

To: Mr. Jason Bing, Ann Arbor Public Schools

From: Josiah Kleinhenz and Ryan Blankenship, CWB®, Environmental Consulting & Technology, Inc. (ECT)

CC: Genesis Mickel, ECT
Steve Thomas, ECT

Date: April 14, 2025

Re: Thurston and Logan Elementary Schools – Listed Bat Endangered Species Act
Compliance Opinion for Proposed Activities
ECT Project No: 250098 0900
IPaC Project Codes: 2025-0077726 and 2025-0077677

Introduction

Ann Arbor Public Schools (AAPS) has contracted Environmental Consulting & Technology, Inc. (ECT) to issue an opinion pursuant to Endangered Species Act (ESA) compliance for the federally endangered Indiana bat (*Myotis sodalis*), the proposed endangered tricolored bat (*Perimyotis subflavus*), and the state-threatened little brown bat (*Myotis lucifugus*) (collectively known as “bat species of concern”) for proposed activities (defined in Step 1 below) as part of the Logan Claque Middle School Rebuild Project and the Thurston Elementary School Rebuild Project (collectively known as “Projects”) located in Ann Arbor, Washtenaw County, Michigan. ECT has prepared this memorandum to summarize applicable conservation measures relative to the potential presence of the bat species of concern, and the proposed actions necessary to support the proposed Projects. These opinions are based on ECT’s understanding of the life history of the species and our professional interpretation of the applicable regulatory agency tools available at the time of publication.

Project Screening Process

Federally listed species are protected under federal law by the Endangered Species Act of 1973 (ESA; 16 U.S.C. §1531-1544). The U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) tool provides information regarding federally listed threatened and endangered species as well as proposed and candidate species based on known records and species ranges within the Project Area and surrounding region. According to USFWS IPaC, the Projects are within range of the Federally endangered Indiana bat and the proposed federally endangered tricolored bat¹. Therefore, the Projects are located within the “consultation range” of the endangered Indiana bat and the proposed endangered tricolored bat referenced in the Final Tools released by the USFWS in October 2024. The IPaC species are included as part of the Project habitat assessment memos located in **Attachment A** and **Attachment B**, respectively as Project Codes: 2025-0077726 and 2025-0077677. According to Figure 16 of Appendix L of the *2024 Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidelines*, the Projects are located within the known hibernating range of the Indiana bat and tricolored bat. The Michigan Natural Features Inventory (MNFI) was queried to identify historical records of bats near the Project Area. According to the MNFI web database search, the

¹ USFWS, “USFWS - Information for Planning and Consultation (IPaC).”, 2025.

Projects are located near historical occurrence records of the Indiana bat (1965-05-11), northern long-eared bat (2003-07-09), and little brown bat (1992-08-23). The MNFI web database search species lists are included as part of the Project habitat assessment memos located in **Attachment A** and **Attachment B**. According to the USFWS IPaC, the Projects do not contain any known or potential hibernacula (natural caves, abandoned mines, or underground quarries) and are not located within 5 miles of a known hibernacula.

Indiana Bat Listed Status

On March 11, 1967, USFWS listed the Indiana bat as a high risk for extinction under the Endangered Species Preservation Act (ESPA) as a result from summer habitat loss and pesticide use causing significant declines in populations. On December 28, 1973, the ESA was enacted, listing the Indiana bat as federally endangered as amended, followed by designating critical habitat for this species on September 24, 1976. Additionally, the USFWS published the 1983 The Revised Recovery Plan for Indiana Bat as a tool to ensure conservation methods and critical habitats are protected with the goal to relist the species as threatened and continues to be amended based on previous and current events influencing population changes.

Tricolored Bat Listed Status

On June 14, 2016, the Center for Biological Diversity and Defenders of Wildlife petitioned that the tricolored bat be considered for federal listing under the ESA and that critical habitat be designated. On December 20, 2017, the USFWS released a 90-day finding indicating that federal listing may be warranted for the tricolored bat; however, information and data on whether the species should be listed as endangered or threatened under the ESA was necessary. A species status assessment was conducted by USFWS and released in December 2021, which stated that the tricolored bat's current and future resiliency is compromised, and that the species is vulnerable to extirpation. On September 13, 2022, the USFWS released a notice on the proposal to list the tricolored bat as federally endangered. The initial final listing determination was anticipated for September 2023; however, the listing of this species was delayed. The final listing determination is now anticipated for release in the fall of 2025.

Little Brown Bat Listed Status

In the spring of 2020, the little brown bat was placed under evaluation for potential protection under the Endangered Species Act (ESA) by the USFWS. The little brown bat has remained federally listed as 'Under Review'. There is no anticipated date when the USFWS will determine a federal status for little brown bats. The little brown bat was listed as threatened in Michigan in 2023 by the Michigan Department of Natural Resources (MDNR) due to population declines from white-nose syndrome.

Regulatory Compliance Procedures

In June 2024, the USFWS Michigan Ecological Services Field Office (ESFO) published version 3 of the *Instructions for Conducting Endangered Species Act Project Reviews in Michigan using IPaC*² to help project proponents and consultants complete project reviews under the ESA and obtain official documentation to ensure that their proposed projects will comply with the ESA. These instructions provide the various processes and methods established by the USFWS Michigan ESFO to review projects using the IPaC.

Due to the schedule of both of the Projects' actions, the processes followed from the *Instructions for Conducting Endangered Species Act Project Reviews in Michigan using IPaC* included Steps 1, 2, and 3b of the Process Overview. These steps from the Process Overview are listed below.

- 1.) Define the Action and Action Area of your project
- 2.) Obtain a Species List in IPaC
- 3.) Evaluate effects to threatened and endangered (TE) species and designated critical habitat:
 - o B. Evaluate the effects outside of IPaC

Step 1. Define the Actions and Action Areas

Logan Claque Middle School

The Project Area of the Logan Claque Middle School Rebuild Project is approximately 26.55 acres in size. This area encompasses the entire action area for direct, indirect, and cumulative impacts to listed bat species. This Project Area contains approximately 3.59 acres of assessed forested habitat. Of the approximately 3.59 acres, approximately 3.21 acres of forested habitat is located in a forested lot that is adjacent to open fields and residential properties. The remaining approximately 0.35 acres of forested habitat is comprised of scattered landscaped trees that have been planted between parking lots and walkways to the school which would not be considered potential habitat for listed bat species. In total, approximately 3.59 acres of forested land required clearing for the rebuilding of the Project. However, clearing activities occurred in the early spring (late March 2025), before bats had emerged from hibernacula. One wetland that was identified in the forested lot that may provide a suitable foraging habitat for bats, has been reviewed by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and determined that no permit is required for the Project.

Thurston Elementary School

The Project Area of the Thurston Elementary School Rebuild Project is approximately 25.10 acres in size. This area encompasses the entire action area for direct, indirect, and cumulative impacts to listed bat species. This Project Area contains approximately 9.55 acres of potential bat habitat. Of this, approximately 0.61 acres of forested land, oak savannah, and landscaped areas are anticipated to be cleared for the rebuilding of Thurston Elementary School and some individual trees have been or may be transplanted to other areas of the Project. Of the approximately 0.61 acres affected, approximately

² USFWS, Version 3.0, June, 2024.

0.28 acres is comprised of scattered landscaped trees that have been planted between parking lots and walkways to the school which would not be considered potential habitat for listed bat species. These trees may be cleared at any time of year. Ten oak trees in approximately 0.25 acres of planted oak savannah were relocated northward and away from future construction areas from March 25-27, 2025. The remaining 0.08 acres of forested potential bat habitat remains scheduled to be cleared. This forested area clearing is scheduled to occur between November 1, 2025 and March 31, 2026, when bats are no longer summer roosting. In addition, two artificial bat boxes are present in the Thurston oak savannah. Bat use of these structures has been confirmed by the presence of guano. These structures were relocated northward and away from future construction areas on March 26, 2025. No aquatic features (wetlands, streams, ditches, ponds, lakes, etc.) are anticipated to be affected by the Project, with the exception of a constructed rain garden, which will be recreated after school construction is complete. The Michigan EGLE determined that no permit is required for the Project. The locations of trees that will be transplanted are mapped on the Site Surface Demolition Plan (**Attachment C**).

Step 2. Obtain an Official Species List

The USFWS Information for Planning and Consultation (IPaC) tool provides information regarding federally listed threatened and endangered species as well as proposed and candidate species based on known records and species ranges within the Project Area and surrounding region. According to the IPaC, Projects are within range of the Federally endangered Indiana bat and the proposed federally endangered tricolored bat.

Step 3b. Evaluate Projects for Potential Effects – Apply Internal Evaluation Process

In order to internally evaluate the potential effects of the Projects, ECT reviewed the *Step-by-Step Instructions for Section 7 Consultation Technical Assistance*³.

Step 1. Project Type

The Projects are not wind energy projects, tower installing projects, or projects that would otherwise require standing structures that would be 200 feet tall. Therefore, the project is permitted to continue to step 2 of the *Step-by-Step Instructions for Section 7 Consultation Technical Assistance*.

Step 2. Critical Habitats

The action area of the Projects has been determined to comprise the physical footprint of the Projects. The Logan Claque Middle School Rebuild Project is approximately 26.55 acres in size. The Thurston Elementary School Rebuild Project is approximately 25.10 acres in size. The Projects are not Housing and Urban Development (HUD), pipeline, buried utilities, telecommunication, or a request for a Conditional Letter of Map Revision (CLOMR) from FEMA projects. The Resource Lists received from the USFWS IPaC tool state that there are no critical habitats within the Project Areas. Therefore, no

³ USFWS, "Section 7 Consultation Technical Assistance Overview", Midwest Region Headquarters, 2024, <https://www.fws.gov/office/midwest-region-headquarters/midwest-section-7-technical-assistance#instructions>.

impact on critical habitats for the bat species of concern are anticipated as a result of the Projects and step 3 of the *Step-by-Step Instructions for Section 7 Consultation Technical Assistance* may be skipped so the evaluation process may resume with step 4.

Step 4. Determine Whether Listed or Proposed Species May Be Adversely Affected

The Projects are not anticipated to have a federal nexus (i.e., use of federal funds, federal lands, or federal authorizations), therefore, ECT is referencing the guidance document provided by the USFWS to evaluate an assessment of “probable take” pursuant to Section 9/10 of the ESA for non-federal actions.

The Logan Claque Middle School Rebuild Project would result in the direct removal of approximately 3.59 acres of low-quality summer roosting habitat (as described in **Attachment A**). Available foraging habitat and water sources would be preserved.

The Thurston Elementary School Rebuild Project would result in the direct removal of approximately 0.08 acres of low-quality summer roosting habitat (as described in **Attachment B**). Available foraging habitat and water sources would be preserved or recreated in the case of the constructed rain garden.

Additionally, since the Projects are located within the hibernation range of the bat species of concern, the summer roosting habitat detailed in the Project habitat assessment memos located in **Attachment A** and **Attachment B** would not be anticipated to be occupied by the species during the proposed action occurring between the dates of November 1 and March 31 according to USFWS guidance. Therefore, it is ECT’s professional opinion that the Project’s proposed actions are not likely to result in probable take to the bat species of concern. This conclusion is based on what AAPS has implemented voluntarily in addition to what is currently planned to be implemented voluntarily in the future.

Voluntary Conservation Measures

Several voluntary conservation measures applicable to the proposed Projects are listed below.

- 1.) Minimum Conservation Measure 1 – The proposed action will occur between the dates of November 1 and March 31 during the hibernation period of the bat species of concern within the state of Michigan.
- 2.) Minimum Conservation Measure 2 – The proposed action will not result in the clearing of >10 acres of potential suitable habitat or that will fragment a connective corridor between two or more forest patches of at least 5 acres.
- 3.) Minimum Conservation Measure 3 –Temporary or permanent lighting of roadway(s), facility(ies), and/or parking lot(s) must:
 1. When installing new or replacing existing permanent lights, use downward-facing, full cut-off lens lights (with same intensity or less for replacement lighting); and
 2. Direct temporary lighting away from suitable habitat when bats may be present.

- 4.) Relocated trees and bat boxes should be maintained in similar condition to their pre-construction state, i.e.; maintain height, direction, solar exposure conditions to the maximum extent practicable.

These determinations are based on what AAPS has implemented voluntarily in addition to what is currently planned to be implemented voluntarily in the future.

Impact Evaluation and Conclusion

Based on the Habitat Assessments for the Projects, the action areas provide low-quality potential summer roosting habitat for the bat species of concern. The Projects proposed actions will result in the direct impact to potentially suitable summer roosting bat habitat in the form of both tree clearing and transplantation and relocation of artificial bat boxes. However, with implementation of the voluntary conservation measures detailed in this memorandum, the proposed action is not anticipated to result in the probable take of the species.

Pursuant to Section 9/10 of the ESA and affirmed in the USFWS Michigan Ecological Services Field Office (ESFO) published version 3 of the *Instructions for Conducting Endangered Species Act Project Reviews in Michigan using IPaC*, a non-federal entity may advance a project based on evaluation of probable take without seeking direct USFWS assurances. Final determinations regarding the effects of project actions on listed species may only be made by the local USFWS ESFO. ECT reserves the right to amend any previous opinions and internally evaluated determinations pending any regulatory change affecting this memorandum.

Attachment A

Logan Claque Middle School Rebuild Project

Habitat Assessment Memo

*(see separate Logan or Thurston Bat Habitat
Assessment, dated April 14, 2025)*

Attachment B

Thurston Elementary School Rebuild Project

Habitat Assessment Memo

*(see separate Logan or Thurston Bat Habitat
Assessment, dated April 14, 2025)*

Attachment C

Thurston Elementary School Rebuild Project

Building Project Site Surface Demolition Plan

*(see separate Logan or Thurston Bat Habitat
Assessment, dated April 14, 2025)*