

## **APPENDIX C**

### **Recent U.S. Fish & Wildlife Service Correspondence**

- **Consultation Request (Milone & MacBroom, August 2017) and supporting documentation, including Official Species List and IPaC Query for the Project Area (June 6, 2016)**
- **Consultation related email with U.S. Fish and Wildlife Service**
- **No Species Present Letter and Cover Memo (U.S. Fish and Wildlife Service, January 8, 2018)**
- **Streamlined Consultation Form Submittal for Northern Long-Eared Bat**



August 7, 2017

Supervisor  
U.S. Fish and Wildlife Service  
70 Commercial Street, Suite 300  
Concord, NH 03301

**RE: Request for Species Coordination  
Mill River Linear Park  
Stamford, Connecticut  
MMI #4991-02-04/1535-55-02**

Dear Sir or Madam:

The City of Stamford, Connecticut, in association with the Mill River Collaborative, has been implementing a Mill River Restoration Plan over approximately the past 15 years. The current phase of the project will utilize federal funding; therefore, coordination with the United States Fish and Wildlife Service (USFWS) regarding the Endangered Species Act and the Migratory Bird Treaty Act is required as part of the Environmental Assessment of the project. Based on our review of the endangered species information, it appears that the migratory bird Red Knot could potentially make use of the habitat and open space near the project area.

Project Description

The current phase of the project includes the installation of additional park amenities and restoration of a dilapidated retaining wall along the western bank of the Mill River between Main Street and Tresser Boulevard in Stamford (see attached Figure 1). The current land use is a children's playground and open space. Specific project elements which are proposed include the following:

- Installation of an at-grade linear trail
- Removal of 215 linear feet of dilapidated stone masonry retaining wall and replacement with 140 linear feet of rock revetment retaining wall set in a staircase format that would encourage public access to the Mill River
- Construction of an amphitheater to enhance public use of the open space
- Installation of restrooms, lighting, and other park amenities to improve recreational use along the river
- Removal of invasive species within the riparian buffer with replacement by native plantings

Minimal land clearing and grading are anticipated as the project area is already open space. The project would likely be constructed in 2018 or 2019. Based on previous essential fish habitat comments, in-water work would not be conducted during the low-flow period between May 15 and September 30; based on the Certificate of Permission received from the Connecticut Department of Energy & Environmental Protection (DEEP), the in-water work must occur at low tide.

The land area surrounding the project area is urban commercial and residential uses. The proposed improvements would connect to the Mill River Park upstream along the Mill River, and future phases are

envisioned to extend the linear trail to Stamford Harbor. Inland wetlands and tidal wetlands are limited to the banks of the Mill River in the vicinity of the project. A USGS quadrangle map is attached as Figure 2.

#### Listed Species

Based on our review of information obtained from previous USFWS consultation (Attachment A) and the Information for Planning and Consultation (iPaC) database (Attachment B), two threatened species may exist in the project action area: the migratory bird Red Knot and the Northern long-eared bat. The project action area for species requested in this review includes the open space area described above, the adjacent Mill River downstream of Stamford Harbor, and Stamford Harbor. Please see Attachment C for a description of potential impacts to threatened species. We respectfully request your review and comment on such impacts.

#### Migratory Bird Treaty Act

In addition, other migratory birds protected under the Migratory Bird Treaty Act may make use of the project area such that consultation with the USFWS is required. Such species are listed in the iPaC database (Attachment B). We respectfully request consultation as to whether these species are likely to make use of the project area or be affected within the project action area by the project.

#### Closing

Thank you for your assistance in this matter. Please feel free to contact me at (203) 271-1773 or sbighinatti@mminc.com if you have any questions or require additional information.

Very truly yours,

MILONE & MACBROOM, INC.



Scott J. Bighinatti, MS, CFM  
Lead Environmental Scientist

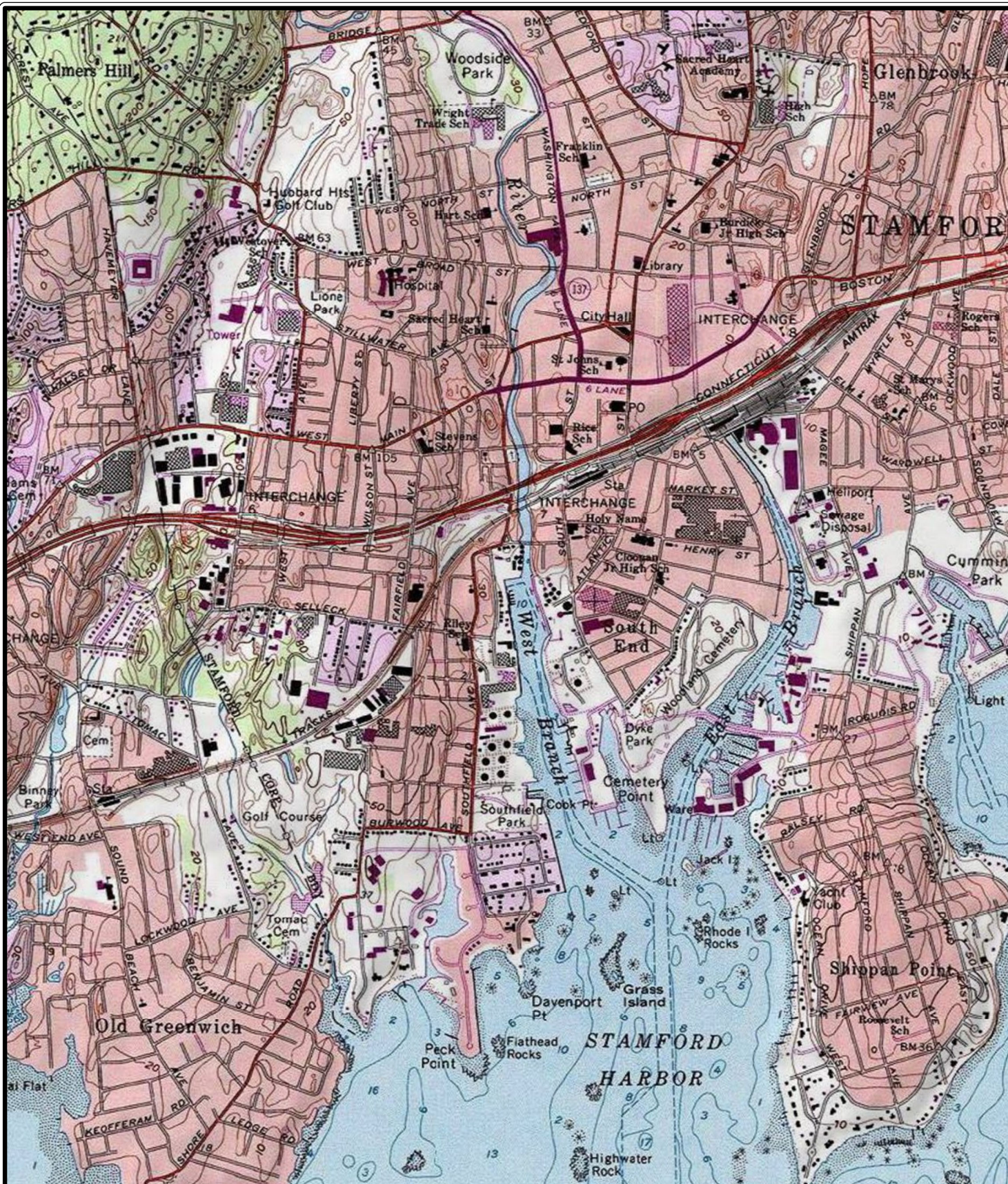
Attachments

1535-55-02-au417-1-ltr.doc



Figure 1:

Project area. Federally funded portion of Project limited to western bank between Main Street and Richmond Hill Avenue.



## USGS PROJECT LOCATION MAP

### MILL RIVER LINEAR PARK - PHASE II COP APPLICATION

TRESSER BLVD TO RICHMOND HILL AVE  
STAMFORD, CONNECTICUT

SOURCE: 2004 AERIAL PHOTO, CTDEEP, 2006

DATE: DECEMBER 2, 2016

SCALE: 1"=2,000'

PROJ. NO.: 1535-55/4991-02

DESIGNED	DRAWN	CHECKED
OLIN	BAM	JAG

DRAWING NAME:

**FIG. 1-1**



**MILONE & MACBROOM**  
99 Realty Drive  
Cheshire, Connecticut 06410  
(203) 271-1773 Fax: (203) 272-9733  
www.miloneandmacbroom.com

## Attachment A

Previous USFWS and NMFS Correspondence and Consultation



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
New England Field Office  
70 Commercial Street, Suite 300  
Concord, New Hampshire 03301-5087



OCT 18 2002

October 17, 2002

Kerry McWalter  
The BioEngineering Group, Inc.  
18 Commercial St.  
Salem, MA 01970

Dear Ms. McWalter:

This responds to your August 16, 2002 letter requesting our comments regarding the presence of federally-listed and proposed endangered or threatened species, as well as our review pursuant to the Fish and Wildlife Coordination Act, in relation to the proposed environmental restoration project for the Mill River in Stamford, Connecticut. The following comments represent the position of the Department of the Interior and are provided in accordance with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

Based on information currently available to us, no federally-listed or proposed threatened and endangered species under the jurisdiction of the U.S. Fish and Wildlife Service are known to occur in the project area, with the exception of occasional transient bald eagles (*Haliaeetus leucocephalus*). However, we suggest that you contact Nancy Murray of the Connecticut Natural Diversity Database, 79 Elm St., Store Level, Hartford, Connecticut 06102-5066, at (860) 424-3540, for information on state-listed species that may be present.

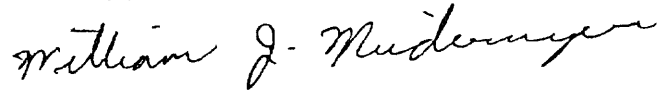
Preparation of a Biological Assessment or further consultation with us under Section 7 of the Endangered Species Act is not required. Should project plans change, or if additional information on listed or proposed species become available, this determination may be reconsidered. A list of federally-designated endangered species in Connecticut is enclosed for your information.

We are unable to provide detailed comments on the potential effects of the proposed action on fish and wildlife resources at this time due to the preliminary stage of the study. However, we support the efforts of The BioEngineering Group, Inc., the Corps of Engineers, and its other partners to remove the Main Street Dam on the Mill River and to restore a natural river channel and its riparian zone in Mill Pond. We look forward to evaluating all restoration opportunities identified in this aquatic ecosystem restoration project.

-2-

Please contact Greg Mannesto of our Rhode Island office at 401-364-9124 if we can be of further assistance.

Sincerely yours,

A handwritten signature in cursive script, reading "William J. Neidermyer".

William J. Neidermyer  
Assistant Supervisor  
Federal Activities  
New England Field Office

**FEDERALLY LISTED ENDANGERED AND THREATENED SPECIES**  
**IN CONNECTICUT**

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>	<u>Distribution</u>
<b>FISHES:</b>			
Sturgeon, shortnose*	<u>Acipenser brevirostrum</u>	E	Connecticut River & Atlantic Coastal Waters
<b>REPTILES:</b>			
Turtle, bog	<u>Clemmys muhlenbergii</u>	T	Fairfield, Litchfield Counties
Turtle, green*	<u>Chelonia mydas</u>	T	Oceanic straggler in southern New England
Turtle, hawksbill*	<u>Eretmochelys imbricata</u>	E	Oceanic straggler in southern New England
Turtle, leatherback*	<u>Dermochelys coriacea</u>	E	Oceanic summer resident
Turtle, loggerhead*	<u>Caretta caretta</u>	T	Oceanic summer resident
Turtle, Atlantic ridley*	<u>Lepidochelys kempii</u>	E	Oceanic summer resident
<b>BIRDS:</b>			
Eagle, bald	<u>Haliaeetus leucocephalus</u>	T	Nesting: Barkhamsted Res. and Suffield; entire state- migratory/nesting
Plover, piping	<u>Charadrius melodus</u>	T	Atlantic coast, nesting
Bird, roseate	<u>Sterna dougallii dougallii</u>	E	Atlantic coast/islands, nesting
<b>MAMMALS:</b>			
Whale, blue*	<u>Balaenoptera musculus</u>	E	Oceanic
Whale, finback*	<u>Balaenoptera physalus</u>	E	Oceanic
Whale, humpback*	<u>Megaptera novaeangliae</u>	E	Oceanic
Whale, right*	<u>Eubalaena</u> spp. (all species)	E	Oceanic
Whale, sei*	<u>Balaenoptera borealis</u>	E	Oceanic
Whale, sperm*	<u>Physeter catodon</u>	E	Oceanic
Bat, Indiana	<u>Myotis sodalis</u>	E	New Haven County
<b>MOLLUSKS:</b>			
Wedgemussel, dwarf	<u>Alasmodonta heterodon</u>	E	Hartford County
<b>INSECTS:</b>			
Beetle, Puritan tiger	<u>Cicindela puritana</u>	T	Middlesex County
Beetle, Northeastern beach tiger	<u>Cicindela dorsalis dorsalis</u>	T	Extirpated, coastal beaches
<b>PLANTS:</b>			
Small whorled pogonia	<u>Isotria medeoloides</u>	T	Hartford, New Haven, Fairfield, New London, Windham, Tolland, Middlesex, Litchfield Counties
Chain gerardia	<u>Agalinus acuta</u>	E	Hartford
Thaffseed	<u>Schwalbea americana</u>	E	New London/historic

\* Except for sea turtle nesting habitat, principal responsibility for these species is vested with the National Marine Fisheries Service

Rev. 1/8/02



UNITED STATES DEPARTMENT OF  
COMMERCE

National Oceanic and Atmospheric  
Administration

NATIONAL MARINE FISHERIES SERVICE  
Northeast Region  
Habitat Conservation Division  
Milford Biological Laboratory  
212 Rogers Avenue  
Milford, CT 06460

August 26, 2002

Ms. Kerry M<sup>c</sup>Walter  
Ecological Engineer  
The Bioengineering Group, Inc.  
18 Commercial Street  
Salem, Massachusetts 01970

Dear Ms. M<sup>c</sup>Walter:

This letter is in response to your recent request for information regarding federally listed, proposed or candidate endangered, threatened and special concern species and habitats in the Mill River at Stamford, Connecticut. There are no species present that are listed under the Endangered Species Act of 1973 and managed by our agency. There may be some modest presence of species managed under the Magnuson – Stevens Sustainable Fisheries Act or afforded consideration under the Fish and Wildlife Coordination Act. In all cases, the restoration of the Mill River may facilitate an enhanced use of the waterway by both those estuarine and diadromous species.

The Mill River aquatic environment sees limited use by diadromous species and virtually no use by more marine species beyond an occasional blue fish or blue crab. The principal limitations to use are created by the dam and rubble mound structures that restrict flow and access. Those restrictions begin just up river from the Pulaski Street Bridge. During the upper half of the tidal prism, there is some use of the lower impoundment, by forage species such as a Bay anchovy and northern silversides.

Should you wish to discuss this matter further, please contact me at the letterhead address, E-mail <[Michael.ludwig@NOAA.gov](mailto:Michael.ludwig@NOAA.gov)> or by telephone at (203) 882-6504.

Sincerely,  
Michael Ludwig

Michael Ludwig  
Fishery Biologist



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
One Blackburn Drive  
Gloucester, MA 01930-2298

AUG 5 2004

Mr. John R. Kennedy  
Chief of Planning  
U.S. Army Corps of Engineers  
696 Virginia Road  
Concord, Massachusetts 01742-2751

Re: Pre-release Draft Detailed Project Report (DDP) and Draft Environmental Assessment (DEA) for a Habitat Restoration (Dam Removal) Project along the Mill River in Stamford, Connecticut

Dear Mr. Kennedy:

We have reviewed the draft documents for this project, including the essential fish habitat (EFH) assessment, and find that they adequately characterize the existing conditions, but may be overly optimistic regarding the results of the preferred alternative (#2). However, implementing the preferred alternative of dam removal located approximately 1,000 feet upstream of Stamford Harbor would provide a number of environmental benefits to aquatic resources which we support, but with two caveats.

First, since the 2.5 miles of the Mill River system never was a fully functional estuary, a successful "restoration" to an estuarine system is unlikely. For one, there is a partial fall line consisting of bedrock located at the Pulaski Street Bridge, approximately 200 feet above the head of harbor, which limits upriver tidal mixing. Most tidal encroachments of saline water will be confined to below this fall line, with much less going upstream. For another, and as noted in the reports, much of the land adjacent to the Mill River is impermeable to saturation and water is collected and directed into the Mill River system by drainage systems for the area. That relatively quick runoff to the river can produce sudden changes in salinity and temperature as well as carry an inordinate volume of pollutants, resulting in conditions capable of stressing or killing many of the local aquatic organisms.

Second, plantings established on the landscaped riverbank within the flood plain and tidal zones may not survive during the initial period when water flows and inundation patterns are changing. Restoration has a better chance of success after soil profiles have stabilized, typically about six months after site manipulation. Also, as there is a diversity of saltwater wetland species in the West Branch of Stamford Harbor and the Mill River, natural seeding and subsequent natural selection of species on the restoration site will likely occur from this source. Using natural colonization rather than an artificial placement of biologicals should prove more successful in establishing species suited for long-term use of the new habitats. Using natural colonization has the additional benefit of significant cost savings.



Incidentally, there is no Section 6.4.3 in the DEA as referenced on Page 26 in Section 3.2.8 of the DDPR. The fisheries and EFH discussions are within Sections 6.3.5, 6.6 and Appendix "L" of the DEA.

### **Essential Fish Habitat Comments**

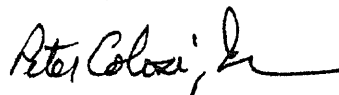
Insofar as a project involves essential fish habitat (EFH), as this project does, this process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in the relevant consultation procedure. Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires all federal agencies to consult with the National Marine Fisheries Service (NOAA Fisheries) on any action authorized, funded, or undertaken by that agency that may adversely affect EFH. Additionally, NOAA Fisheries reported to your agency in a "Letter of Finding" dated January 18, 2000, that the existing review process used by the Army Corps of Engineers (ACOE) may be used to satisfy the EFH consultation process. We offer the following comments and recommendations on this project pursuant to the above referenced construct.

### **Essential Fish Habitat Conservation Recommendations**

The intended action supports restoration of the Mill River ecosystem and will allow its use by species denied access since 1641. One conservation recommendation is needed to meet the objectives of the MSA:

- The in-water work should be restricted to periods when water quality is not distressed and sediment migration off the site would not adversely impact the lower or tidal portions of the West Branch/Mill River system. The protective window when no work should be undertaken in the waterway to attain these objectives should extend from May 15 through September 30 of any calendar year. During this period, the West Branch of Stamford Harbor and the lower Mill River are used by species such as summer flounder, bluefish, and their forage. The redistribution of sediment and release of pollutants could degrade the EFH for these species by alternation of the seafloor, burial of prey items, and abrasion of gill tissue.

Sincerely,



Peter D. Colosi, Jr.  
Assistant Regional Administrator  
for Habitat Conservation



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
New England Ecological Services Field Office  
70 COMMERCIAL STREET, SUITE 300  
CONCORD, NH 03301  
PHONE: (603)223-2541 FAX: (603)223-0104  
URL: [www.fws.gov/newengland](http://www.fws.gov/newengland)

Consultation Code: 05E1NE00-2016-SLI-1554

June 06, 2016

Event Code: 05E1NE00-2016-E-02245

Project Name: Mill River Linear Trail

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

### To Whom It May Concern:

The 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>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

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

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment

United States Department of Interior  
Fish and Wildlife Service

Project name: Mill River Linear Trail

## Official Species List

**Provided by:**

New England Ecological Services Field Office  
70 COMMERCIAL STREET, SUITE 300  
CONCORD, NH 03301  
(603) 223-2541  
<http://www.fws.gov/newengland>

**Consultation Code:** 05E1NE00-2016-SLI-1554

**Event Code:** 05E1NE00-2016-E-02245

**Project Type:** LAND - RESTORATION / ENHANCEMENT

**Project Name:** Mill River Linear Trail

**Project Description:** Installation of a linear trail (combination of at-grade and boardwalk sections) on both banks of Rippowam (Mill) River. Work also includes park improvements, riparian plantings, invasive species removals, and installation of low flood walls on the east bank from Main Street to Richmond Hill Avenue.

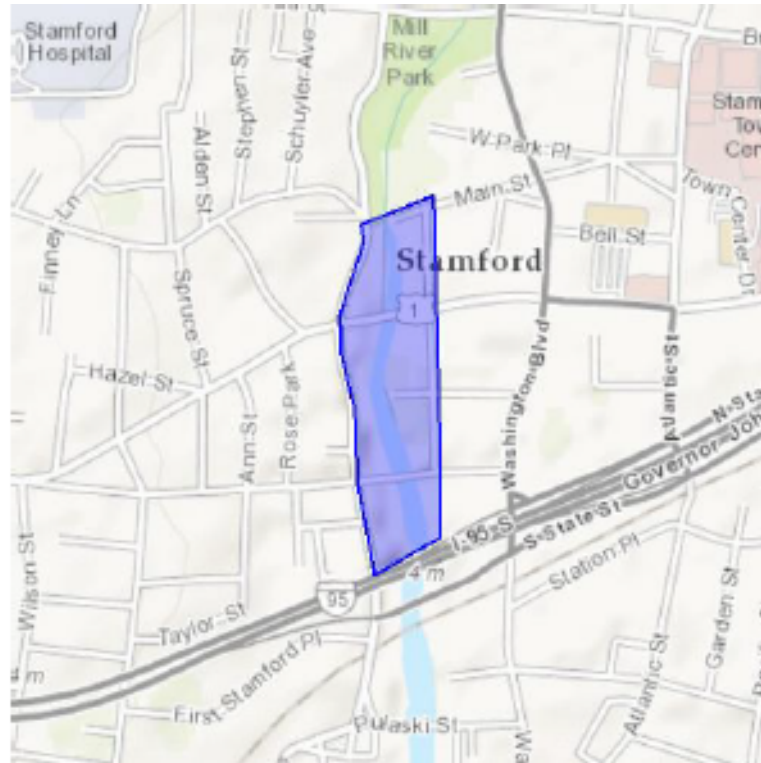
**Please Note:** The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior  
Fish and Wildlife Service

Project name: Mill River Linear Trail

### Project Location Map:



**Project Coordinates:** MULTIPOLYGON (((-73.54621410369873 41.052155689163236, -73.54466915130615 41.05262495068297, -73.5444974899292 41.048336746826706, -73.5444974899292 41.047106870753254, -73.54591369628906 41.04650810697658, -73.54627847671507 41.04798073243263, -73.54636430740356 41.04917822773726, -73.54664325714111 41.05008442591346, -73.54666471481323 41.0506831571468, -73.54617118835449 41.05188060326794, -73.54621410369873 41.052155689163236)))

**Project Counties:** Fairfield, CT



United States Department of Interior  
Fish and Wildlife Service

Project name: Mill River Linear Trail

## Endangered Species Act Species List

There are a total of 2 threatened or endangered species on your 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. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
Red Knot ( <i>Calidris canutus rufa</i> )	Threatened		
Northern long-eared Bat ( <i>Myotis septentrionalis</i> )	Threatened		



United States Department of Interior  
Fish and Wildlife Service

Project name: Mill River Linear Trail

## **Critical habitats that lie within your project area**

There are no critical habitats within your project area.

Attachment B

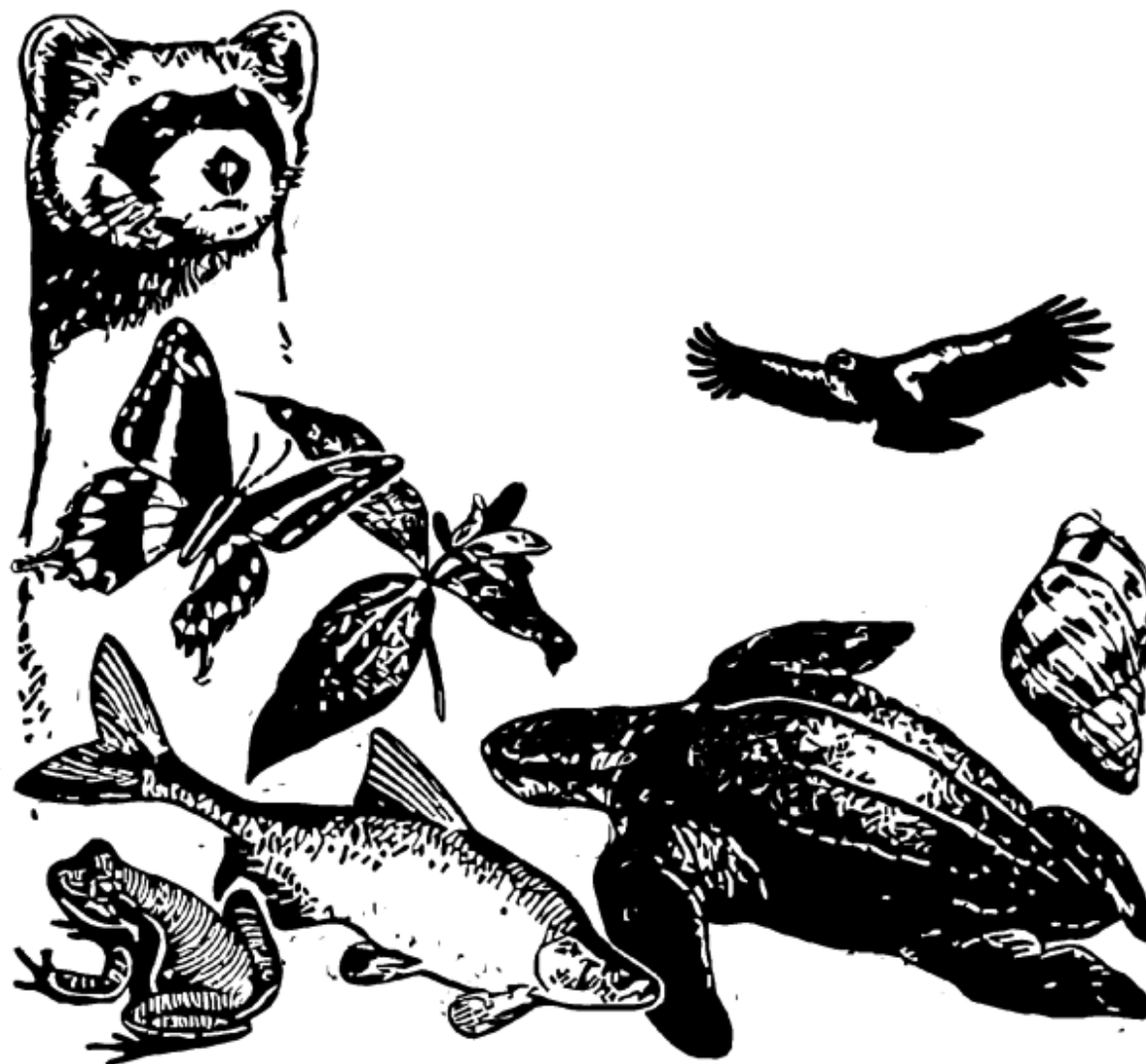
iPaC Database Output

# Mill River Linear Trail

## *IPaC Trust Resources Report*

Generated June 06, 2016 07:06 AM MDT, IPaC v3.0.7

This report is for informational purposes only and should not be used for planning or analyzing project level impacts. For project reviews that require U.S. Fish & Wildlife Service review or concurrence, please return to the IPaC website and request an official species list from the Regulatory Documents page.



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U.S. Fish & Wildlife Service

# IPaC Trust Resources Report

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NAME

Mill River Linear Trail

LOCATION

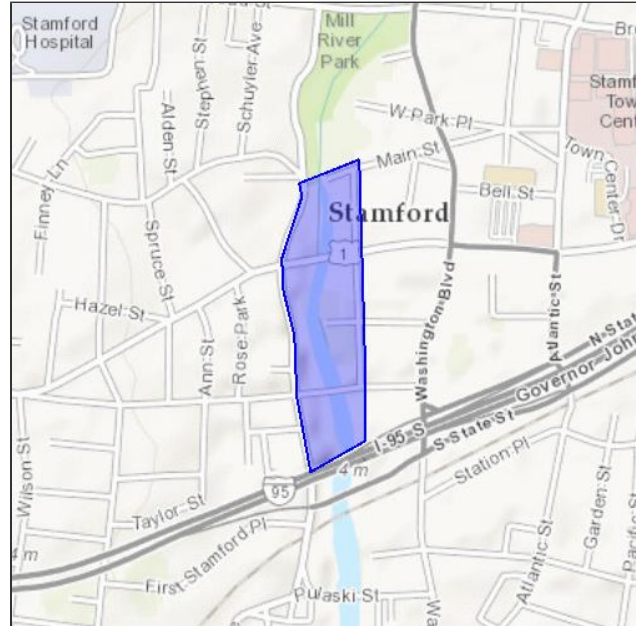
Fairfield County, Connecticut

DESCRIPTION

Main Street to Richmond Hill Avenue

IPAC LINK

<https://ecos.fws.gov/ipac/project/MWWJT-CTKN5-HWNGU-Q6FLA-KPDVR4>



## U.S. Fish & Wildlife Service Contact Information

Trust resources in this location are managed by:

### **New England Ecological Services Field Office**

70 Commercial Street, Suite 300

Concord, NH 03301-5094

(603) 223-2541

# Endangered Species

Proposed, candidate, threatened, and endangered species are managed by the [Endangered Species Program](#) of the U.S. Fish & Wildlife Service.

**This USFWS trust resource report is for informational purposes only and should not be used for planning or analyzing project level impacts.**

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list from the Regulatory Documents section.

[Section 7](#) of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency.

**A letter from the local office and a species list which fulfills this requirement can only be obtained by requesting an official species list either from the Regulatory Documents section in IPaC or from the local field office directly.**

The list of species below are those that may occur or could potentially be affected by activities in this location:

## Birds

**Red Knot** *Calidris canutus rufa* Threatened

CRITICAL HABITAT

No critical habitat has been designated for this species.

[http://ecos.fws.gov/tess\\_public/profile/speciesProfile.action?spcode=B0DM](http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0DM)

## Mammals

**Northern Long-eared Bat** *Myotis septentrionalis* Threatened

CRITICAL HABITAT

No critical habitat has been designated for this species.

[http://ecos.fws.gov/tess\\_public/profile/speciesProfile.action?spcode=A0JE](http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=A0JE)

## Critical Habitats

**There are no critical habitats in this location**

# Migratory Birds

Birds are protected by the [Migratory Bird Treaty Act](#) and the [Bald and Golden Eagle Protection Act](#).

Any activity that results in the take of migratory birds or eagles is prohibited unless authorized by the U.S. Fish & Wildlife Service.<sup>[1]</sup> There are no provisions for allowing the take of migratory birds that are unintentionally killed or injured.

Any person or organization who plans or conducts activities that may result in the take of migratory birds is responsible for complying with the appropriate regulations and implementing appropriate conservation measures.

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1. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

Additional information can be found using the following links:

- Birds of Conservation Concern  
<http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Conservation measures for birds  
<http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Year-round bird occurrence data  
<http://www.birdscanada.org/birdmon/default/datasummaries.jsp>

The following species of migratory birds could potentially be affected by activities in this location:

**American Oystercatcher** *Haematopus palliatus*

Year-round

[http://ecos.fws.gov/tess\\_public/profile/speciesProfile.action?spcode=B0G8](http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0G8)

Bird of conservation concern

**American Bittern** *Botaurus lentiginosus*

Season: Breeding

[http://ecos.fws.gov/tess\\_public/profile/speciesProfile.action?spcode=B0F3](http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0F3)

Bird of conservation concern

**Bald Eagle** *Haliaeetus leucocephalus*

Year-round

[http://ecos.fws.gov/tess\\_public/profile/speciesProfile.action?spcode=B008](http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B008)

Bird of conservation concern

**Black Skimmer** *Rynchops niger*

Season: Breeding

[http://ecos.fws.gov/tess\\_public/profile/speciesProfile.action?spcode=B0EO](http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0EO)

Bird of conservation concern

<b>Black-billed Cuckoo</b> <i>Coccyzus erythrophthalmus</i> Season: Breeding <a href="http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0HI">http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0HI</a>	Bird of conservation concern
<b>Blue-winged Warbler</b> <i>Vermivora pinus</i> Season: Breeding	Bird of conservation concern
<b>Canada Warbler</b> <i>Wilsonia canadensis</i> Season: Breeding	Bird of conservation concern
<b>Fox Sparrow</b> <i>Passerella iliaca</i> Season: Wintering	Bird of conservation concern
<b>Hudsonian Godwit</b> <i>Limosa haemastica</i> Season: Migrating	Bird of conservation concern
<b>Least Bittern</b> <i>Ixobrychus exilis</i> Season: Breeding <a href="http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B092">http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B092</a>	
<b>Least Tern</b> <i>Sterna antillarum</i> Season: Breeding	Bird of conservation concern
<b>Peregrine Falcon</b> <i>Falco peregrinus</i> Season: Breeding <a href="http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0FU">http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0FU</a>	Bird of conservation concern
<b>Pied-billed Grebe</b> <i>Podilymbus podiceps</i> Year-round	Bird of conservation concern
<b>Prairie Warbler</b> <i>Dendroica discolor</i> Season: Breeding	Bird of conservation concern
<b>Purple Sandpiper</b> <i>Calidris maritima</i> Season: Wintering	Bird of conservation concern
<b>Rusty Blackbird</b> <i>Euphagus carolinus</i> Season: Wintering	Bird of conservation concern
<b>Saltmarsh Sparrow</b> <i>Ammodramus caudacutus</i> Season: Breeding	Bird of conservation concern
<b>Seaside Sparrow</b> <i>Ammodramus maritimus</i> Year-round	Bird of conservation concern
<b>Short-eared Owl</b> <i>Asio flammeus</i> Season: Wintering <a href="http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0HD">http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0HD</a>	Bird of conservation concern
<b>Snowy Egret</b> <i>Egretta thula</i> Season: Breeding	Bird of conservation concern
<b>Upland Sandpiper</b> <i>Bartramia longicauda</i> Season: Breeding <a href="http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0HC">http://ecos.fws.gov/tess_public/profile/speciesProfile.action?spcode=B0HC</a>	Bird of conservation concern

**Willow Flycatcher** Empidonax traillii

Season: Breeding

[http://ecos.fws.gov/tess\\_public/profile/speciesProfile.action?sPCODE=B0F6](http://ecos.fws.gov/tess_public/profile/speciesProfile.action?sPCODE=B0F6)

Bird of conservation concern

**Wood Thrush** Hylocichla mustelina

Season: Breeding

Bird of conservation concern

**Worm Eating Warbler** Helmitheros vermivorum

Season: Breeding

Bird of conservation concern

## Wildlife refuges and fish hatcheries

**There are no refuges or fish hatcheries in this location**

# Wetlands in the National Wetlands Inventory

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](#).

## DATA LIMITATIONS

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

## DATA EXCLUSIONS

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

## DATA PRECAUTIONS

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

This location overlaps all or part of the following wetlands:

## Estuarine And Marine Deepwater

[E1UBL](#)

## Riverine

[R1UBV](#)

A full description for each wetland code can be found at the National Wetlands Inventory website: <http://107.20.228.18/decoders/wetlands.aspx>

## Attachment C

### Potential Impacts to Threatened Species

## Background

The Endangered Species Act of 1973 (ESA) provides for the conservation of species that are endangered or threatened throughout all or a significant portion of their range, and requires the conservation of the ecosystems on which they depend. The ESA is administered by the USFWS and the National Marine Fisheries Service (NMFS). “Endangered” means a species is in danger of extinction; “threatened” means a species is likely to become endangered within the foreseeable future.

An Official Species List was obtained from the USFWS on June 6, 2016 for the Phase II area of the MRRP, including the Project area (Appendix C). The Official Species List includes no endangered species and two threatened species that may exist in the Project area:

- The Red Knot (*Calidris canutus rufa*) is a migratory bird which may be particularly vulnerable to climate change in the Project area due to changes to coastal habitats from rising sea levels, availability of food resources throughout its range, and changes in storm and weather patterns. No critical habitat rules have been published for the Red Knot. However, according to the USFWS (undated), the Red Knot eats small clams, mussels, snails, and other invertebrates for much of the year, and therefore must have access to shallow water with an abundance of such species for several days at a time. The Red Knot flies north over Connecticut in the spring to breed in the central Canadian Arctic, and travels south over Connecticut in the early autumn on its way to the southern hemisphere. Based on the description above, it is possible that the Red Knot could utilize the Project area in the autumn when flows in the Mill River are low, but the species is unlikely to utilize the Project area in the spring when flows in the Mill River are high.
- Northern Long-eared Bat (*Myotis septentrionalis*) is one of the species of bats most impacted by the white-nose syndrome disease. No critical habitat has been designated for this species, but typical habitat requirements per the USFWS online Information, Planning, and Conservation (IPaC) system (Appendix C) include the following: “*Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. During late spring and summer roosts and forages in upland forests.*” According to the Connecticut DEEP (2016), Stamford is not an area of Connecticut with known northern long-eared bat hibernacula; therefore, it is unlikely that this species utilizes the Project area.

Based on 2002 and 2004 correspondence with the NMFS (Appendix B), coastal habitat adjacent to the Project area is limited because of access restrictions in the downstream channel in the vicinity of the Pulaski Street bridge. The NMFS stated in 2002 that “there are no species presented that are listed under the [ESA] and managed by our agency” in the Project area. The USACE (2004) stated the same, noting that “long-term planning of Stamford’s biodiversity could establish the Mill River as a conduit for wildlife passage from inland parks to coastal environments.”

In 2002 correspondence related to the MRRP (Appendix B), the USFWS noted that transient bald eagles may be observed in the vicinity of the Project area on occasion. Bald eagles typically eat fish but will also eat small game and other foods depending on availability. The Bald and Golden Eagle Protection Act of 1940 (BGEPA) codified at 16 USC 668-668d, is a

federal statute protecting two species of eagle. It currently prohibits anyone “taking” bald eagles without a permit.

The Connecticut Endangered Species Act of 1989 was passed with the goal to conserve, protect, restore and enhance any endangered or threatened species and their essential habitat. In addition to endangered and threatened species, the 1989 Act includes “species of special concern”, or any native plant species or native non-harvested wildlife species documented to have a naturally restricted range or habitat in the state, to be at a low population level, to be in such high demand by man that its unregulated taking would be detrimental to the conservation of the population, or has been extirpated from the state.

The Connecticut DEEP maintains a Natural Diversity Database (NDDB), which maps the approximate known locations of state and federally listed endangered, threatened, and special concern species; as well as significant natural communities in Connecticut. A review of the NDDB map of June 2017 (DEEP 2017) showed that the Project area does not fall within an area with known state and federally listed species or significant natural communities.

#### Other Species in the Project Area

Aquatic resources of the Mill River through the Project area are currently limited due to the urbanization and channelization that has occurred. Centuries of development in the vicinity of the Project area has substantially impacted the channel, leaving a limited riparian corridor. The Project would endeavor to incrementally improve the ecological habitat along the Mill River riparian corridor and maintain resilient open space as part of the overall Mill River Restoration Plan.

The Project area includes a playground area, grass area, and a limited riparian buffer along the Mill River which is degraded in certain sections and contains invasive species in other portions (Milone & MacBroom, Inc., 2006a). The Project area also includes small clusters of trees along the Mill River which provide limited habitat opportunities. Based on a field visit of the Project area and vicinity on May 18, 2006 (Milone & MacBroom, Inc., 2006b), the dominant vegetation along the river includes silver maple, red maple, black cherry, willow, cottonwood, sycamore, box elder, Norway maple, black locust, poison ivy, wild grape, and common reed, with invasive species including tree-of-heaven, multiflora rose, Japanese knotweed, purple loosestrife, narrow-leaved cattail, and oriental bittersweet.

Fauna in the Project area is extremely limited given the urban nature of the Project site. Some of the wildlife observed during the field investigation included belted kingfisher, osprey, cormorant, mallard ducks, Canada geese, warmwater fish, and muskrats. The Connecticut DEEP has reported the presence of species such as coyote, red fox, skunk, white tailed deer and beaver in the area. Reptiles and amphibians such as spotted salamander, various turtle species and various frog species are common to Stamford; however, these species were not observed during site visits to the Project area (Milone & MacBroom, Inc., 2006a). As noted in Section 3.2, coastal resources such as shellfish are not present in Stamford Harbor or within the Mill River, and the University

of Connecticut Center for Land Use Education and Research (2014) Aquaculture Mapping Atlas depicts no active shellfish beds in the Mill River or Stamford Harbor.

The 1996 amendments to the Magnuson-Stevens Fishery Conservation Management Act strengthened the ability of the NMFS to protect and conserve the habitat of marine, estuarine, and anadromous finfish, mollusks, and crustaceans. This habitat is termed "essential fish habitat," and is broadly defined to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The USACE (2004), in their environmental assessment of Phase I of the MRRP, noted that Long Island Sound (including Stamford Harbor) is considered Essential Fish Habitat, indicating that these resources are necessary for spawning, breeding and feeding. The Mill River is not considered essential fish habitat; however, according to the NMFS there are fish species listed which use the tidal mouth and/or the freshwater reach of the Mill River at some point during their life cycles. These include Pollock (*Pollachius virens*), cobia (*Rachycentron canadum*), winter flounder (*Pleuronectes americanus*), windowpane flounder (*Scopthalmus aquosus*), bluefish (*Pomatomus saltatrix*), summer flounder (*Paralichthys dentatus*), black sea bass (*Centropristus striata*), king mackerel (*Scomberomorus cavalla*), and Spanish mackerel (*Scomberomorus maculatus*) (USACE, 2004). The NMFS determined "there may be some modest presence of species managed under the Magnuson-Stevens Fishery Conservation Management Act" and that "restoration of the Mill River may facilitate an enhanced use of the waterway by both those estuarine and diadromous species" (USACE, 2004).

The removal of the former Main Street dam just upstream of the Project area under Phase I of the MRRP has restored migratory movement upstream for diadromous fish through to at least Mill River Park for the first time since 1641. The river is presently tidally influenced at the Project area, with NMFS suggesting in 2002 and 2004 that the Project area may support warmwater fish species including summer flounder, bluefish, and their forage, and occasional use by marine species such as bluefish or blue crab, and Connecticut DEEP noting the presence of alewife and blueback herring. However, NMFS indicated in 2004 that the Mill River was never a fully functional estuary due to a partial fall line of bedrock located approximately 200 feet upstream of Stamford Harbor, which restricts salt water from moving upstream, and noted concerns with potential changes in temperature, salinity, and water quality following storm events due to the likely degraded quality of the runoff from the adjacent urban watershed. A copy of this correspondence is included in Appendix B.

The Migratory Bird Treaty Act of 1918 (MBTA), codified at 16 USC Sections 703-708, 710-712), implemented the protection of migratory birds between U.S. and Great Britain (acting on behalf of Canada). The migratory bird species protected by MBTA are listed in 50 CFR 10.13. Authority and responsibility for enforcement is with USFWS. The following 24 species of migratory birds that have been identified as "birds of conservation concern" by the USFWS (Appendix C) were predicted to possibly occur in Project area based on published range maps and habitat preferences, including some covered by the MBTA:

- American Bittern (*Botaurus lentiginosus*)
- American Oystercatcher (*Haematopus palliatus*)
- Bald Eagle (*Haliaeetus leucocephalus*)
- Black Skimmer (*Rynchops niger*)
- Black-billed Cuckoo (*Coccyzus erythrophthalmus*)
- Blue-winged Warbler (*Vermivora pinus*)
- Canada Warbler (*Wilsonia canadensis*)
- Fox Sparrow (*Passerella iliaca*)
- Hudsonian Godwit (*Limosa haemastica*)
- Least Bittern (*Ixobrychus exilis*)
- Least Tern (*Sterna antillarum*)
- Peregrine Falcon (*Falco peregrinus*)
- Pied-billed Grebe (*Podilymbus podiceps*)
- Prairie Warbler (*Dendroica discolor*)
- Purple Sandpiper (*Calidris maritima*)
- Rusty Blackbird (*Euphagus carolinus*)
- Saltmarsh Sparrow (*Ammodramus caudacutus*)
- Seaside Sparrow (*Ammodramus maritimus*)
- Short-eared Owl (*Asio flammeus*)
- Snowy Egret (*Egretta thula*)
- Upland Sandpiper (*Bartramia longicauda*)
- Willow Flycatcher (*Empidonax traillii*)
- Wood Thrush (*Hylocichla mustelina*)
- Worm Eating Warbler (*Helminthophila vermivora*)

Due to their ubiquitous nature and sensitivity to pollution and other forms of habitat degradation, macroinvertebrates are popular bio-indicators (i.e., organisms that show significant changes in population with varying environmental conditions). Macroinvertebrate life cycles tend to be moderate in length relative to plants and fish, and thus offer information on seasonal and annual conditions in a river.

The Connecticut DEEP conducted macroinvertebrate sampling of the Mill River in October of 1997 and 2000. In 1997, eight percent of the species identified were considered pollution intolerant, and in 2000, only two percent of identified species were those considered intolerant. The low number of intolerant species indicates that water quality in the channel is degraded (DEEP, 2000).

### Potential Impacts

Long-term, the Proposed Action is expected to have a minimal benefit to the Red Knot as the bank improvements would prevent further sedimentation into the river and Stamford Harbor from the Project area thereby reducing direct impacts to sessile organisms from turbidity (smothering) and indirect impacts via sedimentation over benthic food sources. The reduced sedimentation and incrementally improved water quality would benefit the macroinvertebrate

population in the Mill River and Stamford Harbor upon which the Red Knot would feed, potentially making the vicinity of the Project area more desirable to the Red Knot during the early autumn each year. The increased macroinvertebrate populations would support increased fish populations, which could in turn provide a minimal benefit to bald eagles by making the vicinity of the Project area more desirable to that species.

Based on information available from Connecticut DEEP (2016), temporary and long-term impacts to the Northern Long-eared Bat are not anticipated as they are unlikely to utilize the Project area. A letter requesting concurrence for this determination was sent to USFWS on August 4, 2017 (Appendix C).

The Proposed Action Alternative would restore the existing riparian corridor, resulting in removal of invasive vegetation in the Project area in preference to native species. This is expected to provide a long-term minor benefit for native vegetation in the area which in turn could provide a long-term minor benefit for wildlife which would utilize the riparian corridor. In addition, the improved riparian corridor would incrementally improve the quality of stormwater runoff which would benefit aquatic biological resources.

Long term, the Proposed Action is expected to provide a minimal benefit to other birds as the bank stabilization would make it less likely that the river bank would be undermined in the future, which would result in reduced roosting, resting, and nesting habitat.

Stamford Harbor is identified by the NMFS as being essential fish habitat. As discussed above, reduction of sedimentation leaving the Project area into the Mill River would benefit sessile organisms and macroinvertebrates, which in turn would benefit fish populations which are dependent on such species. The Proposed Action is therefore expected to provide a minimal benefit to essential fish habitat.

Temporary restoration-related impacts could generate erosion, and runoff of eroded materials could produce sedimentation and turbidity in the Mill River which could produce minor impacts to sessile organisms and macroinvertebrates as described above. Temporary minor impacts to the threatened Red Knot, transient bald eagles, and other wildlife are possible during restoration, primarily due to noise from equipment and increased activity in the Project area. The noise would potentially make the Red Knot and bald eagles less likely to choose the Project area as a resting location, and may encourage other wildlife to avoid the area. Furthermore, injury or mortality of mammals, birds, and other small animals could occur through direct contact with equipment and traffic in the Project area.

A number of BMPs are proposed to reduce impacts to biological resources:

- Truck tires and equipment leaving the Project area would be periodically cleaned to prevent migration of invasive vegetation off-site.
- Erosion and sedimentation controls (as discussed in Section 4.1) would impede migration of small mammals and amphibians into the Project area.
- The proposed bank restoration would be timed to avoid in-water work during the low flow period between May 15 and September 30. This in-water restriction is based on an essential

fish habitat recommendation for Stamford Harbor provided by the NMFS in a letter dated August 5, 2004 (Appendix B). Implementing this restriction will help to protect riverine ecology during the restoration effort. In addition, the COP (Appendix B) restricts work authorized under the COP to only being conducted at low tide.

- To reduce noise impacts, noise abatement measures would include installation and maintenance of properly functioning muffler devices on equipment and compliance with the City of Stamford and State of Connecticut noise performance standards. This includes restricting the use of noise generating equipment to certain daytime hours of the day per the City of Stamford Code of Ordinances. These noise abatement procedures, and compliance with performance standards, is expected to minimize noise-related impacts.

Overall, the Proposed Action is expected to have a long-term minimal benefit to endangered species, and a long-term minor benefit to other biological resources in the Project area.

Attachment D

Photo Log



Looking Downstream from Tresser Boulevard



Looking South at Richmond Hill Avenue



Looking at Rotary Park on west bank Downstream of Tresser Boulevard



Looking upstream from Tresser Boulevard towards historic Main Street bridge

Note: Google Street View also provides December 2015 photos of the Project Area.

## Scott Bighinatti

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**From:** Kelly F. Kerrigan  
**Sent:** Monday, February 19, 2018 11:25 AM  
**To:** Scott Bighinatti  
**Subject:** FW: Mill River Linear Park, Stamford, Connecticut

Kelly Faith Kerrigan  
Environmental Scientist



99 Realty Drive, Cheshire, CT 06410  
203.271.1773 x 255 | [mminc.com](http://mminc.com)  
[Facebook](#) | [Instagram](#) | [LinkedIn](#) | [Twitter](#)

**From:** Dykstra, Eliese [mailto:[eliese\\_dykstra@fws.gov](mailto:eliese_dykstra@fws.gov)]  
**Sent:** Wednesday, December 20, 2017 11:05 AM  
**To:** Kelly F. Kerrigan <[kellyk@miloneandmacbroom.com](mailto:kellyk@miloneandmacbroom.com)>  
**Subject:** Re: Mill River Linear Park, Stamford, Connecticut

Hi Kelly,

You may use the Streamlined Consultation Form as long as you have authorization to consult on behalf of the federal agency and can provide contact information for the individual you are working with at that agency (list that contact info on the form). Let me know if you have any other questions!

Thanks,  
Eliese

On Thu, Dec 14, 2017 at 2:20 PM, Kelly F. Kerrigan <[kellyk@miloneandmacbroom.com](mailto:kellyk@miloneandmacbroom.com)> wrote:

Hi Eliese,

Thank you for all of that information, it's very helpful! I've looked at the streamlined consultation form, and I just wanted to make sure that it's okay for us (i.e., consultants) to use that form. It specified that it was for us by federal agencies at the top of the form.

I've also attached the letter that was initially sent to USFWS.

Thanks!

Kelly Faith Kerrigan

Environmental Scientist



99 Realty Drive, Cheshire, CT 06410

203.271.1773 x 255 | [mminc.com](http://mminc.com)

[Facebook](#) | [Instagram](#) | [LinkedIn](#) | [Twitter](#)

**From:** Dykstra, Eliese [mailto:[eliese\\_dykstra@fws.gov](mailto:eliese_dykstra@fws.gov)]  
**Sent:** Tuesday, December 12, 2017 2:15 PM  
**To:** Kelly F. Kerrigan <[kellyk@miloneandmacbroom.com](mailto:kellyk@miloneandmacbroom.com)>  
**Subject:** Re: Mill River Linear Park, Stamford, Connecticut

Hi Kelly,

Thank you for reaching out to us regarding your project in Stamford, Connecticut. When we receive letters in our office, they are immediately logged in and assigned to individual biologists. I looked into our records and found the species list from 2016 that you referred to (Consultation Code: 05E1NE00-2016-SLI-1554), and a more recent species list from 2017, but no record of a letter and supporting documents dated August 06, 2017. Was the letter, by any chance, a streamlined consultation form for northern long-eared bat? If so, we are currently working to enter a large quantity of streamlined consultation forms into our system, but letters have already been reviewed and if you haven't heard back from us within 30 days of submitting the streamlined consultation form, you are good to go. If you had send a letter other than the streamlined consultation form, it is unfortunately possible that it may have gotten lost in the mail.

For the **northern long-eared bat**, you can fill out a streamlined consultation form, which I've attached. I looked up the Mill River Park, and from my preliminary review it looks like the area is developed and it looks like there may be no **red knot** habitat available in your project action area. If there is no available habitat, a "no effect" determination is possible, and consultation for this species would not be necessary. If this is the case, you would just need to submit the northern long-eared bat streamlined consultation form. It can be faxed to our office at: (603) 223-0104. If you determine that there is red knot habitat in your action area and come to a "may affect not likely to adversely affect" determination for this species, you can fax a letter with your project description, determination, justification and supporting documents to our office at the same number.

Thank you for following up and I apologize for any inconvenience. Please let me know if you have any questions.

Sincerely,

Eliese

On Mon, Dec 11, 2017 at 1:34 PM, Kelly F. Kerrigan <[kellyk@miloneandmacbroom.com](mailto:kellyk@miloneandmacbroom.com)> wrote:

Hi Eliese,

I'm working with Scott Bighinatti from my firm on the Mill River Linear Trail Project in Stamford, Connecticut. We have an official species list that notes that the Red Knot and Northern Long-Eared Bat may make use of our project area (Consultation Code: 05E1NE00-2016-SLI-1554). Scott sent a letter, dated August 06, 2017, to your department describing our project with associated mapping, and requesting consultation as to whether these species may make use of our project area. We are trying to assess the timeline on this process in terms of our project schedule. What is the next step in moving forward in this process?

Any guidance would be much appreciated!

Thank you,

**Kelly Faith Kerrigan**

Environmental Scientist



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Eliese Dykstra  
Fish and Wildlife Biologist  
U.S. Fish and Wildlife Service

New England Field Office

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**TO:** File

**FROM:** Scott Bighinatti, MS, CFM

**RE:** No Effect Determinations, Mill River Phase IIA, Stamford, Connecticut

**DATE:** 4/10/2018

**MMI #:** 4991-02-04

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Endangered species consultation was conducted with the USFWS New England Field Office. The consultation process included:

- Determining whether any listed, proposed, or candidate (threatened or endangered) species are likely to occur within the proposed project action area based statewide information on the USFWS website. Based on the list (last checked by Scott Bighinatti of MMI on February 18, 2018, both the Red Knot and Northern Long-eared bat are likely to occur with the proposed project action area.
- Contacting the Connecticut Endangered Species Program (Natural Diversity Database (NDDDB) through Connecticut DEEP) for additional information on federally and state-listed species. Based on maps published by the NDDDB dated December 2017 reviewed by Scott Bighinatti of MMI, threatened and endangered species have not been identified in the Project area, nor are significant natural communities located in the vicinity of the Project area.
- Reviewing the information available from the IPaC report and other sources of information regarding the habitat requirements of each species. The IPaC report was generated by Becky Meyer of MMI on June 6, 2016, and was checked for changes by Scott Bighinatti of MMI in August 2017 (no species changes were noted). There is general lack of habitat suitable for the Red Knot and the Northern Long-eared Bat in the Project area such that it is unlikely that either species presently utilizes the Project Area. As potential listed species habitat was present per the USFWS statewide lists, a consultation letter was sent to the USFWS on August 7, 2017.
- Eliese Dykstra of the USFWS New England Field Office was contacted on December 11, 2017 to follow up on the consultation letter. Eliese Dykstra of the USFWS New England Field Office responded on December 12, 2017 indicating the Project area “is developed and it looks like there may be no red knot habitat available in [the] project action area.” She further requested the submission of a Streamlined Consultation form for the Northern Long-eared Bat.
- Based on the assessment dated December 12, 2017 by the USFWS, and the lack of habitat in the Project area, the Project will have no effect on the Red Knot. As the NDDDB does not identify any listed species for the Project area and there is no potential habitat for the Red Knot in the project action area, no further coordination with the USFWS is required per

the endangered species consultation process through the USFWS New England Field Office. A “no species present” letter dated January 8, 2018 was downloaded from the USFWS New England Office website for the Red Knot to document the consultation process.

- The Northern Long-eared Bat Streamlined Consultation Form was submitted to the USFWS New England Field Office by Scott Bighinatti of MMI on March 1, 2018. The USFWS did not respond within 30 days (by March 31, 2018) of submission of the Streamlined Consultation Form. Therefore, per the Streamlined Consultation Form “the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the [Northern Long-eared Bat] are fulfilled”. Based on the lack of habitat in the Project area and the information reviewed during the USFWS consultation process, the Project is expected to have no effect on the Northern Long-eared Bat. A “no species present” letter dated January 8, 2018 was downloaded from the USFWS New England Office website for the Northern Long-Eared Bat to document the consultation process.



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

New England Field Office  
70 Commercial Street, Suite 300  
Concord, NH 03301-5087  
<http://www.fws.gov/newengland>



January 8, 2018

To Whom It May Concern:

This project was reviewed for the presence of federally listed or proposed, threatened or endangered species or critical habitat per instructions provided on the U.S. Fish and Wildlife Service's New England Field Office website:

<http://www.fws.gov/newengland/EndangeredSpec-Consultation.htm> (accessed January 2018)

Based on information currently available to us, no federally listed or proposed, threatened or endangered species or critical habitat under the jurisdiction of the U.S. Fish and Wildlife Service are known to occur in the project area(s). Preparation of a Biological Assessment or further consultation with us under section 7 of the Endangered Species Act is not required. No further Endangered Species Act coordination is necessary for a period of one year from the date of this letter, unless additional information on listed or proposed species becomes available.

Thank you for your cooperation. Please contact David Simmons of this office at 603-227-6425 if we can be of further assistance.

Sincerely yours,

Thomas R. Chapman  
Supervisor  
New England Field Office

TRANSMISSION VERIFICATION REPORT

TIME : 03/01/2018 02:25PM  
NAME :  
FAX :  
TEL :  
SER.# : U63888G6N684356

03/01 02:24PM  
16032230104  
00:00:42  
03  
OK  
STANDARD  
ECM



# TRANSMITTAL

**To:** Eliese Dykstra  
Fish and Wildlife Biologist  
U.S. Fish & Wildlife Service  
70 Commercial Street, Suite 300  
Concord, NH 03301

**Phone:** 603-227-6427, 603-223-0104 Fax

**Date:** March 1, 2018

**Job #:** 4991-02-04

**Attention:** Eliese Dykstra

**RE:** Streamlined Consultation Form for  
Northern Long-Eared Bat  
Mill River Linear Park, Stamford, CT

**METHOD OF DELIVERY:**

☐ FedEx: \_\_\_\_\_  
(please indicate type)

☐ Regular Mail  
☒ Electronic Copy

☐ Pick Up ☐ Delivery☐ Certified/Return Receipt

**WE ARE SENDING YOU:**

☐ Shop Drawings    ☐ Copy of Letter    ☐ Prints    ☐ Samples    ☐ Permit Application  
☐ Change Order    ☐ Specifications    ☐ Plans    ☒ Other Streamlined consultation form

[illegible]

**To:** Eliese Dykstra  
Fish and Wildlife Biologist  
U.S. Fish & Wildlife Service  
70 Commercial Street, Suite 300  
Concord, NH 03301

**Phone:** 603-227-6427, 603-223-0104 Fax

**Date:** March 1, 2018  
**Job #:** 4991-02-04  
**Attention:** Eliese Dykstra  
**RE:** Streamlined Consultation Form for  
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Mill River Linear Park, Stamford, CT

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☐ Change Order ☐ Specifications ☐ Plans ☒ Other Streamlined consultation form

Copies	Date	Number	Description
1	3/1/2018		Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form

**THESE ARE TRANSMITTED:**

☐ For approval ☐ For your use ☐ As requested ☐ Make corrections noted  
☒ For review and comment ☐ Other: \_\_\_\_\_

**REMARKS:** Hi Eliese, as discussed with Kelly Kerrigan of MMI and Lynn Dwyer of NFWF, please find see the attached streamlined consultation form. If additional information is required, please reference our 8/4/17 consultation letter which was delivered via FedEx on 1/9/2018, or contact me at the number below or at sbighinatti@mminc.com. Thank you!

**TO:** File, NFWF (electronic)

**SIGNED:**

  
**Scott Bighinatti**

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

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

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

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

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

**Agency and Applicant<sup>3</sup>** (Name, Email, Phone No.): *Andrew Raddant, Regional Environmental Officer, Office of Environmental Policy and Compliance, US DOI, 15 State Street, 8<sup>th</sup> Floor, Boston, MA, 02109, Andrew\_Raddant@ios.doi.gov, 617-223-8565*

**Project Name:** *Mill River Linear Park*

**Project Location** (include coordinates if known): *West bank of Mill River corridor from Main Street to Richmond Hill Avenue in Stamford, Connecticut*

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

*The current phase of the project includes the installation of additional park amenities and restoration of a dilapidated retaining wall along the western bank of the Mill Rive between Main Street and Tresser*

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

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

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

*Boulevard in Stamford. Specific project elements which are proposed include: installation of an at-grade linear trail, removal of 215 linear feet of stone masonry retaining wall and replacement with 140 LF of rock revetment retaining wall set in staircase format that would encourage public access to the Mill River, construction of an amphitheater to enhance public use of the open space, installation of restrooms, lighting, and other park amenities to improve recreational use along the river; and removal of invasive species within the riparian buffer with replacement by native plantings.*

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

Agency Determination:

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

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

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

Signature: 

Date Submitted: 3/1/2018

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

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

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