATUS
Madison Cave Isopod <i>Antrolana lira</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4162	Threatened

CRITICAL HABITATS

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

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.
