



USFWS & NDDDB Compliance Determination

December 16, 2019

**The First Taxing District
of the City of Norwalk
12 New Canaan Avenue
P.O. Box 27
Norwalk, CT 06852**

APT Project No.: CT544100

**Re: Proposed The First Taxing District
Wireless Norwalk CT Facility
173.5 West Rocks Road, Norwalk
Fairfield County, CT
Lat: 41° 08' 36.6271" N
Long: 73° 25' 08.2799" W
Overall Height: 130-feet AGL**

On behalf of The First Taxing District of the City of Norwalk ("The First Taxing District"), All-Points Technology Corporation, P.C. ("APT") performed an evaluation with respect to possible federally- and state-listed, threatened, endangered or special concern species in order to determine if the proposed referenced communications facility ("Facility") would result in a potential adverse effect to listed species.

The First Taxing District is proposing to construct a new communications facility at 173.5 West Rocks Road in Norwalk, CT ("Subject Property"). The proposed Facility will include a ±130-foot tall monopole within a ±3,518 square foot gravel based fenced equipment compound. The new monopole and equipment compound will allow for the collocation of multiple service providers, including those currently located on the water tank at the same location.

USFWS The federal consultation was completed in accordance with Federal Communications Commission ("FCC") rules implementing the National Environmental Policy Act ("NEPA") and Section 7 of the Endangered Species Act through the U.S. Fish and Wildlife Service's ("USFWS") Information, Planning, and Conservation System ("IPaC"). Based on the results of the IPaC review, one federally-listed¹ threatened species is known to occur in the vicinity of the Subject Property documented as the northern long-eared bat ("NLEB"; *Myotis septentrionalis*). As a result of this preliminary finding, APT performed an evaluation to determine if the proposed referenced Facility would result in a likely adverse effect to NLEB.

The proposed Facility is located in the western portion of the Subject Property in a generally cleared area surrounded by forest. As a result, minimal forest clearing would be required to accommodate the Facility. Consultation with the Connecticut Department of Energy & Environmental Protection ("CTDEEP") Wildlife Division Natural Diversity Data Base ("NDDDB") revealed that the proposed Facility is not within 150 feet of a known occupied maternity roost tree and is not within 0.25 mile of a known NLEB hibernaculum. The nearest NLEB habitat resource to the proposed Facility is located in Greenwich ±11.3 miles to the west.

APT submitted the effects determination using the NLEB key within the IPaC system for the proposed Facility (the "Action"). This IPaC key assists users in determining whether a Federal action is consistent

¹ Listing under the federal Endangered Species Act

with the activities analyzed in the USFWS's January 5, 2016, intra-Service Programmatic Biological Opinion ("PBO") on the Final 4(d) Rule for the NLEB for Section 7(a)(2) compliance.

Based upon the IPaC submission, the Action is consistent with activities analyzed in the PBO; please refer to the enclosed November 8, 2019 USFWS letter. The Action may affect NLEB; however, any take that may occur as a result of the Action is not prohibited under the ESA Section 4(d) rule adopted for this species at 50 CFR §17.40(o). If the USFWS does not respond within 30 days from the date of the letter (December 8, 2019), one may presume that the IPaC-assisted determination was correct and that the PBO satisfies and concludes The First Taxing District's responsibilities for this Action under ESA Section 7(a)(2) with respect to NLEB. No response was received from USFWS; therefore, the Action complies with ESA Section 7(a)(2) with respect to NLEB.

In addition, The First Taxing District would consider the following additional recommended measures for NLEB conservation, as encouraged in the April 29, 2016 FCC Public Notice², as the project schedule allows.

- Conduct tree removal activities outside of the NLEB pup season (June 1-July 31) and/or active season (April 1-October 31) to minimize the chance of impacting unidentified maternity roosts.
- Avoid clearing suitable spring staging and fall swarming habitat within a five-mile radius of known or assumed NLEB hibernacula during the staging and swarming seasons (April 1-May 15 and August 15-November 14, respectively). NOT APPLICABLE.
- Maintain dead trees (snags) and large trees when possible.
- Use herbicides and pesticides only if unavoidable. If necessary, spot treatment is preferred over aerial application.
- Minimize exterior lighting, opting for down-shielded, motion-sensor security lights under towers instead of constant illumination or other light minimization measures.

NDDB No known areas of state-listed species are currently depicted on the most recent CTDEEP NDDB Maps in the location of the proposed First Taxing District development or within a 0.25 mile to the proposed development. Please refer to the enclosed NDDB Map which depicts the nearest NDDB buffer \pm 1.02-mile northeast of the Subject Property. Since the proposed Facility and Subject Property are not located within a NDDB buffer area, consultation with DEEP is not required in accordance with their review policy³. Also, since the NDDB buffer area is located more than a 0.25-mile away, consultation with DEEP is not required in accordance with the Connecticut Siting Council's NDDB review policy.

Therefore, the proposed First Taxing District development is not anticipated to adversely impact any federal or state threatened, endangered or species of special concern.

Sincerely,



Dean Gustafson
Senior Biologist

Enclosure

² Federal Communications Commission. *Tower Construction Guidance for Protection of Northern Long-Eared Bat Under the Endangered Species Act*. Public Notice DA 16-476. April 29, 2016.

³ DEEP Requests for NDDB State Listed Species Reviews. http://www.ct.gov/deep/cwp/view.asp?a=2702&q=323466&deepNav_GID=1628%20

USFWS NLEB Letter



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104
<http://www.fws.gov/newengland>

In Reply Refer To:

November 08, 2019

Consultation Code: 05E1NE00-2020-TA-0147

Event Code: 05E1NE00-2020-E-01181

Project Name: First Taxing District - Norwalk

Subject: Verification letter for the 'First Taxing District - Norwalk' project under the January 5, 2016, Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-eared Bat and Activities Excepted from Take Prohibitions.

Dear Deborah Gustafson:

The U.S. Fish and Wildlife Service (Service) received on November 08, 2019 your effects determination for the 'First Taxing District - Norwalk' (the Action) using the northern long-eared bat (*Myotis septentrionalis*) key within the Information for Planning and Consultation (IPaC) system. This IPaC key assists users in determining whether a Federal action is consistent with the activities analyzed in the Service's January 5, 2016, Programmatic Biological Opinion (PBO). The PBO addresses activities excepted from "take"^[1] prohibitions applicable to the northern long-eared bat under the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based upon your IPaC submission, the Action is consistent with activities analyzed in the PBO. The Action may affect the northern long-eared bat; however, any take that may occur as a result of the Action is not prohibited under the ESA Section 4(d) rule adopted for this species at 50 CFR §17.40(o). Unless the Service advises you within 30 days of the date of this letter that your IPaC-assisted determination was incorrect, this letter verifies that the PBO satisfies and concludes your responsibilities for this Action under ESA Section 7(a)(2) with respect to the northern long-eared bat.

Please report to our office any changes to the information about the Action that you submitted in IPaC, the results of any bat surveys conducted in the Action area, and any dead, injured, or sick northern long-eared bats that are found during Action implementation. If the Action is not completed within one year of the date of this letter, you must update and resubmit the information required in the IPaC key.

If the Action may affect other federally listed species besides the northern long-eared bat, a proposed species, and/or designated critical habitat, additional consultation between you and this Service office is required. If the Action may disturb bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act is recommended.

[1]Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct [ESA Section 3(19)].

Action Description

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

1. Name

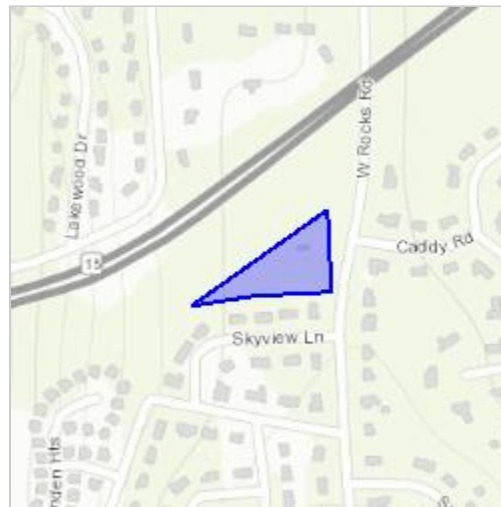
First Taxing District - Norwalk

2. Description

The following description was provided for the project 'First Taxing District - Norwalk':

The First Taxing District of the City of Norwalk is proposing to construct a new communications facility on its property at 173.5 West Rocks Road in Norwalk, CT. The proposed facility will include a ± 130 -foot tall monopole within a ± 3518 square foot gravel based fenced equipment compound. The new monopole and equipment compound will allow for the collocation of multiple service providers, including those currently located on the water tank at that location. Upon completion of a new water tank and the proposed facility, the existing water tank will be demolished.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.143698090854826N73.41844583695905W>



Determination Key Result

This Federal Action may affect the northern long-eared bat in a manner consistent with the description of activities addressed by the Service's PBO dated January 5, 2016. Any taking that may occur incidental to this Action is not prohibited under the final 4(d) rule at 50 CFR

§17.40(o). Therefore, the PBO satisfies your responsibilities for this Action under ESA Section 7(a)(2) relative to the northern long-eared bat.

Determination Key Description: Northern Long-eared Bat 4(d) Rule

This key was last updated in IPaC on May 15, 2017. Keys are subject to periodic revision.

This key is intended for actions that may affect the threatened northern long-eared bat.

The purpose of the key for Federal actions is to assist determinations as to whether proposed actions are consistent with those analyzed in the Service's PBO dated January 5, 2016.

Federal actions that may cause prohibited take of northern long-eared bats, affect ESA-listed species other than the northern long-eared bat, or affect any designated critical habitat, require ESA Section 7(a)(2) consultation in addition to the use of this key. Federal actions that may affect species proposed for listing or critical habitat proposed for designation may require a conference under ESA Section 7(a)(4).

Determination Key Result

This project may affect the threatened Northern long-eared bat; therefore, consultation with the Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.) is required. However, based on the information you provided, this project may rely on the Service's January 5, 2016, *Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions* to fulfill its Section 7(a)(2) consultation obligation.

Qualification Interview

1. Is the action authorized, funded, or being carried out by a Federal agency?
Yes
2. Have you determined that the proposed action will have "no effect" on the northern long-eared bat? (If you are unsure select "No")
No
3. Will your activity purposefully **Take** northern long-eared bats?
No
4. Is the project action area located wholly outside the White-nose Syndrome Zone?
Automatically answered
No
5. Have you contacted the appropriate agency to determine if your project is near a known hibernaculum or maternity roost tree?

Location information for northern long-eared bat hibernacula is generally kept in state Natural Heritage Inventory databases – the availability of this data varies state-by-state. Many states provide online access to their data, either directly by providing maps or by providing the opportunity to make a data request. In some cases, to protect those resources, access to the information may be limited. A web page with links to state Natural Heritage Inventory databases is available at www.fws.gov/midwest/endangered/mammals/nleb/nhsites.html.

Yes

6. Will the action affect a cave or mine where northern long-eared bats are known to hibernate (i.e., hibernaculum) or could it alter the entrance or the environment (physical or other alteration) of a hibernaculum?
No
-

7. Will the action involve Tree Removal?

Yes

8. Will the action only remove hazardous trees for the protection of human life or property?

No

9. Will the action remove trees within 0.25 miles of a known northern long-eared bat hibernaculum at any time of year?

No

10. Will the action remove a known occupied northern long-eared bat maternity roost tree or any trees within 150 feet of a known occupied maternity roost tree from June 1 through July 31?

No

Project Questionnaire

If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.

1. Estimated total acres of forest conversion:

0.2

2. If known, estimated acres of forest conversion from April 1 to October 31

0.2

3. If known, estimated acres of forest conversion from June 1 to July 31

0.2

If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.

4. Estimated total acres of timber harvest

0

5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. If known, estimated acres of timber harvest from June 1 to July 31

0

If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.

7. Estimated total acres of prescribed fire

0

8. If known, estimated acres of prescribed fire from April 1 to October 31

0

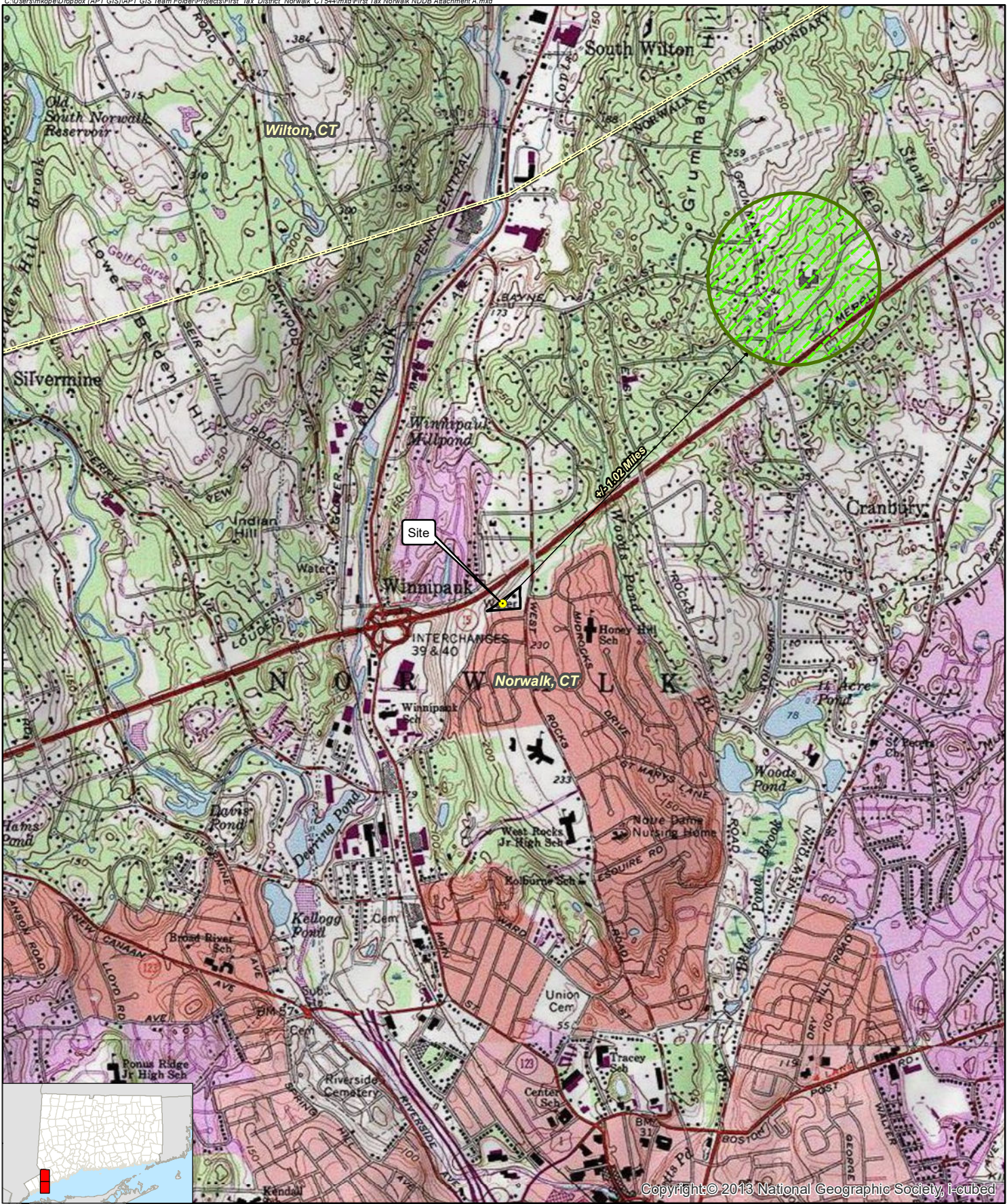
9. If known, estimated acres of prescribed fire from June 1 to July 31

0

If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?
0

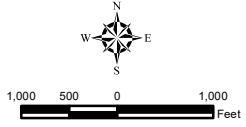
NDDDB Map



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- Legend**
- Proposed Monopole Tower
 - Municipal Boundary
 - Subject Property
 - Natural Diversity Database (updated June 2019)

Map Notes:
 Base Map Source: USGS 7.5 Minute Topographic
 Quadrangle Maps, Norwalk North, CT (1975) and
 Norwalk South, CT (1984)
 Map Scale: 1:24,000
 Map Date: October 2019



**Attachment A:
 Overview Map**

Proposed Wireless
 Telecommunications Facility
 First Taxing District of
 The City of Norwalk
 173 1/2 West Rocks Road
 Norwalk, Connecticut

