

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

PETITION NO. 1591 – KCE CT 5, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 5.0-megawatt AC battery energy storage facility located at Village Hill Road, Stafford (Parcel No. 71-6) and Willington (Parcel No. 52-001-00), Connecticut, and associated electrical interconnection.	Petition No. 1591
	January 5, 2024

Petitioner KCE CT 5, LLC (“KCE” or “Petitioner”) hereby submits the following responses to the Second Set of Interrogatories that were directed to KCE by the Connecticut Siting Council (“Council”) on December 15, 2023.

Public Safety

69. What is the distance of the nearest municipal fire hydrant to the facility? What alternative water sources are available? How would water be brought to the site?

The nearest fire hydrant is located approximately 1.45 miles away at the Junction of Westford Ave and Meadow Lane in Stafford Springs, CT. If dust control is needed during construction, water will be delivered to the site using tanker trucks. In case of an emergency situation, water will be delivered to the site by fire tanker trucks from coordinated local departments. As indicated in response to Interrogatories No. 31-37, the recommended defensive fire tactics in a fire emergency is to prevent an incident from spreading, reduce the quantity of water required and the amount of flow over time necessary to respond to an event, and reduce the possibility of chemical runoff in response to an event. KCE will provide multiple trainings during initial construction and commissioning of the BESS to local emergency responders from the appropriate surrounding areas including the Willington and Stafford Springs fire departments. Such training will be updated and repeated annually per NFPA 855 code.

70. What is the distance/direction to the nearest airfield?

The Swift Airport in Stafford is 2.4 miles northwest of the Project. It is unclear if this airfield is currently operational. The nearest known operational airfield to the Project, Ellington Airport, is approximately 8.2 miles to the west.

Environmental Effects and Mitigation Measures

71. Referencing Petition p. 8, it states the USFWS Information for Planning and Conservation (IPaC) system was consulted. Submit the results of the IPaC.

Please see Exhibit A attached hereto.

72. Referencing Petition p. 8, it states No Critical Habitat was identified Does this statement refer to the Northern Long-eared Bat or small whorled pogonia?

The USFWS does not map critical habitat for the northern long eared bat or the small whorled pogonia. These two species are listed by USFWS as “wherever found.” The IPaC report indicates there are no USFWS designated or mapped critical habitats for any listed species within the vicinity of the proposed Project inclusive of northern long eared bat and small whorled pogonia. Please refer to the IPaC report provided in Exhibit A.

73. Referencing Petition p. 8, what type of U.S. Army Corps of Engineers permit is required? What type of review is required for the U.S. Fish and Wildlife Service for the stream crossing?

Based on correspondence with US Army Corps of Engineers (“USACE”), the permitting path for the proposed stream crossing will be through a Pre-Construction Notification under the Connecticut General Permit, GP 19 - stream river and brook crossing. As is standard with USACE permitting, the Project will be required to submit the IPaC report as part of the permitting package, and USFWS will have the opportunity to comment on the application.

74. Quantify the amount of temporary and permanent impact to the intermittent stream.

KCE currently proposes to install 16 linear feet of RCP culverts along the streambed with potentially small amounts of additional riprap. Given the varying width of the intermittent streambed, KCE anticipates that up to approximately 250 square feet of permanent disturbance is proposed and temporary disturbance could be up to approximately 450 square feet.

75. What is the approximate area of disturbance to prime farmland soils?

No portion of the energy storage project elements or interconnection route are currently proposed in areas mapped by NRCS as Prime Farmland Soil. The Project’s only elements proposed within

soils mapped by NRCS as Prime Farmland are the portions of the proposed access road to the east before entering the wooded area. Permanent disturbance is estimated to be approximately 10,000 square feet for the lifespan of the Project, while total temporary impacts would be estimated up to approximately 25,000 square feet.

EXHIBIT A



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

In Reply Refer To:
Project code: 2023-0083017
Project Name: CT 5 - Willington Battery Storage

May 17, 2023

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

Subject: Technical assistance for 'CT 5 - Willington Battery Storage'

Dear Jessie Hutchinson:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on May 17, 2023, for "CT 5 - Willington Battery Storage" (here forward, Project). This project has been assigned Project Code 2023-0083017 and all future correspondence should clearly reference this number.

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northeast Determination Key (Dkey), invalidates this letter. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative effect(s)), to a federally listed species or designated critical habitat.

Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17). Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no further consultation with, or concurrence from, the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Service concurs, in writing, that a proposed action "is

not likely to adversely affect (NLAA)" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13]).

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

Species	Listing Status	Determination
Small Whorled Pogonia (<i>Isotria medeoloides</i>)	Threatened	May affect

To complete consultation for species that have reached a "May Affect" determination and/or species may occur in your project area and are not covered by this conclusion, please visit the "New England Field Office Endangered Species Project Review and Consultation" website for step-by-step instructions on how to consider effects on these listed species and/or critical habitats, avoid and minimize potential adverse effects, and prepare and submit a project review package if necessary: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review>

Consultation with the Service is not complete. Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of "May Affect". Please contact our New England Ecological Services Field Office to discuss methods to avoid or minimize potential adverse effects to those species or designated critical habitats.

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

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

To complete consultation for species that have reached a "May Affect" determination and/or species may occur in your project area and are not covered by this conclusion, please visit the "New England Field Office Endangered Species Project Review and Consultation" website for step-by-step instructions on how to consider effects on these listed species and/or critical habitats, avoid and minimize potential adverse effects, and prepare and submit a project review package if necessary: <https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review>

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

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

Action Description

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

1. Name

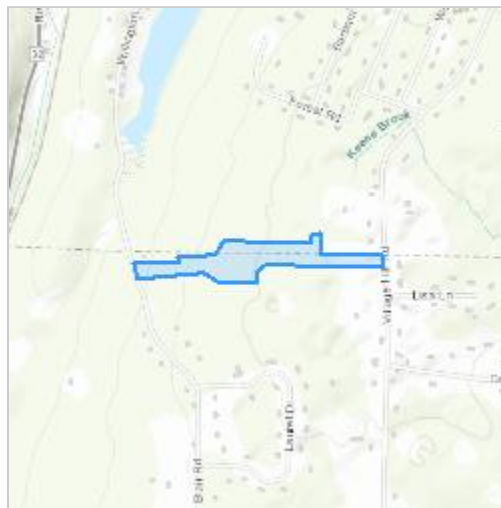
CT 5 - Willington Battery Storage

2. Description

The following description was provided for the project 'CT 5 - Willington Battery Storage':

The Project is the development of a 5MW Battery Energy Storage System (BESS) on approximately 14.5 acre area of land between Blair Road and Village Hill Road in Willington, CT. Project components will include the construction of a construction access road from Village Hill Road to a 0.5 area where the battery storage components will be installed on a concrete pad.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@41.94044445,-72.29480416697945,14z>



QUALIFICATION INTERVIEW

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

Yes

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

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

No

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

Yes

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

No

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

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

No

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

No

7. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)?

No

8. Will the proposed project involve the use of herbicide where listed species are present?

No

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

No

10. Does any component of the project associated with this action include structures that may pose a collision risk to **birds** (e.g., land-based or offshore wind turbines, communication towers, high voltage transmission lines, any type of towers with or without guy wires)?

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

No

11. Does any component of the project associated with this action include structures that may pose a collision risk to **bats** (e.g., land-based wind turbines)?

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

No

12. Will the proposed project result in permanent changes to water quantity in a stream or temporary changes that would be sufficient to result in impacts to listed species?

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

No

13. Will the proposed project affect wetlands where listed species are present?

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

No

14. Will the proposed project activities (including upland project activities) occur within 0.5 miles of the water's edge of a stream or tributary of a stream where listed species may be present?

Yes

15. Will the proposed project directly affect a streambed (below ordinary high water mark (OHWM)) of the stream or tributary where listed species may be present?

Yes

16. Will the proposed project bore underneath (directional bore or horizontal directional drill) a stream where listed species may be present?

No

17. Will the proposed project involve a new point source discharge into a stream or change an existing point source discharge (e.g., outfalls; leachate ponds) where listed species may be present?

No

18. Will the proposed project involve the removal of excess sediment or debris, dredging or in-stream gravel mining where listed species may be present?

No

19. Will the proposed project involve the creation of a new water-borne contaminant source where listed species may be present?

Note New water-borne contaminant sources occur through improper storage, usage, or creation of chemicals. For example: leachate ponds and pits containing chemicals that are not NSF/ANSI 60 compliant have contaminated waterways. Sedimentation will be addressed in a separate question.

No

20. Will the proposed project involve perennial stream loss, in a stream or tributary of a stream where listed species may be present, that would require an individual permit under 404 of the Clean Water Act?

No

21. Will the proposed project involve blasting where listed species may be present?

No

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

No

23. Will the proposed project involve earth moving that could cause erosion and sedimentation, and/or contamination along a stream or tributary of a stream where listed species may be present?

Note Answer "Yes" to this question if erosion and sediment control measures will be used to protect the stream.

Yes

24. Will the proposed project involve vegetation removal within 200 feet of a perennial stream bank where listed species may be present?

No

25. Will erosion and sedimentation control Best Management Practices (BMPs) associated with applicable state and/or Federal permits, be applied to the project? If BMPs have been provided by and/or coordinated with and approved by the appropriate Ecological Services Field Office, answer "Yes" to this question.

Yes

26. [Semantic] Does the project intersect the Virginia big-eared bat critical habitat?
Automatically answered
No
27. [Semantic] Does the project intersect the Indiana bat critical habitat?
Automatically answered
No
28. Will all activities occur within an area that is paved, graveled, routinely maintained, and/or inside a structure?
No
29. Will the proposed project involve temporary or permanent modification to hydrology, including groundwater recharge, that could result in changes to water quality, water quantity, or timing of water availability in proximity to listed plants?
No
30. Will the proposed project involve vegetation removal (including prescribed fire that would result in the burning of plants) or mowing?
Yes
31. Will the proposed project involve ground disturbance?
Yes
32. [Hidden Semantic] Does the project intersect the small whorled pogonia AOI?
Automatically answered
Yes
33. Does the project occur within mixed-deciduous or mixed-deciduous/coniferous forests that are generally in second- or third-growth successional stages?
Yes
34. Is small whorled pogonia currently known to occur in the action area? Small whorled pogonia plants do not always bloom every year, so plants may be present in a dormant state underground (If unsure, select "No").
No
35. Did a qualified surveyor conduct a survey within the action area during the time frame when plants are expected to be present and identifiable? Contact the appropriate local field office for dates
No
36. [Semantic] Does the project intersect the candy darter critical habitat?
Automatically answered
No
37. [Semantic] Does the project intersect the diamond darter critical habitat?
Automatically answered
No
-

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

Automatically answered

No

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

Automatically answered

No

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

No

PROJECT QUESTIONNAIRE

1. Approximately how many acres of trees would the proposed project remove?
0.5
 2. Approximately how many total acres of disturbance are within the disturbance/
construction limits of the proposed project?
1.3
 3. Briefly describe the habitat within the construction/disturbance limits of the project site.
*The cover types within the construction limits include mixed-coniferous and deciduous
upland forest and agricultural field.*
-

IPAC USER CONTACT INFORMATION

Agency: Private Entity
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Address: 106 Lafayette Street, Suite 2A
City: Yarmouth, ME 04096
State: ME
Zip: 04096
Email: jessie@flycatcherllc.com
Phone: 2074919029

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers



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

In Reply Refer To:
Project Code: 2023-0083017
Project Name: CT 5 - Willington Battery Storage

May 17, 2023

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

To Whom It May Concern:

Updated 4/12/2023 - Please review this letter each time you request an Official Species List, we will continue to update it with additional information and links to websites may change.

About Official Species Lists

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. Federal and non-Federal project proponents have responsibilities under the Act to consider effects on listed species.

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 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. 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 by returning to an existing project's page in IPaC.

Endangered Species Act Project Review

Please visit the “**New England Field Office Endangered Species Project Review and Consultation**” website for step-by-step instructions on how to consider effects on listed

species and prepare and submit a project review package if necessary:

<https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review>

NOTE Please do not use the **Consultation Package Builder** tool in IPaC except in specific situations following coordination with our office. Please follow the project review guidance on our website instead and reference your **Project Code** in all correspondence.

Northern Long-eared Bat - (Updated 4/12/2023) The Service published a final rule to reclassify the northern long-eared bat (NLEB) as endangered on November 30, 2022. The final rule went into effect on March 31, 2023. You may utilize the **Northern Long-eared Bat Rangewide Determination Key** available in IPaC. More information about this Determination Key and the Interim Consultation Framework are available on the northern long-eared bat species page:

<https://www.fws.gov/species/northern-long-eared-bat-myotis-septentrionalis>

For projects that previously utilized the 4(d) Determination Key, the change in the species' status may trigger the need to re-initiate consultation for any actions that are not completed and for which the Federal action agency retains discretion once the new listing determination becomes effective. If your project was not completed by March 31, 2023, and may result in incidental take of NLEB, please reach out to our office at newengland@fws.gov to see if reinitiation is necessary.

Additional Info About Section 7 of the Act

Under section 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to determine whether projects may affect threatened and endangered species and/or designated critical habitat. If a Federal agency, or its non-Federal representative, determines 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 Federal agency also may need to consider proposed species and proposed critical habitat in the consultation. 50 CFR 402.14(c)(1) specifies the information required for consultation under the Act regardless of the format of the evaluation. 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:

<https://www.fws.gov/service/section-7-consultations>

In addition to consultation requirements under Section 7(a)(2) of the ESA, please note that under sections 7(a)(1) 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. Please contact NEFO if you would like more information.

Candidate species that appear on the enclosed species list have no current protections under the ESA. The species' occurrence on an official species list does not convey a requirement to

consider impacts to this species as you would a proposed, threatened, or endangered species. The ESA does not provide for interagency consultations on candidate species under section 7, however, the Service recommends that all project proponents incorporate measures into projects to benefit candidate species and their habitats wherever possible.

Migratory Birds

In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see:

<https://www.fws.gov/program/migratory-bird-permit>

<https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Please feel free to contact us at **newengland@fws.gov** with your **Project Code** in the subject line if you need more information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat.

Attachment(s): Official Species List

Attachment(s):

- Official Species List
-

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New England Ecological Services Field Office

70 Commercial Street, Suite 300

Concord, NH 03301-5094

(603) 223-2541

PROJECT SUMMARY

Project Code: 2023-0083017

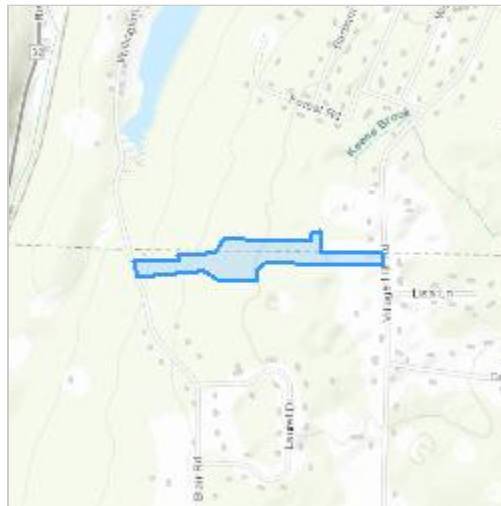
Project Name: CT 5 - Willington Battery Storage

Project Type: Mixed-Use Construction

Project Description: The Project is the development of a 5MW Battery Energy Storage System (BESS) on approximately 14.5 acre area of land between Blair Road and Village Hill Road in Willington, CT. Project components will include the construction of a construction access road from Village Hill Road to a 0.5 acre area where the battery storage components will be installed on a concrete pad.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@41.94044445,-72.29480416697945,14z>



Counties: Tolland County, Connecticut

ENDANGERED SPECIES ACT SPECIES

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

FLOWERING PLANTS

NAME	STATUS
Small Whorled Pogonia <i>Isotria medeoloides</i> Population: No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1890	Threatened

CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Jessie Hutchinson
Address: 106 Lafayette Street, Suite 2A
City: Yarmouth, ME 04096
State: ME
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Phone: 2074919029

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers
