



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R3-ES-2021-0062; FXES11140300000-212]

### **Draft Environmental Assessment; Receipt of an Application for an Incidental Take Permit and Habitat Conservation Plan for Five Bat Species, Missouri**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment and information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received an application from the Missouri Department of Conservation (applicant) for an incidental take permit (ITP) under the Endangered Species Act. If approved, the permit would be for a 50-year period and would authorize the incidental take of two endangered species, the Indiana bat and the gray bat; one threatened species, the northern long-eared bat; and two species petitioned for Federal listing, the little brown bat and the tricolored bat. The applicant has prepared a habitat conservation plan (HCP) to cover a suite of activities associated with continued forest and habitat management within the State of Missouri.

**DATES:** We will accept comments received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES: *Document availability:*** Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2021–0062 at <http://www.regulations.gov>.

***Comment submission:*** In your comment, please specify whether your comment addresses the proposed HCP, draft EA, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Search for and submit comments on Docket No. FWS–R3–ES–2021–0062.
- *U.S. mail:* Send comments to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2021–0062; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** John Weber, Deputy Field Supervisor, Missouri Ecological Services Field Office, U.S. Fish and Wildlife Service, 101 Park DeVille Drive, Suite A, Columbia, MO 65203; telephone: 573–234–2132.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We make available for public comment the applicant’s habitat conservation plan (HCP) and announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act. We invite

the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

We, the U.S. Fish and Wildlife Service (Service), have received an application from the Missouri Department of Conservation (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for its habitat conservation plan (HCP) for the Indiana bat, gray bat, northern long-eared bat, little brown bat, and tricolored bat (covered species). The applicant conducts habitat and forest management activities statewide in Missouri; the application covers nearly the entire State, except for lands owned and managed by other Federal and State entities, and would consist of approximately 42 million acres of covered species habitat. The applicant has prepared a habitat conservation plan that describes the continued habitat and forest management operations and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the covered species. The HCP proposes to restore, enhance, and maintain more than 1 million acres of covered species habitat and has dedicated 28,000 acres of State-owned land specifically for the enhanced restoration, management, and permanent protection of priority bat management zones to further offset impacts to the covered species. If approved, the ITP would be for a 50-year period and would authorize the incidental take of two endangered species, the Indiana bat (*Myotis sodalis*) and the gray bat (*Myotis grisescens*); one threatened species, the northern long-eared bat (*Myotis septentrionalis*); and two species petitioned for Federal listing, the little brown bat (*Myotis lucifugus*) and the tricolored bat (*Perimyotis subflavus*). The applicant has prepared an HCP that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of Indiana bat, gray bat, northern long-eared bat, little brown bat, and tricolored bat. We also announce the availability of a draft

environmental assessment (EA), which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We request public comment on the application and associated documents.

## **Background**

Section 9 of the ESA and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect “listed animal species,” or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (16 U.S.C. 1539). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32. Impacts to plants do not fall under the definition of “take”; therefore, the Service cannot authorize incidental take of plants. However, the Service cannot issue an ITP that would jeopardize the continued existence or adversely modify the designated critical habitat of any listed species.

## **Applicant’s Proposed Project**

The applicant requests a 50-year ITP to take the five bat species. The applicant determined that take is reasonably certain to occur incidental to enactment of forest and habitat management activities statewide on 42 million acres of covered species habitat. The proposed conservation strategy in the applicant’s proposed HCP is designed to avoid, minimize, and mitigate the impacts of habitat and forest management on the covered

species. The biological goals and objectives are to minimize potential take of the five covered species through minimization measures and to provide habitat conservation measures for the covered species to offset any impacts from implementation of habitat and forest management activities. The estimated level of take from the project is 20.38 adult Indiana bats, 0.02 northern long-eared bats, 0.11 little brown bats, and 1.81 tricolored bats on an annual basis. As a result of proposed avoidance measures, the likelihood of take for gray bat has been greatly reduced such that a measurable level of take is not anticipated to occur. To offset the impacts of the taking of the five covered bat species, the applicant proposes to avoid habitat loss-related impacts from habitat and forest management, by instituting avoidance measures during the management process, such as avoiding certain activities during the active maternity season, and implement species habitat protection, enhancement, or restoration on 28,000 acres. Beneficial and net effects of the conservation strategy include the successful management of forests, which protect potential habitat for bats; site-level maintenance and promotion of roost trees and foraging habitat; the protection and management of 28,000 acres of priority bat management zones targeted at tree-roosting covered species; the protection and enhancement of caves; and other specific measures that minimize or avoid effects to the covered species.

### **National Environmental Policy Act**

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: a no-action alternative, a no take alternative, the applicant's proposed action, and an early planning mitigation alternative.

### **Next Steps**

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

### **Request for Public Comments**

The Service invites comments and suggestions from all interested parties on the proposed HCP, draft EA, and supporting documents during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment including Indiana, gray, northern long-eared, little brown, and tricolored bats.

### **Availability of Public Comments**

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying

information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR 46).

---

**Lori Nordstrom,**

*Assistant Regional Director,*

*Ecological Services.*

[FR Doc. 2021-19929 Filed: 9/14/2021 8:45 am; Publication Date: 9/15/2021]