

Species Conclusions Table

Project Manager: Audrey Cotnoir	Project Name: New Mill Creek tidal Mitigation Bank
Date: March 7, 2017	Project Number: NAO-2015-01443

Project Description: Construct and operate a tidal wetland compensatory mitigation bank on approximately 29 acres of land on New Mill Creek a tributary t

Species Under the Jurisdiction of FWS:

Species/Resource Name	Conclusion	ESA Section 7 / Eagle Act Determination	Species Info / Habitat Description	Notes / Determination
Northern long-eared bat (Myotis septentrionalis)	NLEB: Implementing a 4/15-9/15 TOYR on tree clearing	Not likely to adversely affect	<p>"Northern long-eared bats spend winter hibernating in caves and mines, called hibernacula. They typically use large caves or mines with large passages and entrances; constant temperatures; and high humidity with no air currents. Specific areas where they hibernate have very high humidity, so much so that droplets of water are often seen on their fur. Within hibernacula, surveyors find them in small crevices or cracks, often with only the nose and ears visible.</p> <p>During summer, northern long-eared bats roost singly or in colonies underneath bark, in cavities, or in crevices of both live and dead trees. Males and non-reproductive females may also roost in cooler places, like caves and mines. This bat seems opportunistic in selecting roosts, using tree species based on suitability to retain bark or provide cavities or crevices. It has also been found, rarely, roosting in structures like barns and sheds."</p>	Tree clearing will be the minimal necessary to excavate the connection to tidal waters.

Species Conclusions Table

Date: March 7, 2017	Project Number: NAO-2015-01443
---------------------	--------------------------------

Eagles (*Haliaeetus leucocephalus*)

Eagle Nests	Unlikely to disturb nesting bald eagles	No Eagle Act permit required		
Eagle Concentration Areas	Does not intersect with bald eagle concentration area	No Eagle Act permit required		

Critical Habitat

N/A				
-----	--	--	--	--

Other (species not listed above)

--	--	--	--	--

Species Under the Jurisdiction of NOAA/NMFS

Essential Fish Habitat				
Anadromous Fish Use Area				
Subaquatic Vegetation				
HAPC Sandbar Shark				
Atlantic Sturgeon				

* Copyright © 2014 NatureServe, 4600 N. Fairfax Dr., 7th Floor, Arlington Virginia 22203, U.S.A. All Rights Reserved. Each document delivered from this server or web site may contain other proprietary notices and copyright information relating to that document. The following citation should be used in any published materials which reference the web site.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Virginia Ecological Services Field Office
6669 SHORT LANE
GLOUCESTER, VA 23061
PHONE: (804)693-6694 FAX: (804)693-9032
URL: www.fws.gov/northeast/virginiafield/

Consultation Code: 05E2VA00-2017-SLI-1943

March 06, 2017

Event Code: 05E2VA00-2017-E-03456

Project Name: New Mill Creek Tidal Mitigation Bank

Subject: List of threatened and endangered species that may occur in your proposed project location, and/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.*). Any activity proposed on National Wildlife Refuge lands must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

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 website 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/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:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

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



United States Department of Interior
Fish and Wildlife Service

Project name: New Mill Creek Tidal Mitigation Bank

Official Species List

Provided by:

Virginia Ecological Services Field Office

6669 SHORT LANE

GLOUCESTER, VA 23061

(804) 693-6694

<http://www.fws.gov/northeast/virginiafield/>

Consultation Code: 05E2VA00-2017-SLI-1943

Event Code: 05E2VA00-2017-E-03456

Project Type: LAND - RESTORATION / ENHANCEMENT

Project Name: New Mill Creek Tidal Mitigation Bank

Project Description: Construct a tidal mitigation bank

Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: New Mill Creek Tidal Mitigation Bank

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-76.30519008715056 36.73723333556389, -76.30258083343507 36.735197314410776, -76.30017757415773 36.73767354949483, -76.3006410606613 36.73858148232808, -76.30058956172435 36.740273510864476, -76.3010358810425 36.74043858491187, -76.3018770220515 36.73914549624689, -76.30247783687084 36.73888412439431, -76.30366230063375 36.73911798337934, -76.30519008715056 36.73723333556389)))

Project Counties: Chesapeake, VA



United States Department of Interior
Fish and Wildlife Service

Project name: New Mill Creek Tidal Mitigation Bank

Endangered Species Act Species List

There are a total of 1 threatened or endangered species on your 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. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Mammals	Status	Has Critical Habitat	Condition(s)
Northern long-eared Bat (<i>Myotis septentrionalis</i>) Population: Wherever found	Threatened		



United States Department of Interior
Fish and Wildlife Service

Project name: New Mill Creek Tidal Mitigation Bank

Critical habitats that lie within your project area

There are no critical habitats within your project area.



United States Department of Interior
Fish and Wildlife Service

Project name: New Mill Creek Tidal Mitigation Bank

Appendix A: FWS National Wildlife Refuges and Fish Hatcheries

There are no refuges or fish hatcheries within your project area.

Regulatory GIS Report

Report Date: 07-MAR-17

Center Coordinate: 36.736959, -76.302129



Subbasin (HUC 8) Watershed Boundary

HUC 8 Number	HUC 8 Name	Acres	Wetland Acres	% Wetlands	Stream Miles
02080208	Hampton Roads	323311.20682038	113949.999589	35.24482078	1348.38

1 - 1

County/City

Locality Name
Chesapeake

1 - 1

CCB Bald Eagle Nest (2010)

none

CCB Bald Eagle Nest (2010) - 660' Buffer

none

FEMA 100-yr (1% Annual Chance) Floodplain

Flood Zone	Zone Subtype	Vertical Datum	Base Flood Elevation (Feet)
AE		NAVD88	8

1 - 1

NAO Dredged Material Placement Area

none

NAO Federal Navigation Channel

none

NAO Federal Navigation Channel Setback

none

NAO Flood Risk Management Project Location

none

NAO Oyster Reefs

none

NAO Real Estate Land Parcels

none

NAO Reference Well Site

none

NMFS Essential Fish Habitat

none

NRCS Wetlands Determination (WETS) Station

none

NRCS Soil Survey (SSURGO)

Map Unit Symbol	Map Unit Name	Drainage Class	Hydric Rating
49	Udorthents-Urban land complex, 0 to 45 percent slopes		Partially hydric
33	Pocaty mucky peat, 0 to 1 percent slope, very frequently flooded	Very poorly drained	All hydric
49	Udorthents-Urban land complex, 0 to 45 percent slopes		Partially hydric
31	Pactolus loamy fine sand, 0 to 3 percent slopes	Moderately well drained	Partially hydric
35C	Psamments, 0 to 10 percent slopes	Well drained	Partially hydric
25	Munden fine sandy loam, 0 to 2 percent slopes	Moderately well drained	Partially hydric
35C	Psamments, 0 to 10 percent slopes	Well drained	Partially hydric
35C	Psamments, 0 to 10 percent slopes	Well drained	Partially hydric
25	Munden fine sandy loam, 0 to 2 percent slopes	Moderately well drained	Partially hydric
20	Dragston-Tomotley complex, 0 to 2 percent slopes	Somewhat poorly drained	Partially hydric
49	Udorthents-Urban land complex, 0 to 45 percent slopes		Partially hydric
31	Pactolus loamy fine sand, 0 to 3 percent slopes	Moderately well drained	Partially hydric
W	Water		Not hydric

1 - 13

RIBITS Bank List

none

USACE Recreation Area

none

VDCR Endangered Species

none

VDGIF Anadromous Fish Use Waters

none

VDGIF TE Waters

none

VDGIF Cold Water Stream Survey (CWSS) - Trout Streams

none

VDGIF Colonial Water Birds

none

VDGIF Bald Eagle Concentration Area

none

VDGIF Federal & State Listed Species

none

VDGIF NLEB Roost Trees

none

VDGIF NLEB Winter Habitat

none

VDHR Archaeological Resources

none

VDHR Architectural Resources

none

VIMS SAV Beds (2010)

none

VIMS SAV Beds (2011)

none

VIMS SAV Beds (2012)

none

VIMS SAV Beds (2013)

none

VIMS SAV Beds (2014)

none

VMRC Oyster Ground Leases

none

VMRC Oyster Ground Applications

none

VMRC Public Baylor Grounds

none

VMRC Public Clamming Grounds

none

release 1.0