

APPENDIX 19

USFWS IPaC Screening Documentation



March 8, 2024; Revised July 15, 2024

U.S. Fish & Wildlife Service
Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401
Via email: CBFOprojectreview@fws.gov

ECS Project No. 47:17729

**Reference: Jade Meadow 3 Solar
Project Review Request
Latitude 39.500759, Longitude -79.057904**

To Whom It May Concern:

We previously submitted a request for an environmental project review of the proposed Jade Meadow 3 solar project on March 8, 2024, and received a response from Raquel Wetzell with the USFWS on April 10, 2024, stating that the interim consultation was recently extended from April 1, 2024 to July 1, 2024. It was recommended that we resubmit for review after July 1, 2024. As such, we are resubmitting for review. Some aspects of the project have changed since the previous submission and have been updated within this letter.

The project is located in the vicinity of New Georges Creek Road in Westernport, Allegany and Garrett Counties, Maryland. The site is approximately 4,456 acres in size and consists of active and reclaimed mines, agricultural land, wooded land, and commercial and residential structures. The proposed development includes a utility scale solar field.

An Official Species List is attached which lists the Indiana bat, tricolored bat, Northern long-eared bat (NLEB), and Monarch butterfly (candidate sp.) as having the potential to be located within the project area. Based on the results of the NLEB determination key, the proposed project *'may affect'* the northern long-eared bat. The proposed project may also affect the Indiana bat and tricolored bat due to the 498.66 acres of forest proposed to be cleared, although it should be noted that the client has stated that 3,282.34 acres of forest will remain intact to provide habitat for these bat species. In addition, the client indicated that tree removal will occur during the inactive season. For the monarch butterfly, potential habitat was observed throughout the subject property; however, the proposed project will not jeopardize the species because the land that is not forested consists of maintained agricultural fields and/or active mines. We are requesting USFWS' review and concurrence with this determination based on the enclosed information.

Maps and aerial photographs that depict the study area are attached to this request letter. At this time, the design of the project has not been finalized but according to the solar project developer, the full 4,456 acres will not be fully developed and impacts to streams and wetlands will be mostly avoided, although a wetland permit may be needed at some point in the future. As a result, we have assumed that a federal nexus will be present for the purposes of this review. If you have any questions regarding the contents of this letter or need additional information to conduct your review, please do not hesitate to contact the undersigned.

Sincerely,
ECS MID-ATLANTIC, LLC



Michael Bacon
Environmental Project Manager
mbacon@ecslimited.com

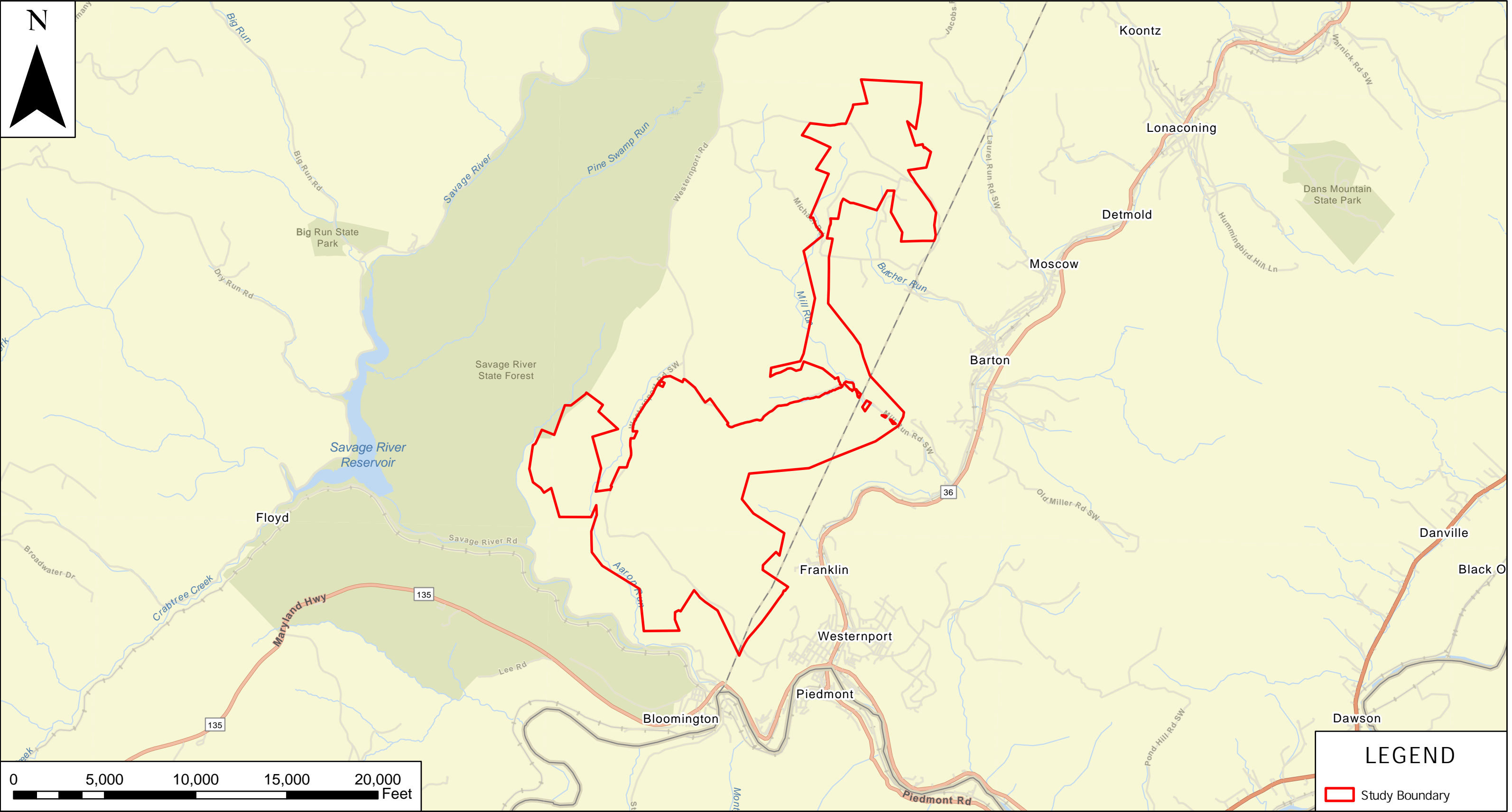


Justin M. Hughes, PWS
Associate Principal
JHughes@ecslimited.com

ENCLOSURES:

1. Maps of the Study Area
2. Preliminary Species List
3. Consistency Letter for NLEB
4. USFWS Response

MAPS OF STUDY AREA



ECS Mid-Atlantic, LLC
1340 Charwood Road, Suite B
Hanover, MD 21076
Phone: (410) 859-4300
www.ecslimited.com

ECS Project No. 47:17729

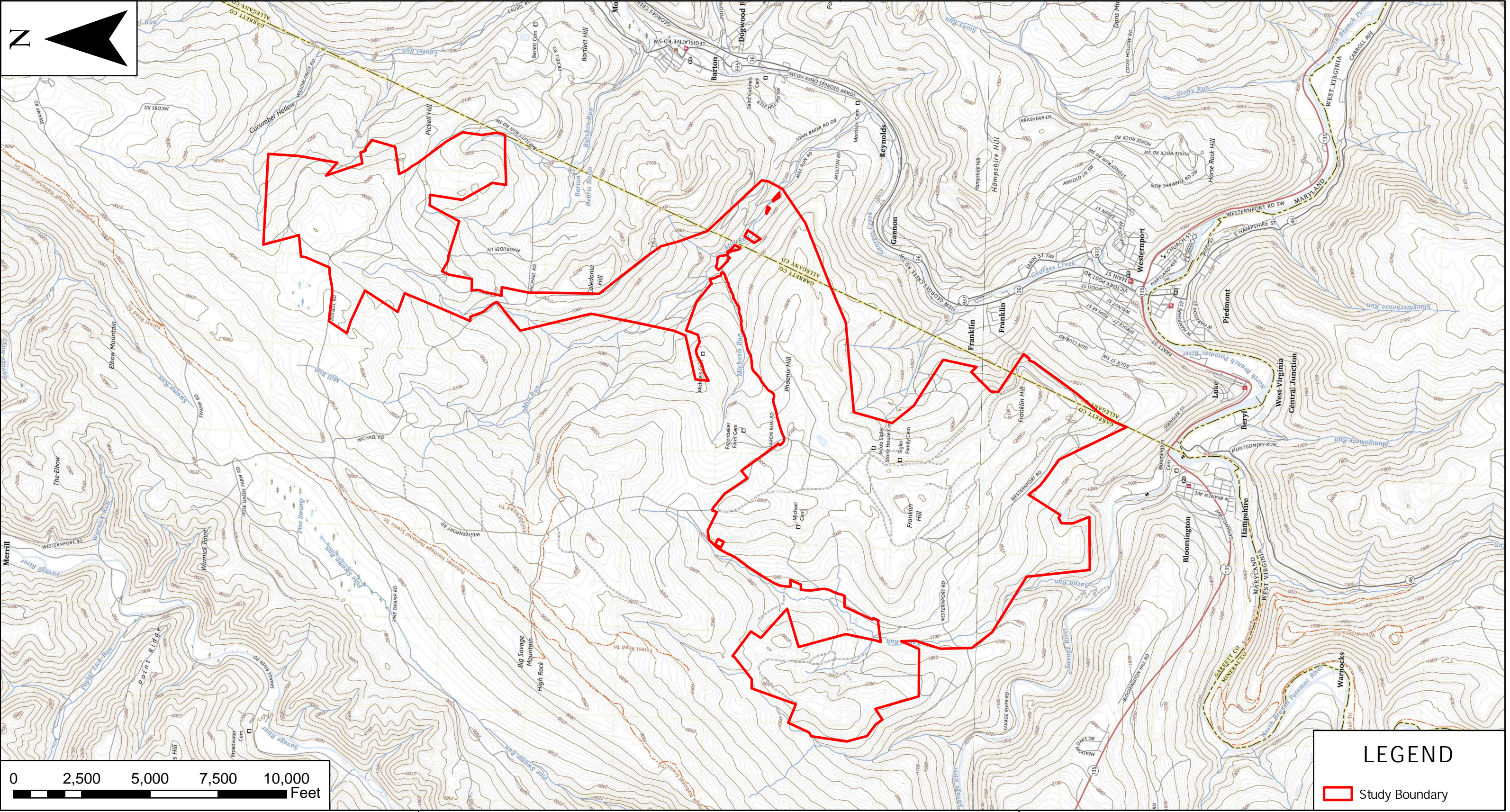
Jade Meadow 3
New Georges Creek Road
Allegany and Garrett Counties, MD

Project Acreage: 4,456 acres
Latitude: 39.502500° North
Longitude: 79.075800° West

Figure 1
Site Location

USGS Quadrangles: Barton, MD (2023)
and Westernport, MD (2023)
Watershed: North Branch Potomac
Hydrologic Unit Code: 02070002

Service Layer Credits:
World Street Map: WVU Facilities, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/
NASA, USGS, EPA, NPS, USDA, USFWS



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New Georges Creek Road
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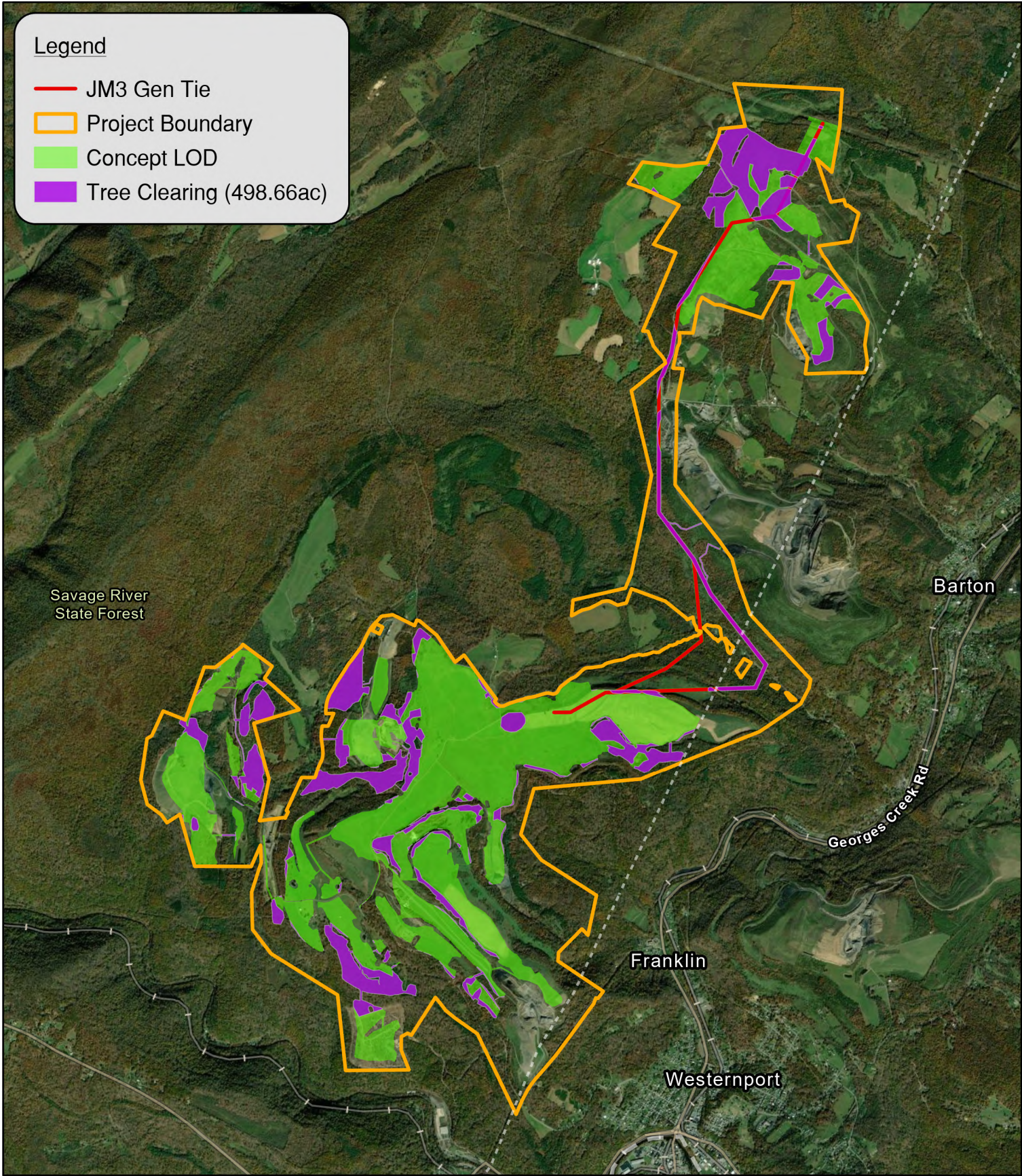


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Jade Meadow 3 New Georges Creek Road Allegany and Garrett Counties, MD	
Project Acreage: 4,456 acres Latitude: 39.502500° North Longitude: 79.075800° West	Figure 3 Aerial Imagery USGS Quadrangles: Barton, MD (2023) and Westernport, MD (2023) Watershed: North Branch Potomac Hydrologic Unit Code: 02070002

Service Layer Credits:
World Imagery: Maxar



PRELIMINARY SPECIES LIST



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127



In Reply Refer To:
Project Code: 2024-0057478
Project Name: Jade Meadow III

07/15/2024 13:46:17 UTC

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
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

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:

Chesapeake Bay Ecological Services Field Office

177 Admiral Cochrane Drive

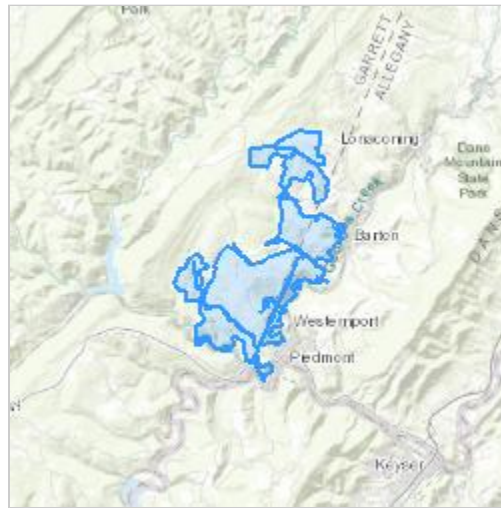
Annapolis, MD 21401-7307

(410) 573-4599

PROJECT SUMMARY

Project Code: 2024-0057478
Project Name: Jade Meadow III
Project Type: Power Gen - Solar
Project Description: Solar
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@39.517722500000005,-79.06612026022034,14z>



Counties: Allegany and Garrett counties, Maryland

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 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 1 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.

-
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
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: <ul style="list-style-type: none">▪ Consultation in this area is only required for wind power projects. Species profile: https://ecos.fws.gov/ecp/species/5949	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	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.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

RIVERINE

- R2UBH
- R3UBH
- R5UBH

FRESHWATER POND

- PUBHx
- PUBHh

FRESHWATER FORESTED/SHRUB WETLAND

- PFO1A
- PSS1C
- PFO1E

FRESHWATER EMERGENT WETLAND

- PEM5E

IPAC USER CONTACT INFORMATION

Agency: ECS Mid-Atlantic, LLC
Name: Michael Bacon
Address: 1340 Charwood Road
Address Line 2: Suite A
City: Hanover
State: MD
Zip: 21076
Email: mbacon@ecslimited.com
Phone: 4108594300

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

CONSISTENCY LETTER



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127



In Reply Refer To:
Project code: 2024-0057478
Project Name: Jade Meadow III

March 05, 2024

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

Subject: Technical assistance for 'Jade Meadow III'

Dear Mia Lenzenweger:

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 March 05, 2024, for 'Jade Meadow III' (here forward, Project). This project has been assigned Project Code 2024-0057478 and all future correspondence should clearly reference this number. **Please carefully review this letter. Your Endangered Species Act (Act) requirements are not complete.**

Ensuring Accurate Determinations When Using IPaC

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 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 Northern Long-eared Bat Rangewide Determination Key (Dkey), invalidates this letter.**

Determination for the Northern Long-Eared Bat

Based on your IPaC submission and the standing analysis for the Dkey, your project has reached the determination of "May Affect" the northern long-eared bat.

Next Steps

Your action may qualify for the Interim Consultation Framework for the northern long-eared bat. To determine if it qualifies, review the Interim Consultation Framework posted here <https://www.fws.gov/library/collections/interim-consultation-framework-northern-long-eared-bat>. If you

determine it meets the requirements of the Interim Consultation Framework, follow the procedures outlined there to complete section 7 consultation.

If your project does **not** meet the requirements of the Interim Consultation Framework, please contact the Chesapeake Bay Ecological Services Field Office for further coordination on this project. Further consultation or coordination with the Service is necessary for those species or designated critical habitats with a determination of “May Affect”.

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination for the northern long-eared bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Indiana Bat *Myotis sodalis* Endangered
- Monarch Butterfly *Danaus plexippus* Candidate

You may coordinate with our Office to determine whether the Action may cause prohibited take of the species listed above.

Action Description

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

1. Name

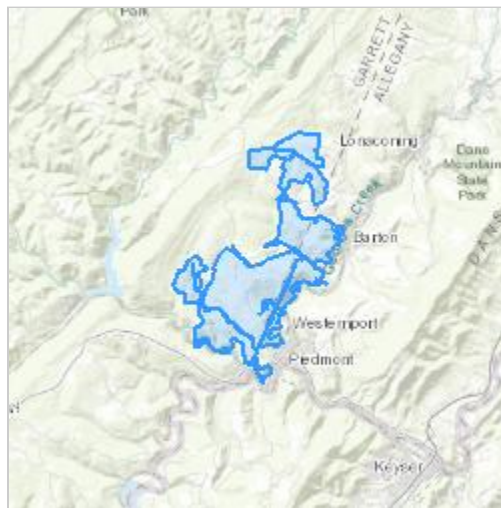
Jade Meadow III

2. Description

The following description was provided for the project 'Jade Meadow III':

Solar

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@39.51768865,-79.06613473131593,14z>



DETERMINATION KEY RESULT

Based on the answers provided, the proposed Action is consistent with a determination of “may affect” for the Endangered northern long-eared bat (*Myotis septentrionalis*).

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat or any other listed species?

Note: Intentional take is defined as take that is the intended result of a project. Intentional take 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

2. Does any component of the action involve construction or operation of 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

3. Is the proposed 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) funding or authorizing the proposed action, in whole or in part?

No

5. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

No

6. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

No

7. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

No

8. Have you determined that your proposed action will have no effect on the northern long-eared bat? Remember to consider the [effects of any activities](#) that would not occur but for the proposed action.

If you think that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, answer “No” below and continue through the key. If you have determined that the northern long-eared bat does not occur in your project’s action area and/or that your project will have no effects whatsoever on the species despite the potential for it to occur in the action area, you may make a “no effect” determination for the northern long-eared bat.

Note: Federal agencies (or their designated non-federal representatives) must consult with USFWS on federal agency actions that may affect listed species [50 CFR 402.14(a)]. Consultation is not required for actions that will not affect listed species or critical habitat. Therefore, this determination key will not provide a consistency or verification letter for actions that will not affect listed species. If you believe that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, please answer “No” and continue through the key. Remember that this key addresses only effects to the northern long-eared bat. Consultation with USFWS would be required if your action may affect another listed species or critical habitat. The definition of [Effects of the Action](#) can be found here: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

No

9. [Semantic] Is the action area located within 0.5 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

10. Does the action area contain any caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating northern long-eared bats?

Yes

11. Have you conducted, or will you conduct, a voluntary Phase 1 habitat assessment for potentially suitable hibernacula in accordance with the guidance in Appendix H of the USFWS’ current Range-wide Indiana bat and Northern long-eared bat Survey Guidelines?

Note: The survey guidelines can be found at: <https://www.fws.gov/library/collections/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

No

12. Will the proposed action result in the cutting or other means of knocking down, bringing down, or trimming of any trees suitable for northern long-eared bat roosting?

Note: Suitable northern long-eared bat roost trees are live trees and/or snags ≥ 3 inches dbh that have exfoliating bark, cracks, crevices, and/or cavities.

Yes

PROJECT QUESTIONNAIRE

Enter the extent of the action area (in acres) from which trees will be removed - round up to the nearest tenth of an acre. For this question, include the entire area where tree removal will take place, even if some live or dead trees will be left standing.

557

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the inactive (hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: <https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas>

557

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the active (non-hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: <https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas>

0

Will all potential northern long-eared bat (NLEB) roost trees (trees ≥ 3 inches diameter at breast height, dbh) be cut, knocked, or brought down from any portion of the action area greater than or equal to 0.1 acre? If all NLEB roost trees will be removed from multiple areas, select 'Yes' if the cumulative extent of those areas meets or exceeds 0.1 acre.

Yes

Enter the extent of the action area (in acres) from which all potential NLEB roost trees will be removed. If all NLEB roost trees will be removed from multiple areas, entire the total extent of those areas. Round up to the nearest tenth of an acre.

557

For the area from which all potential northern long-eared bat (NLEB) roost trees will be removed, on how many acres (round to the nearest tenth of an acre) will trees be allowed to regrow? Enter '0' if the entire area from which all potential NLEB roost trees are removed will be developed or otherwise converted to non-forest for the foreseeable future.

0

Will any snags (standing dead trees) ≥ 3 inches dbh be left standing in the area(s) in which all northern long-eared bat roost trees will be cut, knocked down, or otherwise brought down?

No

Will all project activities be completed by April 1, 2024?

No

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Mia Lenzenweger
Address: 1340 Charwood Rd
Address Line 2: Suite B
City: Hanover
State: MD
Zip: 21076
Email: mlenzenweger@ecslimited.com
Phone: 4108594300

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Army Corps of Engineers

USFWS CORRESPONDENCE

From: [CBFO Project Review, FW5](#)
To: [Michael E Bacon](#)
Subject: Re: [EXTERNAL] Project Review Request
Date: Wednesday, April 10, 2024 3:01:38 PM

Hello Michael,

Thank you for submitting this project for review and sorry for the delayed response. The NLEB determination key you issued to us is consistent with a may affect determination due to the amount of tree clearing taking place (500+ acres). The interim consultation framework was recently extended from April 1 to July 1, and it does not make sense to issue you a determination now with under guidelines that will be changing with a few months. We recommend that you resubmit this project for review after July 1.

Let me know if you have any questions,

Raquel Wetzell
US Fish and Wildlife Service
Chesapeake Bay Field Office
177 Admiral Cochrane Dr.
Annapolis, MD 21401

From: Michael E Bacon <MBacon@ecslimited.com>
Sent: Friday, March 8, 2024 1:29 PM
To: CBFO Project Review, FW5 <cbfoprojectreview@fws.gov>
Subject: [EXTERNAL] Project Review Request

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon,

Please see the attached project package for a proposed solar project in Allegany and Garrett Counties, MD. The NLEB and Indiana bat were identified and need further consultation. Please let me know if you need anything additional. Thank you for your time.

Best,

MICHAEL E BACON | Environmental Project Manager
ECS MID-ATLANTIC, LLC
T 410.859.4300 **D** 443.577.3277 **C** 410.991.1615

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MBacon@ecslimited.com | www.ecslimited.com

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401
<http://www.fws.gov/chesapeakebay>



November 8, 2024

Michael Bacon
Environmental Project Manager
ECS Mid-Atlantic, LLC
1340 Charwood Road, Suite A
Hanover, MD 21076

RE: "Not Likely to Adversely Affect" determination for the northern long-eared bat (NLEB) for the Jade Meadows III Solar project in Garrett and Allegany Counties, Maryland

Dear Mr. Bacon:

The U.S. Fish and Wildlife Service (Service) has reviewed your July 17, 2024 email message; email responses received September 3 and September 23, 2024; your project information from the Service's Information for Planning and Consultation (IPaC) online system dated July 15, 2024 (species list) and March 5, 2024 (NLEB determination key letter); previous email exchanges from March 8, 2024 and April 10, 2024; and our Teams call held on October 8, 2024. The Service has evaluated the potential effects of this project to the federally endangered northern long-eared bat (*Myotis septentrionalis*) and the proposed endangered tricolored bat (*Perimyotis subflavus*). The comments provided below are in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The purpose of this proposed project is to construct a utility scale solar field in the vicinity of New Georges Creek Road in Garrett and Allegany Counties in Maryland. The site is approximately 4,456 acres in size and consists primarily of active and reclaimed mines, agricultural land, wooded land, and commercial and residential structures. This proposed project is within the range of the northern long-eared bat, a federally listed endangered species. Approximately 498.66 acres of forest will be cleared as part of the construction with 3,282.34 acres to be left intact. Additional construction activities will include pile driving and the potential for limited lighting around electrical equipment (unlikely to permeate the forest edge), which may affect northern long-eared bat and tricolored bat. However, the closest edge of the project area is approximately 2 miles from known hibernacula and will not alter the entrance or interior environment of the hibernacula. The project area is also located west of active and reclaimed mine lands, suggesting that noise and lighting related to project activities are not expected to increase substantially above existing baseline conditions.

This project is **not likely to adversely affect** the northern long-eared bat due to the implementation of conservation measures by the project proponents, such as time-of-year

restrictions on tree clearing and the adoption of downward shielded lighting as recommended by wildlife-friendly construction standards.

A map of the project area specifying time-of-year restrictions (TOYR) is included with this letter. Given the size of the project area and amount of proposed tree clearing to be conducted, the area was divided into three parcels based on proximity to hibernacula and acoustic detections. Parcel 1 is located within the northernmost part of the project area outside of NLEB hibernacula and acoustic buffers; TOYR on tree clearing activities are from **May 15 to July 31**. Parcel 2 is located within NLEB acoustic buffer areas; TOYR on tree clearing activities are from **April 1 to September 30**. Parcel 3 is located within a NLEB hibernacula buffer; TOYR on tree clearing activities are from **April 1 to July 30** and **October 1 to March 30**. While TOYRs are typically in place for fall swarming within hibernacula buffers from August 16 to November 15, it is unlikely that NLEB will go into torpor (ie. state of mental or physical inactivity due to cold temperatures) from August 1 to September 30 as average temperatures are likely to remain above 40 degrees Fahrenheit. Tree clearing will remove potential summer roost, but additional habitat is present nearby and contiguous with the limits of disturbance.

This project does not involve wind power operations and does not require consultation for Indiana bat (*Myotis sodalis*). There is a proposed rule to list the tricolored bat (*Perimyotis subflavus*) as an endangered species, but a final listing determination has not been made; there are no Section 7 requirements for proposed species. However, as soon as a final listing rule becomes effective, Section 9 prohibitions against jeopardy or adverse modification to designated critical habitat applies regardless of the project's stage of completion. The conservation measures listed above as related to restricting tree clearing and limiting disturbance will also avoid effects to tricolored bat. Therefore, this project is not likely to adversely affect tricolored bat.

The monarch butterfly (*Danaus plexippus*) is a candidate species and not yet listed or proposed for listing. There are no Section 7 requirements for candidate species, but below are recommendations to maximize pollinator-friendly habitat.

Solar Meadows

Lawn grasses provide little habitat for native species. Native meadows will support many grassland species of pollinators, birds, and other wildlife. Many pollinators, such as the monarch butterfly and several bumble bee species (*Bombus spp.*), are at-risk. Additionally, this habitat will benefit many grassland nesting birds, which are in steep decline due to the lack of suitable meadow habitat. We note that the State of Maryland has a solar generation facility [certification program](#) for pollinator-friendly designation. Our specific technical recommendations include:

- Building panels \geq 48 inches to allow for meadow growth and reduce mowing.
- Seed mixes should provide year-round forage by having three seasons of bloom present and only include native plants and naturalized plants such as clover when needed.
- Develop a vegetation management plan for the site. Best practices include spot removal of invasive or unwanted plants, mowing only half of the site at a 6-inch height every other fall, and avoiding mowing and spraying April through October.

Other benefits of developing solar panels with meadows include:

- **Reduced maintenance cost** - The installation contractor will see lower costs and carbon footprint through the reduced use of fertilizers, herbicides, and mowing.
- **Increased carbon sequestration** - Native meadows develop a thick organic layer of deep roots that store much more carbon than shallow rooted lawn grasses.
- **Stormwater absorption** - The deep root system of native meadows improves stormwater infiltration, while reducing the damage to streams from surface water runoff.
- **Less costly than retrofits** - Successful meadow development works best when implemented at the same time as solar array installation. Solar panels are the correct height to allow for native meadows and eliminating non-native lawn grasses after installation is costly.

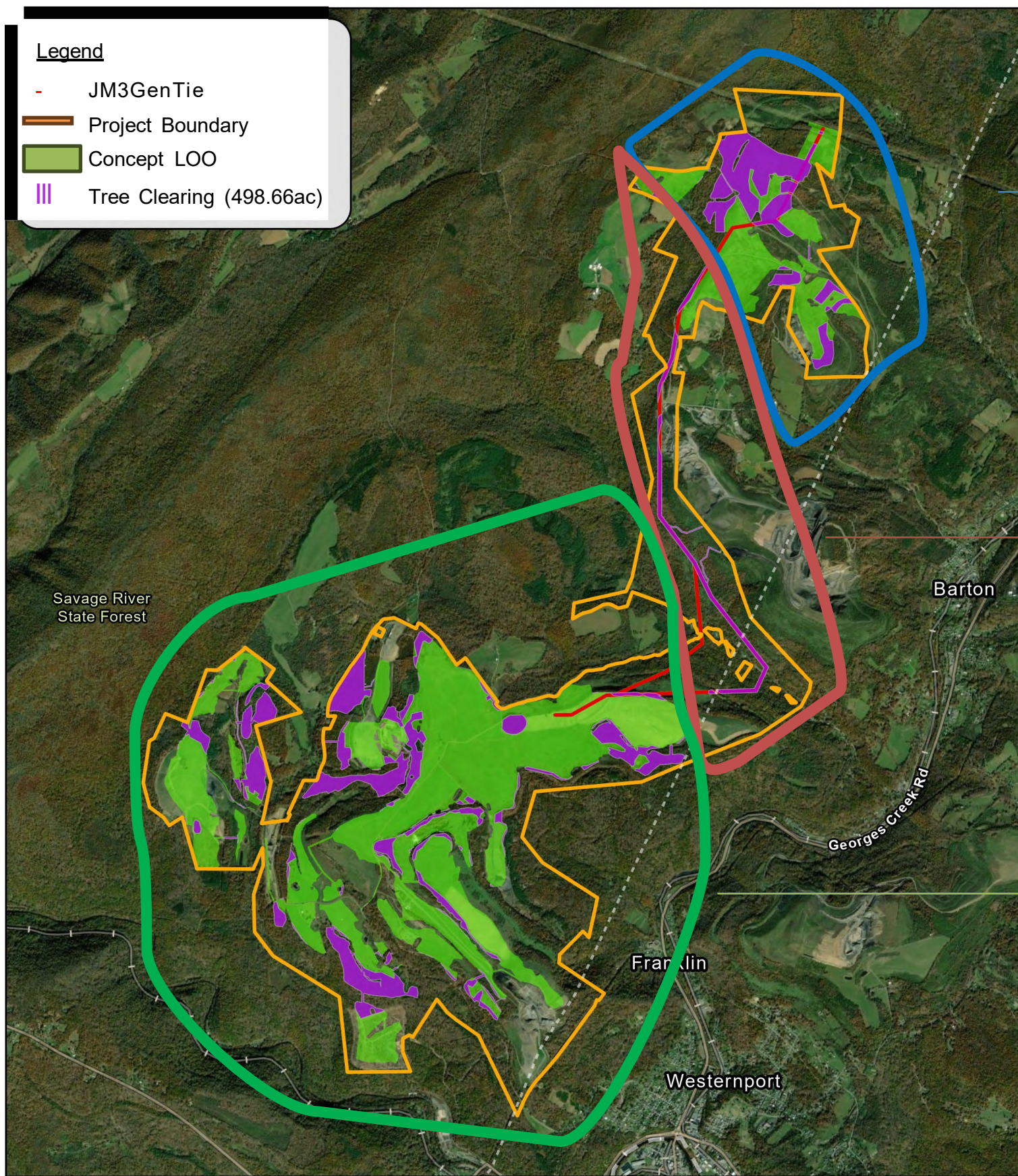
We recommend that all these terms be included in leasing and/or management contracts.

Any changes in species status under the Endangered Species Act would require additional Service consultation and may result in new guidance. Except for occasional transient individuals, no other federally proposed or listed threatened or endangered species are known to exist within the project area. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

We appreciate the opportunity to provide information relevant to threatened and endangered fish and wildlife resources. This Endangered Species Act determination does not exempt this project from obtaining all permits and approvals that may be required by other state or Federal agencies. If you have any questions or concerns regarding this letter, please contact Raquel Wetzell of my Endangered Species staff at raquel_wetzell@fws.gov.

Sincerely,

Genevieve LaRouche
Field Supervisor



The northernmost part of the project area is located outside of NLEB hibernacula and NLEB acoustic buffers. TOY restrictions on tree clearing activities within this portion are during NLEB pup season – **May 15 to July 31.**

This portion of the project area is located within NLEB acoustic buffer areas. TOY restrictions on tree clearing activities are during summer occupancy – **April 1 to September 30.**

This portion of the project area is located within the NLEB hibernacula buffer area. TOY restrictions on activities that may cause disturbance near hibernacula (tree clearing, light/noise) would be in place for the active and inactive seasons – **April 1 to July 30; October 1 to March 30.**