

Jordan Tate

From: Dangler, Andrew C CIV USARMY CENAN (USA) <Andrew.C.Dangler@usace.army.mil>
Sent: Thursday, March 17, 2022 11:27 AM
To: David Rosa
Cc: Steve Boisvert; Jordan Tate; Gaidasz, Karen M (DEC); Richard Hendrick; Newman, David (DOS); Kendle, Erin (MARAD); Ryba, Stephan A CIV USARMY CENAN (USA); Gitchell, Amy L CIV USARMY CENAN (USA); Megan Daly
Subject: RE: Port of Albany - USACE NAN-2001-00948-UDA - Northern Long Eared Bat (NLEB) tree clearing

Thank you for providing this information David. As discussed earlier during today's status call, I used this information and that provided by the NYSDEC to conduct the required Section 7 ESA consultation with the USFWS. Basically, it is the same exercise that you conducted through the IPaC system and it arrived at the same "may affect" determination for the NLEB. Based on the information entered into IPaC, it was determined that the action is not prohibited under the ESA Section 4(d) rule, which was adopted for this species at 50 CFR §17.40(o). Pursuant to this finding, tree-clearing can therefore occur at the site outside of the USFWS recommended seasonal work window.

At this time, the Section 7 ESA consultation process with the USFWS is complete. Please be aware that my office still may receive project-related comments from the USFWS in response to the public notice once it is published. These comments would be submitted pursuant to the Fish and Wildlife Coordination Act. Also, please note that the Section 7 ESA and EFH consultation processes with the NMFS are still pending and further information to facilitate this coordination might be required.

As previously indicated, and stated again during today's call, my office strongly recommends that tree-clearing not be conducted at the site until the NEPA review process has been completed and all required local, state and federal authorizations have been obtained. We also strongly recommend that you discuss the status of the NEPA review process with MARAD in order to get their input on any issues that might arise should work begin at the project site ahead of the NEPA process being completed.

Please feel free to contact me with any questions related to this matter.

Thank you,
Andy

Andrew Dangler
Biologist/Senior Project Manager
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-----Original Message-----

From: David Rosa <drosa@mjinc.com>
Sent: Tuesday, March 15, 2022 6:21 PM
To: Dangler, Andrew C CIV USARMY CENAN (USA) <Andrew.C.Dangler@usace.army.mil>
Cc: Steve Boisvert <sboisvert@mjinc.com>; Jordan Tate <jtate@mjinc.com>
Subject: [URL Verdict: Neutral][Non-DoD Source] FW: Port of Albany - USACE NAN-2001-00948-UDA - Northern Long Eared Bat (NLEB) tree clearing

Hi Andy,

Please see attached. Let us know if you need anything else. Email below includes confirmation / clarification from NYSDEC that there are no known NLEB roosts on or in the vicinity of the APDC Marmen-Welcon project site. Therefore, the NLEB tree clearing window is recommended, but not required. As per NYSDEC, tree clearing can proceed after March 31st, with no authorization from NYSDEC. If bats are observed flying from a tree that has been cut, work activities shall be stopped immediately and NYSDEC shall be contacted for guidance, as per email below.

Regards,

David Rosa

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Senior Project Manager

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From: Gaidasz, Karen M (DEC) <karen.gaidasz@dec.ny.gov>
Sent: Thursday, March 10, 2022 11:30 AM
To: Steve Boisvert <sboisvert@mjinc.com>
Cc: Adam J. Frosino <AFrosino@mjinc.com>; David Rosa <drosa@mjinc.com>; Jordan Tate <jtate@mjinc.com>; Megan Daly <mdaly@portofalbany.us>; Patrick Jordan <pjordan@portofalbany.us>; Schirmer, John <jschirmer@moffattnichol.com>; rleslie@townofbethlehem.org; Richard Hendrick <Rhendrick@portofalbany.us>; andrew.c.dangler@usace.army.mil; stephan.a.ryba@usace.army.mil; amy.l.gitchee@usace.army.mil; Newman, David (DOS) <David.Newman@dos.ny.gov>; LaLiberte Jr, Thomas (OGS) <Thomas.LaLiberteJr@ogs.ny.gov>; Hill, Ralph W (OGS) <Ralph.Hill@ogs.ny.gov>; Lacko, Jamie (OGS) <Jamie.Lacko@ogs.ny.gov>; Hepner, Tyler (DEC) <Tyler.Hepner@dec.ny.gov>; Covert, Lisa A (DEC) <lisa.covert@dec.ny.gov>; Sandrow, Cheryl A (DEC) <Cheryl.Sandrow@dec.ny.gov>
Subject: APDC Marmen-Welcon Project - Follow-up Items

Steve,

This email serves as a follow-up to our call today. The following provides clarification on the Northern Long Eared Bat (NLEB) tree clearing window and provides a summary of the information requested on the call.

NLEB

NYSDEC wildlife staff have confirmed that there are no known NLEB roosts on or in the vicinity of the APDC Marmen-Welcon project site. Therefore, the NLEB tree clearing window of Nov 1-Mar 31 is recommended, but not required. As such, tree clearing can proceed after March 31st, with no authorization from NYSDEC. If bats are observed flying from a tree that has been cut, work activities shall be stopped immediately and NYSDEC shall be contacted for guidance (see #5 in the following link: <https://www.dec.ny.gov/animals/106090.html> <Blocked<https://www.dec.ny.gov/animals/106090.html>>). These are NYSDEC's comments only, please continue to consult with the federal agencies regarding the tree removal activities.

Requested Information

Please provide the following information, as briefly discussed on the call today:

- * Updated schedule for tree clearing with estimated duration and anticipated start date for the activity.
- * Description of tree clearing methods including what type of equipment would be utilized.
- * Updated schedule for surcharging with estimated duration and anticipated start date for the activity.
- * Total volume (cubic yards) of fill material that will be imported to the site for the surcharging.
- * Total one-way truck trips required to import the fill material to the site.
- * Estimated daily one-way truck trips required to import the fill material to the site.

- * Estimated capacity of the trucks that will be used to import the fill material to the site.
- * Source of the fill material for surcharging and designated truck routes from the source to the site. A map of the source locations would be helpful.

In addition the information above, please provide an update on the APDC's Enhanced Public Participation process as required per CP-29 on Environmental Justice.

Thank you,
Karen

Karen M. Gaidasz

she/her/hers

Offshore Wind and Hydroelectric Section Chief

Bureau of Energy Project Management

New York State Department of Environmental Conservation

Division of Environmental Permits

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