



USFWS & NDDB Compliance Determination

June 5, 2020

Ms. Pascelle Saint-Laurent, Zoning Project Mgr.
Crown Castle
3 Corporate Park Drive, Suite 101
Clifton Park, NY 12065

Re: Richard Wall, 8½ Lakeview Street, East Hampton, CT
APT Job No: CT590170

On behalf of Crown Castle, 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 wireless communication Facility ("Facility") would result in a potential adverse effect to listed species.

APT understands that Crown Castle proposes the construction of a Facility in the southeastern corner of the property which consists of two adjoining parcels totaling ±17.37-acres located at 8½ Lakeview Street, East Hampton, Connecticut ("Subject Property").

USFWS

The federal consultation was completed in accordance with 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 Subject Property consists of a predominantly forested undeveloped property with an existing woods road that provides access from High Street (State Route 66) into the interior of the property; additional frontage existing from the west on Lakeview Street (State Route 196). Access to the proposed Facility would use the existing woods road from High Street. Approximately 1.5 acres of tree clearing would occur to accommodate the Facility and access, potentially impacting habitat used by NLEB. A review of the Connecticut Department of Energy & Environmental Protection ("CTDEEP") Wildlife Division Natural Diversity Data Base ("NDDB") NLEB habitat map² revealed that the proposed Facility is not within 150 feet of a known occupied NLEB maternity roost tree and is not within 0.25

¹ Listing under the federal Endangered Species Act

² *Northern long-eared bat areas of concern in Connecticut to assist with Federal Endangered Species Act Compliance map*. February 1, 2016.

mile of a known NLEB hibernaculum. The nearest NLEB habitat resource to the proposed Facility is located \pm 19.4 miles to the southwest in North Branford.

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 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 May 27, 2020 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 (June 26, 2020), one may presume that the IPaC-assisted determination was correct and that the PBO satisfies and concludes Crown Castle's responsibilities for this Action under ESA Section 7(a)(2) with respect to NLEB. No response has been received from USFWS as of the date of this document; if a response is received it will be forwarded upon receipt. However, considering the lack of documented NLEB habitats in proximity to the Facility, APT does not anticipate receiving comments from USFWS and expects the Action will comply with ESA Section 7(a)(2) with respect to NLEB.

In addition, Crown Castle would consider the following additional USFWS voluntary conservation measures, where appropriate and as the project schedule allows, as encouraged in the April 29, 2016 FCC Public Notice³, to reduce the potential impacts of activities in NLEB.

- Conduct tree removal activities outside of the NLEB pup season (June 1-July 31) and active season (April 1-October 31) to minimize impacts to pups at roosts not yet identified.
- 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: site is located > 5 miles from the nearest hibernacula.*
- 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 instead of constant illumination.

NDDB


According to the most recent DEEP NDDB maps, the proposed Facility or access are not located within a shaded NDDB buffer area. However, a NDDB buffer area is located in the northeast corner of the Subject Property and the proposed Facility is located \pm 0.18 mile south of the NDDB buffer area. Please refer to the enclosed NDDB map. In accordance with the Connecticut Siting Council's NDDB review policy, APT submitted a NDDB review request with DEEP to identify State Listed Endangered, Threatened, and Special Concern species occurring in the vicinity of the proposed Facility and if the proposed activity could potentially conflict with listed species.

A response has not been received by DEEP as of the date of this document. Crown Castle is prepared to implement any rare species protection measures, if such recommendations are contained in DEEP's NDDB Determination Letter, which will be forwarded upon receipt.

³ 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.

Therefore, the proposed Crown Castle Facility is not anticipated to adversely impact any federal or state threatened, endangered or species of special concern.

Sincerely,
All-Points Technology Corporation, P.C.

A handwritten signature in cursive script that reads "Dean Gustafson".

Dean Gustafson
Senior Biologist

Enclosures

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>



IPaC Record Locator: 848-21916221

May 27, 2020

Subject: Consistency letter for the 'Crown Castle Richard Wall Candidate B - East Hampton' project indicating that any take of the northern long-eared bat 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).

Dear Deborah Gustafson:

The U.S. Fish and Wildlife Service (Service) received on May 27, 2020 your effects determination for the 'Crown Castle Richard Wall Candidate B - East Hampton' (the Action) using the northern long-eared bat (*Myotis septentrionalis*) key within the Information for Planning and Consultation (IPaC) system. You indicated that no Federal agencies are involved in funding or authorizing this Action. This IPaC key assists users in determining whether a non-Federal action may cause “take”^[1] of the northern long-eared bat that is prohibited 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, any take of the northern long-eared bat 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 Action is not likely to result in unauthorized take of the northern long-eared bat.

Please report to our office any changes to the information about the Action that you entered into 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 your Action proceeds as described and no additional information about the Action’s effects on species protected under the ESA becomes available, no further coordination with the Service is required with respect to the northern long-eared bat.

[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

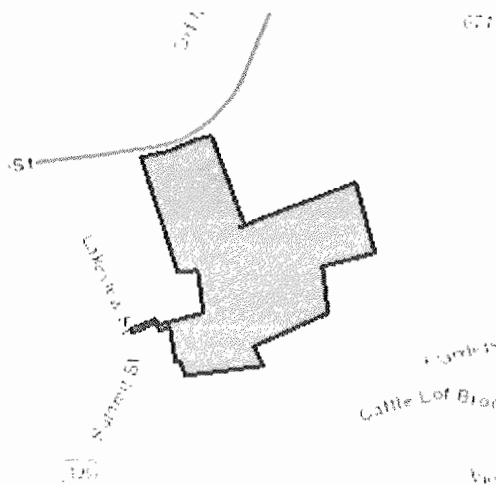
Crown Castle Richard Wall Candidate B - East Hampton

2. Description

The following description was provided for the project 'Crown Castle Richard Wall Candidate B - East Hampton':

All-Points Technology Corp., P.C. ("APT") understands that Crown Castle is proposing a telecommunications facility ("Facility") in the southeastern corner of the subject property, which consists of two adjoining parcels. The subject property consists of a predominantly forested undeveloped property with an existing woods road that provides access from High Street (State Route 66) into the interior of the property; additional frontage existing from the west on Lakeview Street (State Route 196). Access to the proposed Facility would use the existing woods road from High Street.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.58304249229902N72.49326286288368W>

**Determination Key Result**

This non-Federal Action may affect the northern long-eared bat; however, any take of this species that may occur incidental to this Action is not prohibited under the final 4(d) rule at 50 CFR §17.40(o).

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 non-Federal actions is to assist determinations as to whether proposed actions are excepted from take prohibitions under the northern long-eared bat 4(d) rule.

If a non-Federal action may cause prohibited take of northern long-eared bats or other ESA-listed animal species, we recommend that you coordinate with the Service.

Determination Key Result

Based upon your IPaC submission, any take of the northern long-eared bat 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).

Qualification Interview

1. Is the action authorized, funded, or being carried out by a Federal agency?

No

2. Will your activity purposefully **Take** northern long-eared bats?

No

3. [Semantic] Is the project action area located wholly outside the White-nose Syndrome Zone?

Automatically answered

No

4. 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 and other sources of information on the locations of northern long-eared bat roost trees and hibernacula is available at www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html.

Yes

5. 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

6. Will the action involve Tree Removal?

Yes

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

No

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

No

9. 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:

1.5

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

1.5

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

1.5

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

