

From: [Melanie Yasbin](#)
To: [Assenza, Adam](#)
Subject: RE: AB-55-816-X: USFWS consultation and IPaC
Date: Sunday, August 4, 2024 4:01:57 PM
Attachments: [Species List Kentucky Ecological Services Field Office \(1\).pdf](#)

Hello Adam,

It looks like the species list had expired. I've attached the updated list. No additional species have been added to the updated list. If you need anything else please let me know.

Thank you,
Melanie

From: Assenza, Adam <Adam.Assenza@stb.gov>
Sent: Monday, July 29, 2024 2:34 PM
To: Melanie Yasbin <melanie@lgrailaw.com>
Subject: AB-55-816-X: USFWS consultation and IPaC

Hello Melanie,

Thank you for initiating consultation with the USFWS Kentucky Ecological Services Field Office. I saw the signed statement from Seth Bishop in your filing (dated 6/24/24) noting that significant impacts to federally listed species are not likely to result from this project as proposed, but that re-coordination is needed if the project changes (which it has not) or if new species or critical habitats are listed that could be impacted by the project (which may have, based on my initial attempt to access IPaC using the project record locator numbers provided in your filing).

Can you please give me a call back at your earliest convenience so that we can discuss the USFWS consultation process and what may still be needed?

Thank you,

Adam Assenza

Environmental Protection Specialist (he/him)
Office of Environmental Analysis
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United States Department of the Interior



FISH AND WILDLIFE SERVICE
Kentucky Ecological Services Field Office
J C Watts Federal Building, Room 265
330 West Broadway
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In Reply Refer To:

08/04/2024 19:55:14 UTC

Project Code: 2024-0083842

Project Name: CSXT Abandonment Exemption--Pike County, KY AB-55 (Sub-No. 816X)

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 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 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 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:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

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/what-we-do..>

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

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 Code 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

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:

Kentucky Ecological Services Field Office

J C Watts Federal Building, Room 265

330 West Broadway

Frankfort, KY 40601-8670

(502) 695-0467

PROJECT SUMMARY

Project Code: 2024-0083842

Project Name: CSXT Abandonment Exemption--Pike County, KY AB-55 (Sub-No. 816X)

Project Type: Abandonment of Rail Line

Project Description: CSX Transportation, Inc., ("CSXT") proposes to abandon the approximately 5.1-mile rail line that runs between milepost CML 9.0 and milepost CML 14.1, Louisville Division, Winns Branch-Big Sandy Subdivision, in Pike County, KY

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@37.53202785,-82.45567388933293,14z>



Counties: Pike County, Kentucky

ENDANGERED SPECIES ACT SPECIES

There is a total of 5 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. Note that 2 of these species should be considered only under certain conditions.

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
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: The project area includes potential gray bat habitat. Species profile: https://ecos.fws.gov/ecp/species/6329 General project design guidelines: https://ipac.ecosphere.fws.gov/project/YLV5TB6HNVASJNFWJJGBH7LHVM/documents/generated/6422.pdf	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: The project area includes 'potential' habitat. All activities in this location should consider possible effects to this species. Species profile: https://ecos.fws.gov/ecp/species/5949 General project design guidelines: https://ipac.ecosphere.fws.gov/project/YLV5TB6HNVASJNFWJJGBH7LHVM/documents/generated/6422.pdf	Endangered
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 General project design guidelines: https://ipac.ecosphere.fws.gov/project/YLV5TB6HNVASJNFWJJGBH7LHVM/documents/generated/6422.pdf	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed 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

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
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LEAD AGENCY CONTACT INFORMATION

Lead Agency: Surface Transportation Board
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