**Re-evaluation and Environmental Impact/
Design Refinement Update Memo**

**For**

**Roadway
Termini
X County, WI**

**Project I.D.
Date:**

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WisDOT X Region Date
X., Project Manager

\_Only if FHWA approved the e-doc\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Federal Highway Administration Date
X., Job Title

CC:
WisDOT Bureau of Technical Services – EPDS Region Liaison

**Introduction:**

This memo documents the Endangered Species Act consultation for the Northern Long Eared Bat (*Myotis septentrionalis*) (NLEB). This addresses the reclassification of NLEB from Threatened to Endangered and any additional avoidance and minimization measures needed as a result of the updated consultation on the ROADWAY project (PROJECT ID) consistent with WisDOT Facilities Development Manual chapter 20-40 and 23 Code of Federal Regulations 771.129. The original ENVIRONMENTAL DOCUMENT TYPE AND ANY PREVIOUS RE-EVAL INFO for this project was approved on DATE. It is available in the Wisconsin Department of Transportation (WisDOT) REGION Region Files.

**Project Purpose and Need:**

Include the purpose and need statement from the original e-doc/re-evals.

**Updated NLEB Determination:**

*Pick from the following effect determinations for example language to include with your re-eval:*

*Option 1 (NEPA) FHWA/FTA/FRA funding/action*

*Option 1a: “No Effect” determination.*
Using the USFWS Information for Planning and Consultation (IPaC) website, the project was processed using FHWA, FRA, FTA Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat determination key and resulted in a No Effect determination. No USFWS consultation is required. There are no changes to project environmental commitments. Supporting documentation is attached.

*Option 1b: “Not Likely to Adversely Affect” determination.*Using the USFWS Information for Planning and Consultation (IPaC) website, the project was processed under the FHWA, FRA, FTA Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat determination key and resulted in a Not Likely to Adversely Affect (NLAA) determination. No response was received from USFWS within 14 days of the IPaC generated concurrence verification letter therefore concurrence with the NLAA determination is assumed. Avoidance and Minimization Measures (AMMs) were used to reach this determination and are included in the project environmental commitments. Supporting documentation is attached.

*Option 1c: “Likely to Adversely Affect” determination. (discuss with EPDS Liaison).*Using the USFWS Information for Planning and Consultation (IPaC) website, the project was processed under the FHWA, FRA, FTA Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat determination key and resulted in a Likely to Adversely Affect (LAA) determination. USFWS has reviewed the submittal and provided a letter confirming the project’s effects are consistent with those analyzed in the programmatic biological opinion. Avoidance and Minimization Measures (AMMs) were used to reach this determination and are included in the project environmental commitments. An Incidental Take Statement was issued by USFWS. Immediate re-initiation of consultation is required if the amount or extent of take is exceeded. Supporting documentation is attached.

*Option 2 (WEPA) No FHWA/FTA/FRA funding/action (if re-eval is deemed necessary by the region, choose the appropriate option below):*

*Option 2a - “No Effect” determination.*
Using the USFWS Information for Planning and Consultation (IPaC) website, the project was processed using the Northern Long-eared Bat Rangewide determination key and resulted in a No Effect determination and the project is not likely to result in unauthorized take of the northern long-eared bat. No USFWS consultation is required. There are no changes to project environmental commitments. Supporting documentation is attached.

*Option 2b - “Not Likely to Adversely Affect” determination.*

Using the USFWS Information for Planning and Consultation (IPaC) website, the project was processed under the Northern Long-eared Bat Rangewide determination key and resulted in a Not Likely to Adversely Affect (NLAA) determination. No response was received from USFWS within 15 days of the IPaC generated consistency letter, therefore the project is not likely to result in unauthorized take of the northern long-eared bat. Avoidance and Minimization Measures (AMMs) were used to reach this determination and are included in the project environmental commitments. Supporting documentation is attached.

*Option 2c - “May affect” determination. (discuss with EPDS Liaison)*
Using the USFWS Information for Planning and Consultation (IPaC) website, the project was processed under the Northern Long-eared Bat Rangewide determination key and resulted in a May Affect determination. Further coordination has been completed with USFWS and they have agreed with WisDOT’s determination that the project is not likely to result in unauthorized take of the northern long-eared bat. Avoidance and Minimization Measures (AMMs) were used to reach this determination and are included in the project environmental commitments. Supporting documentation is attached.

**Updated Agency Coordination:**

*(select one option for NLEB)*

The Natural Heritage Inventory (NHI) review for NLEB was updated by WDNR on (DATE). Supporting documentation is attached.

or

The project’s action area was screened for known hibernacula and summer roosts using the DNR May 2023 NHI NLEB township data. The project’s action area does not intersect with counties containing known hibernacula or summer roosts nor is it within 0.5-mile of counties containing those elements. No further coordination with DNR for NLEB was required.

*(Include for all projects that have not already discussed the Monarch or tricolored bat.)*

An updated USFWS official species was obtained for the project on (date). The monarch butterfly (*Danaus plexippus*) is included as a candidate species, as listing remains warranted but precluded by listing actions of higher priority. The Endangered Species Act does not establish protections or consultation requirements for candidate species. No further action is presently needed. If listed, WisDOT will (SELECT: resolve Section 7 or coordinate incidental take) prior to let as appropriate. Construction activities for this project will not take place until WisDOT (in coordination with FHWA) satisfies any necessary Endangered Species Act compliance for the monarch butterfly.

On September 14, 2022, the U.S. Fish and Wildlife Service announced a proposal to list the tricolored bat (*Perimyotis subflavus*) as endangered under the Endangered Species Act. There are no ESA requirements for proposed species unless the proposed action is likely to jeopardize the species’ continued existence. Using the USFWS Information for Planning and Consultation (IPaC) website, the project was processed under the MN-WI Endangered Species determination key and resulted in a provisional (SELECT: No Effect, Not Likely to Adversely Affect (NLAA) or May Affect) determination for tricolored bat. The project is not anticipated to jeopardize the continued existence of the species. (IF NLAA, ALSO INCLUDE: No response was received from USFWS within 30 days of the IPaC generated consistency letter therefore concurrence with the provisional NLAA determination is assumed. If listed, WisDOT will (SELECT: resolve Section 7 or coordinate incidental take) prior to let as appropriate. Construction activities for this project will not take place until WisDOT (in coordination with FHWA) satisfies Endangered Species Act compliance for the TCB.

(note any other species changes and necessary effect determinations/consultation.)

**Summary:**

No other substantial changes (needs to be confirmed) to the project or environmental impacts have occurred since the Environmental Document approval. The proposed project still meets the stated purpose and need. With the above/attached considered, the Region has determined that none of the project changes described above will result in a new significant impact, no further coordination or documentation of impacts is necessary for the ROADWAY (PROJECT ID) project at this time and the previously approved Environmental Document remains valid. Furthermore, WisDOT remains committed to fulfilling the avoidance, minimization, and mitigation measures described.

**List of Exhibits:**

Exhibit 1 Updated IPaC Official Species List

Exhibit 2 Updated DNR coordination (as required)

Exhibit 3 FWS coordination (e.g., d-key consistency letters, coordination emails)

Exhibit 4 Updated environmental commitments (as required)

Exhibit 5 Threatened and Endangered Factor Sheet (UPDATE REQUIRED)