

FEDERAL ENERGY REGULATORY COMMISSION
MEMORANDUM

DATE: June 24, 2021

FROM: Dianne Rodman, Ecologist
Division of Hydropower Licensing
Office of Energy Projects

TO: Public Files for the Pejepscot Hydroelectric Project (P-4784-106)

SUBJECT: List of Threatened, Endangered, Candidate, and Proposed Species, and Verification Letter for the Project Under the January 5, 2016 Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-eared Bat. Generated by ECOS-IPaC Website on June 24, 2021.

On June 24, 2021, Commission staff accessed the U.S. Fish and Wildlife Service's (FWS) ECOS-IPaC website (<https://ecos.fws.gov/ipac/>) to generate an official list of federally listed threatened, endangered, candidate, and proposed species, and designated or proposed critical habitats that may occur within the boundary of or be affected by the Pejepscot Hydroelectric Project.

The endangered Atlantic salmon and its designated critical habitat, and the threatened northern long-eared bat (NLEB) may occur within the project boundary or be affected by the project.

Also on June 24, 2021, Commission staff provided the FWS with staff's effect determination for the NLEB via the ECOS-IPaC website, concluding that relicensing the Pejepscot Project may affect the NLEB. FWS concurred that the NLEB may be affected, but any take that may occur as a result of the action is not prohibited under the Endangered Species Act section 4(d) rule adopted for this species.

See the attached species list and letter for additional information.



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Maine Ecological Services Field Office

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East Orland, ME 04431

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<http://www.fws.gov/mainefieldoffice/index.html>

In Reply Refer To:

June 24, 2021

Consultation Code: 05E1ME00-2021-SLI-1354

Event Code: 05E1ME00-2021-E-04095

Project Name: Pejepscot Hydroelectric Project, FERC No. 4784

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:

The enclosed species list identifies the threatened, endangered, candidate, and proposed species and designated or proposed critical habitat that may occur within the boundary of your proposed project or may be affected by your proposed project. This 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 Web site 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 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 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>

This species list also identifies candidate species under review for listing and those species that the Service considers species of concern. Candidate species have no protection under the Act but are included for consideration because they could be listed prior to completion of your project. Species of concern are those taxa whose conservation status is of concern to the Service (i.e., species previously known as Category 2 candidates), but for which further information is needed.

If a proposed project may affect only candidate species or species of concern, you are not required to prepare a Biological Assessment or biological evaluation or to consult with the Service. However, the Service recommends minimizing effects to these species to prevent future conflicts. Therefore, if early evaluation indicates that a project will affect a candidate species or species of concern, you may wish to request technical assistance from this office to identify appropriate minimization measures.

Please be aware that bald and golden eagles are not protected under the Endangered Species Act but are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.). Projects affecting these species may require development of an eagle conservation plan: http://www.fws.gov/windenergy/eagle_guidance.html Information on the location of bald eagle nests in Maine can be found on the Maine Field Office Web site: <http://www.fws.gov/mainefieldoffice/Project%20review4.html>

Additionally, wind energy projects should follow the wind energy guidelines: <http://www.fws.gov/windenergy/> for minimizing impacts to migratory birds and bats. Projects may require development of an avian and bat protection plan.

Migratory birds are also a Service trust resource. Under the Migratory Bird Treaty Act, construction activities in grassland, wetland, stream, woodland, and other habitats that would result in the take of migratory birds, eggs, young, or active nests should be avoided. 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> and at:

<http://www.towerkill.com>; and at:

<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(s):

- Official Species List
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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:

Maine Ecological Services Field Office

P. O. Box A

East Orland, ME 04431

(207) 469-7300

Project Summary

Consultation Code: 05E1ME00-2021-SLI-1354

Event Code: 05E1ME00-2021-E-04095

Project Name: Pejepscot Hydroelectric Project, FERC No. 4784

Project Type: POWER GENERATION

Project Description: Topsham Hydro Partners L.P. applied on August 31, 2020, to the Federal Energy Regulatory Commission (FERC) for a new license to continue operating and maintaining the existing Pejepscot Hydroelectric Project. The project is located on the Androscoggin River in Sagadahoc, Cumberland, and Androscoggin Counties in the village of Pejepscot and the town of Topsham, Maine. The existing project consists of: (1) a 560-foot-long, 47.5-foot-high dam that is topped with a 5-foot-thick reinforced concrete slab; (2) a 225-acre, 3-mile-long reservoir; (3) an original powerhouse integral with the dam and containing three turbine-generator units with a combined rated capacity of approximately 1.58 megawatts (MW); (4) a newer powerhouse also integral with the dam southeast of the original powerhouse and containing a turbine and a generator with a rated capacity of approximately 12.3 MW; (5) a vertical lift upstream fish passage facility; (6) a downstream fish passage facility; (7) a tailrace that discharges water into the Androscoggin River approximately 25 feet downstream of the powerhouses; and (8) two 900-foot-long, 15-kilovolt cable connections to substations located north and south of the powerhouses, respectively. The project is operated in a run-of-river mode.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.97217415,-70.03183826607466,14z>



Counties: Androscoggin, Cumberland, and Sagadahoc counties, Maine

Endangered Species Act Species

There is a total of 2 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	Threatened

Fishes

NAME	STATUS
Atlantic Salmon <i>Salmo salar</i> Population: Gulf of Maine DPS There is final critical habitat for this species. Your location overlaps the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2097	Endangered

Critical habitats

There is 1 critical habitat wholly or partially within your project area under this office's jurisdiction.

NAME	STATUS
Atlantic Salmon <i>Salmo salar</i> https://ecos.fws.gov/ecp/species/2097#crithab	Final



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In Reply Refer To:

June 24, 2021

Consultation code: 05E1ME00-2021-TA-1354

Event Code: 05E1ME00-2021-E-04096

Project Name: Pejepscot Hydroelectric Project, FERC No. 4784

Subject: Verification letter for the 'Pejepscot Hydroelectric Project, FERC No. 4784' 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 Dianne Rodman:

The U.S. Fish and Wildlife Service (Service) received on June 24, 2021 your effects determination for the 'Pejepscot Hydroelectric Project, FERC No. 4784' (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.

This IPaC-assisted determination allows you to rely on the PBO for compliance with ESA Section 7(a)(2) only for the northern long-eared bat. It **does not** apply to the following ESA-protected species that also may occur in the Action area:

- Atlantic Salmon *Salmo salar* Endangered

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

Pejepscot Hydroelectric Project, FERC No. 4784

2. Description

The following description was provided for the project 'Pejepscot Hydroelectric Project, FERC No. 4784':

Topsham Hydro Partners L.P. applied on August 31, 2020, to the Federal Energy Regulatory Commission (FERC) for a new license to continue operating and maintaining the existing Pejepscot Hydroelectric Project. The project is located on the Androscoggin River in Sagadahoc, Cumberland, and Androscoggin Counties in the village of Pejepscot and the town of Topsham, Maine. The existing project consists of: (1) a 560-foot-long, 47.5-foot-high dam that is topped with a 5-foot-thick reinforced concrete slab; (2) a 225-acre, 3-mile-long reservoir; (3) an original powerhouse integral with the dam and containing three turbine-generator units with a combined rated capacity of approximately 1.58 megawatts (MW); (4) a newer powerhouse also integral with the dam southeast of the original powerhouse and containing a turbine and a generator with a rated capacity of approximately 12.3 MW; (5) a vertical lift upstream fish passage facility; (6) a downstream fish passage facility; (7) a tailrace that discharges water into the Androscoggin River approximately 25 feet downstream of the powerhouses; and (8) two 900-foot-long, 15-kilovolt cable connections to substations located north and south of the powerhouses, respectively. The project is operated in a run-of-river mode.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.97217415,-70.03183826607466,14z>



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

Automatically answered

No

5. [Semantic] Is the project action area located within 0.25 miles of a known northern long-eared bat hibernaculum?

Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency

Automatically answered

No

6. [Semantic] Is the project action area located within 150 feet of a known occupied northern long-eared bat maternity roost tree?

Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency

Automatically answered

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

0

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

0

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

Document Content(s)

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