

NRCS Policy and Endangered Species Act

Listed in Vermont

Canada Lynx -
Threatened



Jessup's Milk Vetch -
Endangered



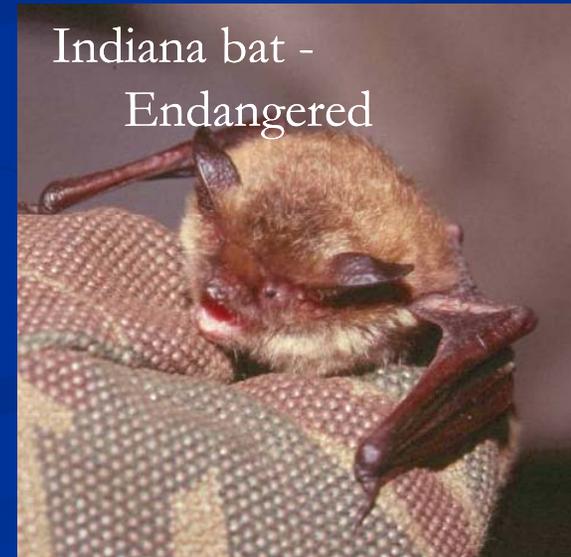
Northeastern Bulrush -
Endangered



Dwarf Wedgemussel -
Endangered



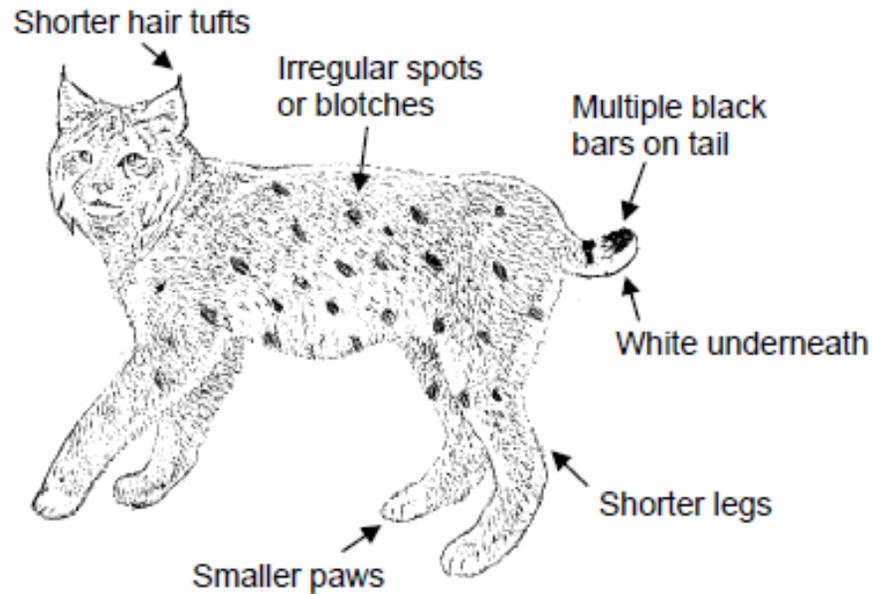
Indiana bat -
Endangered



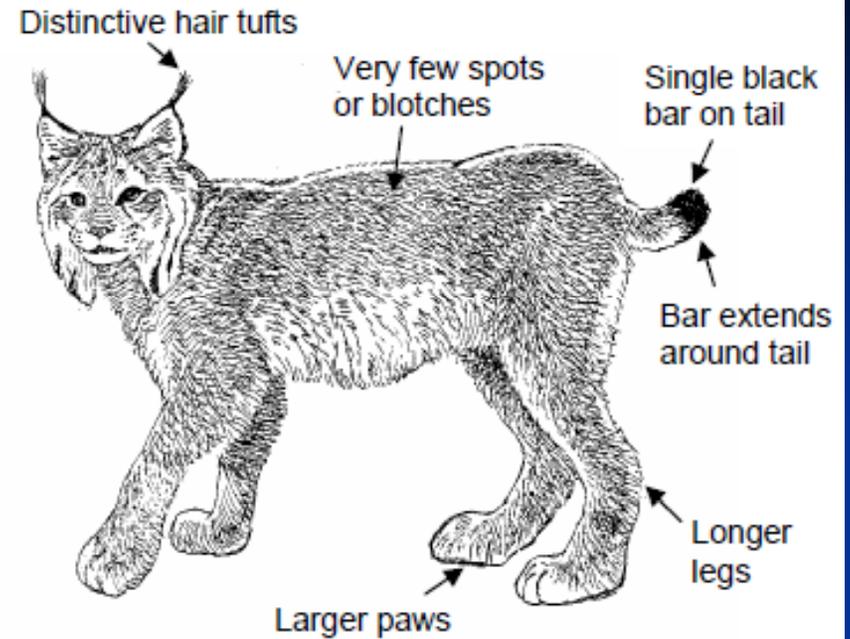


Later Winter 2010 –
Nulhegan Basin

BOBCAT (*Lynx rufus*)

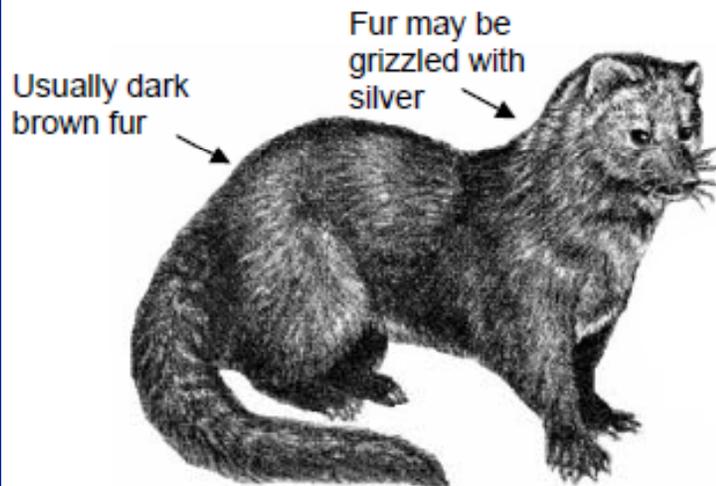


LYNX (*Lynx canadensis*)



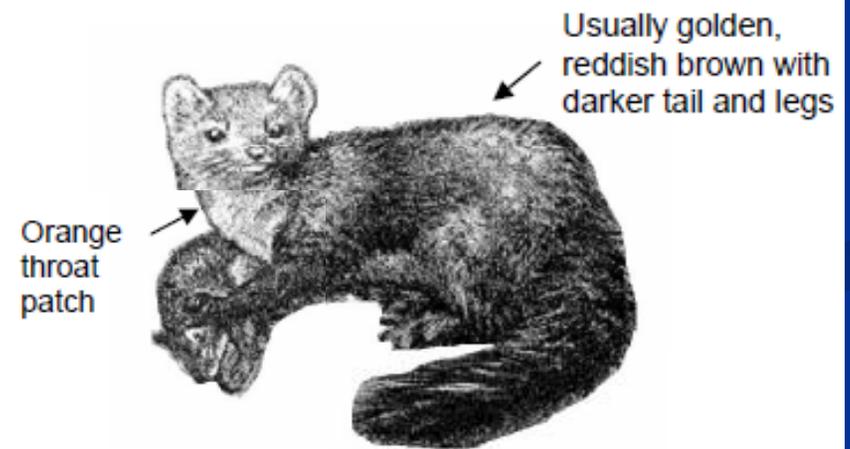
(Will appear at least twice the size of a domestic cat.)

FISHER (*Martes pennanti*)



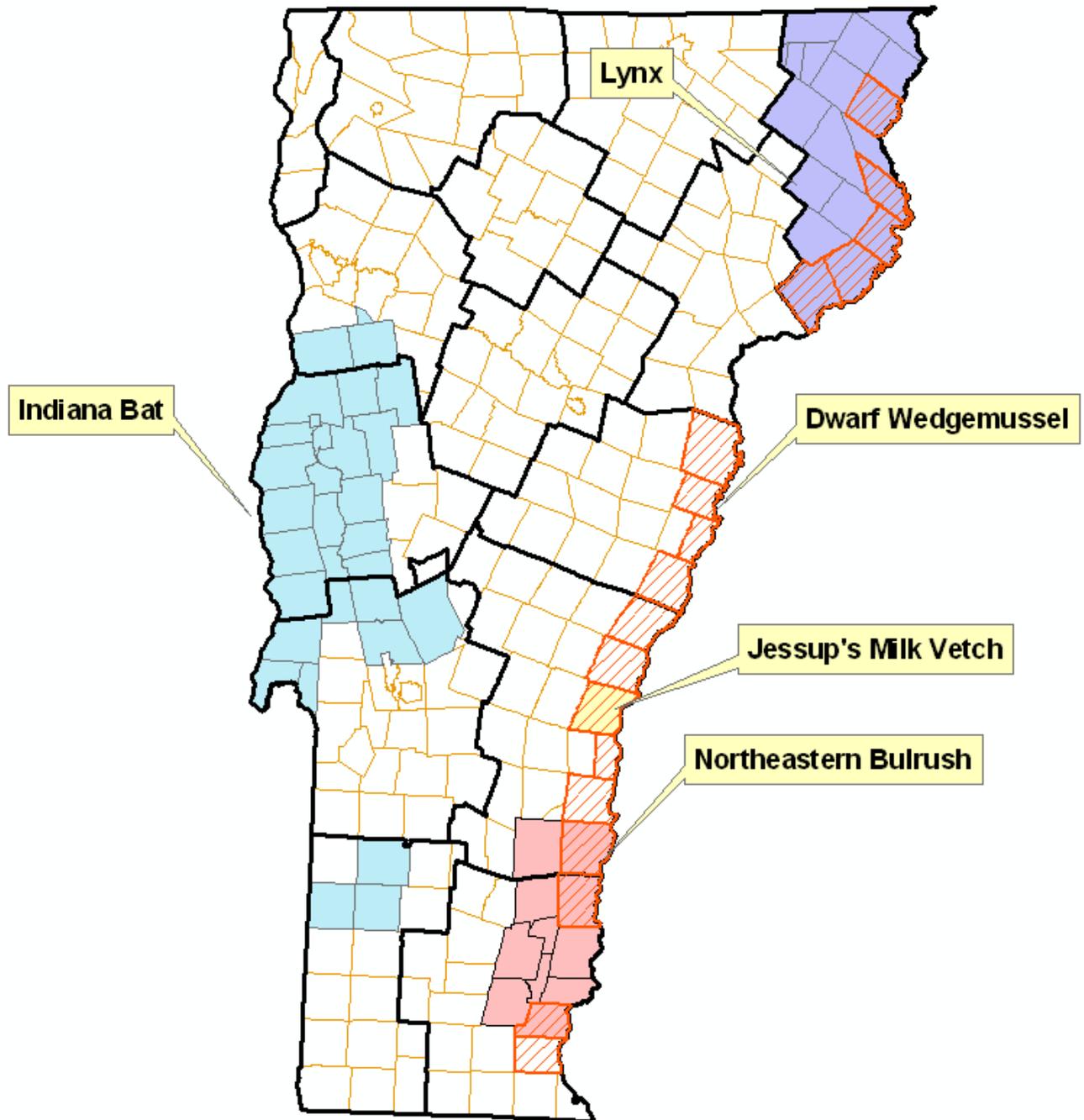
(Larger than a marten; total length 31-42 inches)

AMERICAN MARTEN (*Martes americana*)



(Smaller than a fisher; total length 22-26 inches)

Federal T+E Extent in Vermont



Resources for Habitat Info

- Links to Various on Species Profile Website (USFWS)
 - http://ecos.fws.gov/tess_public/pub/stateListingAndOccurrenceIndividual.jsp?state=VT
- IBAT Forest Mgt. Guidelines (VTFWD)
- Distribution, Threats, and Conservation of the Dwarf Wedgemussel in the Middle and Northern Macrosites of the Upper Connecticut River (Ethan Nedean)
- Northeastern Bulrush Recovery Plan
- VTFWD and USFWS Biologists

IBAT Forest Mgt. Guidelines

- **Forest Management Guidelines for Indiana Bat Habitat Vermont Fish and Wildlife Department (June 2009)**
- Life History
- Population and distribution
- Habitat/Biology of Species
- Mgt. Guidelines
- Maps of known/potential areas
- Maternity Colony Assessment guide

IBAT Habitat

■ Maternity Habitat

- Foraging habitat is a relatively open stand condition below a main canopy of small sawtimber and larger size classes.
- Roost Trees
 - Live shagbark or black locust trees, or dead or dying trees
 - Possess exfoliating bark
 - Greater than 8-10 inches dbh
 - Dominant or co-dominant in the forest stand
 - Receive some level of direct solar radiation
 - Generally within 20 feet of forested cover

IBAT Habitat

- Hibernaculum Habitat
 - Forest around caves important to males in summer and both sexes in fall/spring
 - Most males tend to remain within 5-9 miles of the hibernaculum
 - Not a lot known about roost trees but perhaps similar characters to those in valley



Authority and Obligations

- ESA of 1973, 16 U.S.C. 1531 et seq.

NRCS has both the authority and obligation under ESA to protect and conserve listed plant and animal species (and critical habitat)

- NRCS Regulations 7 CFR 650.22

Require that NRCS concern for species and habitats will not be limited to those federally listed under the ESA but **will include those designated by State agencies as rare, threatened or endangered or species of concern.**

NRCS Policy (General Manual)

- Implementation of conservation programs through planning and application of conservation practices and measures shall also provide for the conservation of Federally listed and proposed species as well as state species of concern.
- NRCS will provide conservation technical assistance to its customers and partners in a manner consistent with the conservation of Federally listed, proposed, and state species of concern within its existing authorities and programs.

NRCS Policy regarding ESA

- Section 7(a)(2) of the ESA

NRCS is required to consult with the FWS or NOAA when NRCS financial assistance will be provided to landowners for implementing planned practices for which a “may affect” determination has been made

- This is the basis for our Programmatic Consultation

State T+E Species Protections

- § 5403. Protection of endangered and threatened species
 - (a) Except as authorized under this chapter, a person shall not take, possess or transport wildlife or plants that are members of an endangered or threatened species.

Nongame Wildlife Protection

- **10 V.S.A. App. § 25. Nongame wildlife species**
 - Legal protection of nongame species will be enforced by law enforcement personnel Title 10 Appendix section 25 (2)(A)
 - Other collections or take of nongame wildlife shall be authorized by Commissioner letter in addition to a valid Vermont Hunting License or Small Game License

Planning Review for T+E

- Planning process requires:
 - Client Interview for presence
 - GIS analysis using Element Occurrences Database (Biotics)
 - Follow procedures from Programmatic Consultation
 - State contact with VT Wildlife Diversity Program (Nongame and Natural Heritage) is required
- Programmatic Consultation NRCS/USFWS
 - Clearly defined requirements and expectation of ESA
 - Accepted Process by USFWS and Meets NEPA (Protects VT NRCS and You)
 - This process will formally raise awareness of species/habitats for their conservation.

Consultation's Procedures and Tools

Section II of FOTG

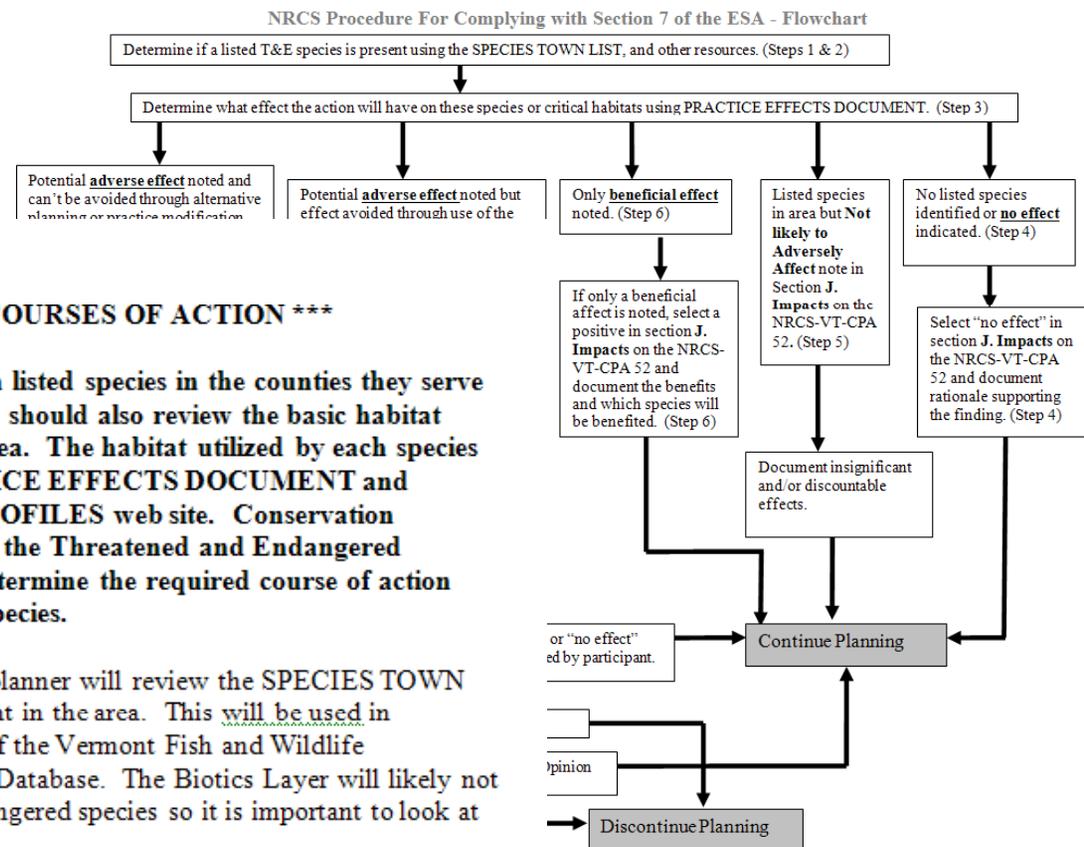
- NEPA and ESA Guidance Document
 - Outlines process to determine potential impact
 - Provides appropriate course of action

- Species and Town List
 - Species, federal status and location by Town and County
 - Habitats and season of use

- Practice Effects Matrix
 - Lists effects (no, not likely, potential adverse, etc.)
 - Additional information to avoid impacts (timing, placement, method)

NEPA/ESA Guidance Document

- Summarizes Entire Process – Start to Finish
 - How to populate the CPA-52
 - Narrative Steps
 - + Flow chart
 - When to Consult



*** CONSERVATION PLANNER COURSES OF ACTION ***

Conservation planners should become familiar with listed species in the counties they serve by reviewing the SPECIES TOWN LIST. Planners should also review the basic habitat descriptions for the species located in their work area. The habitat utilized by each species is included in the SPECIES TOWN LIST, PRACTICE EFFECTS DOCUMENT and Recovery Plans found on the USFWS SPECIES PROFILES web site. Conservation Planners shall follow the process below to complete the Threatened and Endangered Species portion of the VT-NRCS-CPA-52 and to determine the required course of action when working with Threatened and Endangered Species.

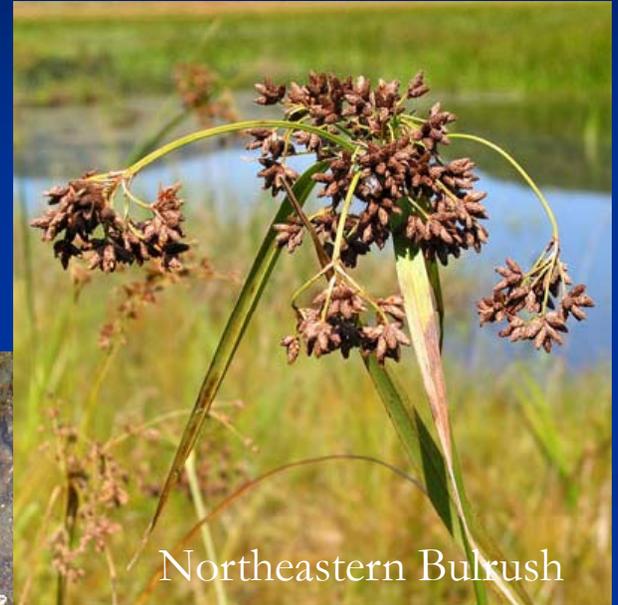
1. During the planning process for any practice, the planner will review the SPECIES TOWN LIST to determine if a listed species may be present in the area. This will be used in conjunction with the GIS analysis (biotics layer) of the Vermont Fish and Wildlife Department's Wildlife Diversity Program (WDP) Database. The Biotics Layer will likely not have every occurrence of these threatened or endangered species so it is important to look at all potential towns in the SPECIES TOWN LIST.

Species and Town List

- Vermont has 5 listed species in 8 Counties
- Why needed? All locations are likely not known.



Indiana Bat



Northeastern Bulrush



Jesup's Milk Vetch



Dwarf Wedgemussel



Canada Lynx

Species and Town List

- Table listing County , Town, Species, etc. (2 pages).
- Species, location, and habitat/season



Vermont Federally Threatened And Endangered Species List By Town and County

This list identifies federal listed threatened and endangered species and candidate species by town and county. NRCS personnel shall use this list for the NEPA planning process and Endangered Species Act (ESA) compliance.					
COUNTY	SPECIES TYPE	SPECIES	FEDERAL STATUS	GENERAL LOCATION/HABITAT/ SEASON	TOWNS
Addison	Mammal	Indiana bat	Endangered	Known and Potential Maternity Colony Habitat	<u>Ferrisburg</u> , <u>Panton</u> , <u>Addison</u> , <u>Bridport</u> , <u>Shoreham</u> , <u>Orwell</u> , <u>Whiting</u> , <u>Cornwall</u> , <u>Weybridge</u> , <u>Vergennes</u> , <u>Waltham</u> , <u>New Haven</u> , <u>Monkton</u> , <u>Starksboro</u> , <u>Bristol</u> , <u>Middlebury</u> , <u>Salisbury</u> , and <u>Leicester</u>
Bennington	Mammal	Indiana bat	Endangered	Hibernacula (Caves) Congregation Area in Sandgate	Dorset, Manchester and Sandgate
Caledonia	None				
Chittenden	Mammal	Indiana bat	Endangered	Known and Potential Maternity Colony Habitat	Charlotte, Hinesburg, and St

Practice Effects Matrix

- Planning matrix – Effects



VT NRCS Practices Effects on Threatened and Endangered Species (T&E)

This table shall be used to assist in making planning decisions regarding federally threatened and endangered species. Numbers adjacent to Xs correspond to footnotes at the end of the table. Refer to the “Vermont’s Guidance Document For NRCS Compliance with the Endangered Species Act (ESA)” for further guidance on use of this table and other tools.

No Effect - No effect to T&E species

NLAA - Not Likely to Adversely Affect T&E species

Negative - Potential adverse effect on T&E species if present (May require further consultation.)

Positive - Practice may beneficially affect T&E species if present

Practice Name and Unit	Practice Code	No Effect	NLAA	Negative	Positive
Access Control	472				X2
Access Road (Feet)	560		X1, X3	X1, X3	
Agrichemical Handling Facility (No.)	309	X			
Agricultural Secondary Containment Facility (No.)	710	X			
Anaerobic Digester, Controlled Temp. (No.)	366	X			
Animal Mortality Facility (No.)	316	X			
Animal Trails and Walkways (Feet)	575		X1, X3	X1, X3	
Aquatic Organism Passage (Miles)	396				X2
Brush Management (Acre)	314		X3, X5	X3, X5	X2
Channel Bed Stabilization (Feet)	584		X1 X6	X1 X6	

Practice Effects Matrix

- Footnotes - further information on practice
 - Avoid habitats, alternatives (timing), informal consultation

VT NRCS Practices Effects on Threatened and Endangered Species (T&E)

X3 – Indiana Bats - Tree removal or alteration of trees during land clearing, forest management, habitat management, prescribed burning or for any other purpose authorized under these practices may adversely affect the Indiana bat if conducted in suitable habitat within the towns listed in the Vermont T+E Species by Town List. It should be assumed that Indiana Bats may be roosting and or foraging, **in suitable habitat**, within 3 miles of a known Indiana bat maternity colony, within 5 miles of a hibernacula (cave) or within any of the towns listed in the SPECIES TOWN LIST. Bat maternity colonies and foraging sites will change over time as the roost trees and habitats change (e.g. roost tree falls over). The listed towns all represent potential locations based on natural communities and age classes, climate and similarity to towns in proximity to known bat colonies or roosts. It is likely that not all roosting sites have been located so it is important to recognize all potential suitable habitats in the Champlain Valley.

Maternity colony habitat is comprised of two essential components – roost trees and suitable foraging habitat. Maternity colonies congregate in primary and secondary (the latter often termed “alternate”) roost trees where the bats “roost” under loose (i.e., exfoliating) bark. Bats from the same colony may use as many as 10 – 15 different roost trees within their home range. The primary roost trees are generally occupied by many bats (as many as 300+ in some cases).

Suitable and preferred foraging habitat shall be maintained. General forest bat research suggests that high quality foraging habitat is a relatively open stand condition below a main canopy of small sawtimber and larger size classes. Mature and over-mature uneven-aged stands that exhibit structural

CPA-52C – Consent Form

Landowner Authorization
for Release of Conservation
Plan information –

Used when potential adverse
effect is noted to consult
with USFWS



NRCS-VT-CPA-52c

Authorization for NRCS Release of Conservation Plan File Information

Persons receiving Federal funding or final designs/specifications through the USDA Natural Resources Conservation Service (NRCS) to implement conservation projects are required to comply with all Federal, State, and local laws, as well as obtain any required Federal, State, or local permits prior to construction of the project. In order to ensure compliance with the Endangered Species Act (ESA) and the Magnuson-Stevens Act (MSA), NRCS is required to consult with US Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA) – Fisheries [formerly referred to as the National Marine Fisheries Service (NMFS)] if we determine our actions will affect Threatened or Endangered Species or their habitat. Additionally, NRCS also consults with the Vermont Fish and Wildlife Department (VTFWD) Wildlife Diversity Program (WDP). The National Historic Preservation Act (NHPA) requires NRCS to cooperate with the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (Advisory Council).

I, _____, have control of said project and/or property, and **give my consent** for NRCS to consult with and/or release pertinent information from my project, conservation plan or construction plan relating to said consultation with the USFWS, NOAA Fisheries, VTFWD-WDP, Advisory Council, and SHPO to ensure compliance with ESA, MSA, and NHPA. This does not authorize access to my private property by non-NRCS agencies, groups, or individuals.

I, _____, have control of said project and/or property and choose **not to give my consent** for NRCS to consult with and/or release pertinent information from my project or construction plan relating to said consultation with the USFWS, NOAA Fisheries, Advisory Council, and SHPO to ensure compliance with ESA, MSA, and NHPA.

If you choose **not to give your consent**, you may work directly with these agencies and provide assurance of ESA, MSA, and NHPA compliance to the NRCS prior to further assistance from NRCS with the planned project. NRCS will provide you no further assistance until the consultation process has been completed.

NOTE: Failure to provide consent may affect your eligibility to receive USDA funding for your project. You may cancel this consent by written notice.

Signature _____

Date _____

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer

CPA-52B – Request for T+E Review

Field Office Request to the
USFWS for informal
consultation on specific
project.

Must include Maps and
Pictures

Shapefiles at USFWS Request

Request for Threatened and Endangered Species Review (NRCS-VT-CPA 52b)

(This document is Freedom of Information Act exempt)

This form should be completed by tabbing through all fields to ensure applicable entries are completed.

County: _____ Date: Planner: _____

Program: _____ Town: _____

Was consent obtained from the recipient of assistance and landowner (if different), to disclose information to USFWS as indicated on completed form NRCS-VT-CPA-52c? Yes No

Area of Potential Effect (APE)

Landowner & operator name(s): _____

Farm # _____ Tract #s _____

Field #(s) _____ Proposed Construction Date

Select up to three planned practices from the list that may adversely affect listed species as indicated by the "NRCS Practice Effects On Threatened and Endangered Species" document. Also enter the extent planned.

Planned Practice(s)	Extent

List all species that may be affected by planned practice(s):

List stream name if potential effect is associated with aquatic species.

Stream Name: _____

Current Land Use: _____ Ground Cover: _____

Briefly describe the area where the practice(s) are planned (vegetation type/terrain/topography/other):

When a planned practice may adversely affect a listed species as indicated on the NRCS-VT-CPA-52, mail this sheet (NRCS-VT-CPA-52b), practice location/extent map, and supporting pictures of the area in question to the USFWS. All appropriate fields above must be completed before sending this

Information Below Completed By USFWS¹ and NRCS Field Office²

Date Forwarded To USFWS If Needed²:

Date Of Site Visit If Needed^{1and2}:

Project has no effect or is not likely to adversely affect T&E species, project approved¹.

Project approved. proceed with installation incorporating required actions outlined below¹.

Summary Process – 5 Options

- Always Begins with Review of Species Town List (and Biotics)!
1. No species present – No occurrence in County or Town (most likely situation)
 - Document **“no effect”** on 52 and continue planning

Summary Process – 5 Options cont.

- Determine Planning Unit is in Town that has Species and contains suitable habitat
 - Filter Strip/RFB planned on Connecticut River in Guildhall (benefits DWM)
 - Use Exclusion on beaver wetland in Dummerston (benefits NE Bulrush)
 - RFB in New Haven (IBAT)

2. Species Present  Practice Effects
Document

- **Beneficial Effect Indicated**
 - Select positive effect on CPA52
 - Document beneficial effects and Species in R – Rationale section
 - Continue planning

Summary Process – 5 Options cont.

- Determine Planning Unit is in Town that has Species But either...
 - **No suitable habitat** (e.g. no wetlands on tract – Bulrush)
 - **Practice not planned in or near habitat** (e.g. Waste Storage in headquarters)
 - Practice planned near Suitable habitat but insignificant effects expected (e.g. ES planned in old field/young forest near mature forest in IBAT country) - NLTAA

3. Species Present Practice Effects Document

- **No Effect or Not Likely to Adversely Affect Indicated**
 - Select “No Effect” or “Not Likely To Adversely Affect”
 - Document what supports your decision in R – Rationale section
 - Continue planning

Summary Process – 5 Options cont.

- Determine Planning Unit is in Town that has Species and contains suitable habitat
 - Animal Trail and Walkway currently through edge of wetland with NE Bulrush – Practice will be moved uphill out of wetland

4. Species Present  Practice Effects Document

- Potential Adverse Effect
- Effect avoided using guidance in Practice Effects Document or other alternative selected
- **No Effect or Not Likely to Adversely Affect – 52 form**
- Document alternatives and Rationale on 52 (& Conservation Plan) and continue planning

Summary Process – 5 Options cont.

- Determine Planning Unit is in Town that has Species and contains suitable habitat

5. Species Present Practice Effects Document

- Potential Adverse Effect - Effect **CAN NOT** be avoided
- Negative effect selected on 52 form
- 1st Submit info to USFWS without landowner name
- Customer Consent to initiate consultation (CPA-52C)
 - Consent not given – DISCONTINUE ASSISTANCE
- **Informal Consultation Begins** – Forms, maps, pictures sent to USFWS (CPA-52B)
- Resolved or Formal Consultation **MAY** begin

Examples

Example 1

- Planning Unit is in Cabot (Washington County)
- Landowner needs to address erosion on forest skid trails to improve water quality.
- Biotics Layer shows no RTE species
- What do you select on the CPA-52?
 - No Effect and Continue Planning

Example 2

- Planning Unit is in Thetford (Orange County)
- Landowner would like to develop a nutrient management plan and has cropland along the Connecticut River. It is likely that they are over applying nutrients to some fields along the river.
- Biotics Layer shows dwarf wedgemussel occurrence 3 miles upstream and 1 mile downstream.
- What do you select on the CPA-52?

Example 2

- Select Positive Effect
- Document beneficial effects and Species in R – Rationale section
- Continue Planning

Example 3

- Planning Unit is in Orwell (Addison County)
- Landowner is in need of a waste storage facility but has limited space around the headquarters. To accommodate facility there will need to be clearing of $\frac{1}{4}$ acre edge of forested tract. Forest land is hardwood with trees 8-12" dbh.
- Biotics Layer shows Indiana Bat in nearby forest areas but not in this forest block.
- What do you select on the CPA-52 and how do you proceed?

Example 3

- Select To Be Determined Effect for this alternative
- Alternatives to avoid potential effects:
 - Assess habitat, if suitable roost trees are not present, project may proceed because adverse effects are *unlikely* (NLAA)
 - If suitable roost trees are present, seek alternative location
- If alternative location not feasible start the informal consultation process
 - First keep it anonymous – move to next bullet if not resolved
 - Landowner consent form – if not given, discontinue assistance

Example 4

- Planning Unit is in Rockingham (Windham County)
- Landowner has asked for your technical assistance in planning a pond (no program funds). The site the landowner has in mind is a sedge meadow.
- Biotics Layer does not show NE Bulrush on the site.
- What do you select on the CPA-52 and how do you proceed?

Example 4

- Since it is an identified habitat of the NE Bulrush (w/in species town list) you will identify a To Be Determined effect for this alternative on the 52.
- Seek other practice locations (alternatives) – or, ask VTDFW or qualified botanist to survey for NEBR, if not present evaluate wetlands before proceeding with project.
- If NEBR present and landowner will not consider alternative location select negative effect – discontinue technical assistance

Example 5

- Planning Unit is in Bloomfield (Essex County)
- Small tributary stream is experiencing erosion where it meets the Connecticut River. Landowner and partners are interested in establishing woody vegetation in buffer and stabilizing bank.
- Biotics Layer shows dwarf wedgemussel occurrence throughout stretch of stream.
- What do you select on the CPA-52 and how do you proceed?

Example 5

- Since it is an identified habitat of the DWM (w/in species town list) you will identify a To Be Determined effect for this alternative on the 52
- Limited alternatives identified to address bank and buffer problem
- Start the informal consultation process
 - USFWS may be able to minimize impacts
 - Project may proceed with practice requirements
- May require formal consultation if adverse effects cannot be avoided***

****This may be a project that has a short term adverse effect but long term beneficial effect – USFWS WILL help us through this process.

Bald and Golden Eagle Protection Act

- **Bald Eagles delisted in August of 2007**
- **9 of 11 Nests in Vermont for 2011 fledgling 13 young**
 - Townshend, Springfield, Rockingham, Windsor, and Canaan (CTRB)
 - West Haven, Ferrisburg, New Haven, and Highgate (LCB)
- **Bald Eagles** - Tree removal or land clearing around Bald Eagle nests or wintering roosts may have an adverse effect on the species. Deciduous and coniferous trees, 18 inch dbh and greater, within 100 meters (~328 feet) of the Connecticut river, the shore of Lake Champlain or other large waterbodies, may provide habitat for wintering bald eagles. Dominant canopy trees in these areas also provide potential future bald eagle nesting sites. Removal of these large trees near water may adversely affect the bald eagle if there is a history of documented use.
- <http://www.fws.gov/northeast/EcologicalServices/eagle/guidelines/index.html>



U.S. Fish & Wildlife Service Eagle Guidelines

Northeast Region

Search Quick Links Go

Eagle Guidelines Home

Bald and Golden Eagle Protection Act

National Bald Eagle Management Guidelines

Recreational Activities Precautions

New or Intermittent Activities Guidance

Additional Conservation Measures

Bald Eagle Natural History & Sensitivity

Bald Eagle Management Guidelines and Conservation Measures

Bald eagles were removed from the federal list of threatened and endangered species on Aug. 9, 2007. Though no longer protected under the Endangered Species Act, bald eagles remain protected under the **Bald and Golden Eagle Protection Act** (Eagle Act). The Eagle Act prohibits anyone from taking or disturbing bald eagles.

The U.S. Fish and Wildlife Service prepared **National Bald Eagle Management Guidelines** to clarify the ambiguity in the Eagle Act. These voluntary guidelines were prepared to help landowners, land managers and others meet the intent of the Eagle Act and avoid disturbing bald eagles.

This website outlines those national guidelines to help determine whether new or intermittent activities may disturb nesting bald eagles and thus violate the Eagle Act. This guidance is specific to bald eagles in the Northeast Region, which includes Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

Guidelines on Wind Energy Development

On February 8, 2011, the Service released drafted guidelines that will provide agency employees, developers, other federal agencies and state organizations information needed to make the best possible decisions in the review and selection of sites for wind energy facilities to avoid and minimize negative impacts to fish, wildlife, plants and their habitats.

One of the guidelines, the **Draft Eagle Conservation Plan Guidance**, will provide interpretive guidance to wind developers, Service biologists who evaluate potential impacts on eagles from proposed wind energy projects, and others in applying the regulatory permit standards as specified by the Bald and Golden Eagle Protection Act and other federal laws.

This guideline, along with the **Draft Voluntary, Land-Based Wind Energy Guidelines**, are now published in the Federal Register (February 18, 2011) and open for public comment until May 19, 2011. Visit <http://www.fws.gov/windenergy/index.html> for more information.

National Bald Eagle Management Guidelines

- **Voluntary measures** to take during recreational activity that avoid disturbing nesting bald eagles and their young
- **Guidance** to determine the likelihood of disturbing nesting bald eagles during new or intermittent activities (other than recreation)
- **Additional conservation measures** to benefit and promote the conservation of bald eagles

Additional links

- **Bald and Golden Eagle Protection Act**
- **National Bald Eagle Management Guidelines**
- **Permit regulations** to authorize limited and intentional "take" of bald eagles (PDF)
- **Bald eagle natural history and sensitivity**

Please contact your local **U.S. Fish and Wildlife Service Field Office** for further assistance.

Management Guidelines At a Glance:

Two factors most influence an eagle's response to human activity:

1. The activity's visibility from the eagle nest and;
2. The regular occurrence of similar activities near the nest.

General recommendations to avoid disturbing nesting bald eagles:

1. Keep distance between the activity and the nest (distance buffers).
2. Maintain forested or natural areas between the activity and the nest tree (landscape buffers).
3. Avoid certain activities during the nesting season (timing buffers).

Contact List

Contact List for State & Federal Threatened & Endangered Species

The primary contact for the Endangered Species Act (ESA) informal consultation process is Susi VonOettingen. However, you may also need to contact the State Fish and Wildlife Department as they are very familiar with the habitats of the Federally Listed Species in Vermont.

Susi von Oettingen (Primary Contact)
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