



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

FROM: EPA Stormwater Permits Section, Water Division, Region 1

TO: General Permit for Private Commercial, Industrial and Institutional Stormwater Discharges in the Charles, Mystic and Neponset River Watersheds in Massachusetts” (“CII GP”) Notice of Intent File, Permit Number Pending

DATE: August 14, 2024

RE: Supplemental Basis Information to Support the CII GP, Endangered Species Protection – USFWS Tricolored Bat

As part of the proposed General Permit designed to regulate private commercial, industrial and institutional stormwater discharges in the Charles, Mystic and Neponset River Watersheds in Massachusetts” (“CII GP”), EPA has conducted the analysis necessary to determine whether the proposed treated stormwater discharge activities will require an Endangered Species Act Section 7 consultation.

Section 7(a) of the Endangered Species Act of 1973, as amended (ESA) grants authority to and imposes requirements upon Federal agencies regarding endangered or threatened species of fish, wildlife, or plants ("listed species") and habitat of such species that has been designated as critical (a "critical habitat"). The ESA requires every Federal agency, in consultation with and with the assistance of the Secretary of Interior and/or the Secretary of Commerce, to ensure that any action it authorizes, funds, or carries out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat.

EPA generated a USFWS ESA Official Species List¹ for the Charles, Mystic and Neponset River Watershed action area, using the USFWS IPaC Website. Four protected species were identified on the list, including the northern long-eared (NLE) bat (*Myotis septentrionalis*), noted as “endangered”, the roseate tern (*Sterna dougallii dougallii*), also designated as endangered, the piping plover (*Charadrius melodus*), designated as threatened, and the tricolored bat (*Perimyotis subflavus*) under the status of “proposed endangered”. The monarch butterfly (*Danaus plexippus*) appeared on the list as a candidate species. No analysis of candidate species are required by USFWS at this time.

¹ USFWS Official Species List, Project Code: 2024-0130453; August 14, 2024.

Using the USFWS IPaC System Northern Long-eared (NLE) Bat Determination Key, EPA confirmed that actions regulated by the CII GP would have “no effect” on the endangered NLE bat². No further ESA coordination is required for the NLE bat.

EPA also used the USFWS IPaC System Northeast Species Determination Key to confirm that actions regulated by the CII GP would have “no effect” on the endangered roseate tern and the threatened piping plover³. No further ESA coordination is required for the roseate tern and the piping plover.

At the time of the CII Draft General Permit Development, there was no USFWS Determination Key that addressed activities involving the proposed endangered tricolored bat. Because the habitat of the tricolored bat is generally similar to the NLE bat (overwintering - caves or mines; spring/summer/fall – deciduous live or dead hardwood trees), EPA has made the determination that activities proposed to be covered under the general permit will also have “no effect” on the proposed endangered tricolored bat. No further ESA coordination with USFWS is required for the tricolored bat.

Please contact John Nagle, EPA Region 1 Water Division, (nagle.john@epa.gov, Ph: 617 918 1054) if there are any questions regarding the ESA evaluation of potential impacts to the tricolored bat from the proposed CII GP.

² USFWS NLE Bat Determination Letter, Project Code: 2024-0130453; August 14, 2024

³ USFWS Roseate Tern and Piping Plover Determination Letter, Project Code: 2024-0130453; August 14, 2024.