

## FINDING OF NO SIGNIFICANT IMPACT (FONSI)

### Regarding

#### The U.S. Fish and Wildlife Service's Proposed Issuance of an Endangered Species Act Section 10(a)(1)(B) Incidental Take Permit for Indiana Bat, Northern Long-eared Bat, Tricolored Bat, and Little Brown Bat to the Missouri Department of Conservation in Association with Implementation of the Habitat Conservation Plan for Forest Management Activities

## I. INTRODUCTION

This Finding of No Significant Impact (FONSI) addresses the issuance of an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (ESA; 16 United States Code [USC] § 1531- 1544) and its regulations pertinent to the incidental take permitting (50 Code of Federal Regulations [CFR] § 22.26) related to the Missouri Department of Conservation's (MDC) (Applicant) habitat and public access management activities.

In accordance with the National Environmental Policy Act of 1969 (NEPA; 16 USC § 4321 et seq.), its implementing regulations (40 CFR § 1500-1508, as amended in 2020), and the U.S. Department of the Interior's regulations for implementing NEPA (43 CFR § 46.300-325), the U.S. Fish and Wildlife Service (Service) has completed an Environmental Assessment (EA) analyzing effects to the human environment by issuing an ITP to MDC, pursuant to section 10(a)(1)(B) of the ESA. The ITP would authorize incidental take of the endangered Indiana bat (*Myotis sodalis*), endangered gray bat (*Myotis grisescens*), threatened northern long-eared bat (*Myotis septentrionalis*), and two non-listed bats, little brown bat (*Myotis lucifugus*), and tricolored bat (*Perimyotis subflavus*), associated with covered activities which would be carried out in conjunction with implementation of the MDC's *Bat Habitat Conservation Plan*. The above species are hereafter referred to as "Covered Species."

The EA evaluated a range of reasonable alternatives, based on their ability to meet the purpose and need, and the associated impacts to the human environment. Upon review of the EA, the Service concludes that a finding of no significant impact is appropriate. Following review and analysis, the Service has chosen to issue an ITP as described under the Proposed Action (EA Chapter 2.2).

## II. PROJECT BACKGROUND

The Service received an application for an ITP from the MDC related to the MDC's *Bat Habitat Conservation Plan* (HCP). The MDC prepared an HCP to address anticipated incidental take of five listed or otherwise at-risk bat species resulting from habitat management on lands owned or managed by MDC, and operations and maintenance of MDC facilities and properties. The HCP proposes to restore, enhance, and maintain more than one million acres of Covered Species habitat. The MDC has also dedicated 28,000 acres of State-owned land specifically for the enhanced restoration, management, and permanent protection of at-risk-bat management zones (Priority Bat Management Zones) to further offset impacts to the Covered Species. Incidental take of the five bat species is also anticipated from habitat management on private lands, where MDC provides supports with technical assistance or funding. The ITP would authorize incidental take of following at-risk-bat species:

- Indiana bat
- Gray bat
- Northern long-eared bat
- Little brown bat
- Tricolored bat

The Plan Area for the HCP is defined as the entire state of Missouri and includes areas where conservation activities occur with which MDC is directly involved. The Covered Lands are areas within the Plan Area where incidental take of Covered Species is anticipated to occur. The Covered Lands consist of approximately 42 million acres segregated into two categories:

- Lands owned or managed by MDC (MDC lands).
- Other non-federal, non-MDC lands where MDC financially supports or provides technical assistance to private landowners to manage fish, forest, and wildlife resources.

The 42 million acres of Covered Lands consist of 15.7 million acres of forested land that provides potential habitat for the Covered Species. This forested land includes approximately 178,000 acres of land leased to and managed by MDC on behalf of the United States Army Corps of Engineers (USACE). Covered Activities under the HCP are the activities that result in incidental take, and include MDC's habitat management, public access and asset management, and HCP implementation. The MDC manages land for the purpose of promoting fish and wildlife habitat, enhancing and maintaining forest health, and providing recreational opportunities.

### **III. ALTERNATIVES CONSIDERED**

As referenced in the NEPA regulations administered by the Council on Environmental Quality, federal agencies are required to develop, study, and briefly describe reasonable alternatives to any proposed action with the potential result in unresolved resource conflicts as provided by section 102(2)(E) of NEPA (40 CFR § 1501.2[b], as amended in 2020). The EA describes the probable effects of the Applicant's proposed forestry activities, a no action alternative (EA Section 2.1), and six alternatives that were considered but eliminated from further consideration (EA Section 2.3).

**No Action Alternative:** The Service would not issue an ITP for the Covered Activities. The MDC's mandate to manage land for the purpose of promoting fish and wildlife habitat, enhancing and maintaining forest health, and providing recreational opportunities would remain in place and continue to be subject to the ESA. Specifically, for the northern long-eared bat, MDC would continue to operate under the existing ESA 4(d) rule, which includes receiving allowances for certain activities. MDC would continue avoiding any effects on Indiana bat and, where this would not be possible, minimize the potential impacts. MDC would continue having the option to pursue project-by-project incidental take authorization under ESA section 7 or section 10 for Indiana bat, gray bat, and/or northern long-eared bat. The Service anticipates that Indiana bat, northern long-eared bat, and gray bat take under the No Action Alternative to be similar to the Proposed Action (see EA Section 2.1 for details).

**Proposed Action:** The Service would approve the HCP and issue a 50-year ITP to the MDC for incidental take of the Covered Species from the Covered Activities in the Plan Area. The Covered Activities, as documented in the HCP and summarized in the EA, include the following three main categories: habitat management, public access and asset management, and HCP conservation strategy. The conservation strategy summarized in EA Section 2.2.2.3 and described in detail in the HCP incorporates measures intended to avoid, minimize, and mitigate impacts on Covered Species from Covered Activities such that take is fully offset, including an adaptive management approach, and monitoring and reporting requirements. The goal of the conservation strategy is to promote and protect the Covered Species through avoidance, minimization, and mitigation measures.

**Alternative Actions Considered:** The Service considered but dismissed six alternatives (see EA Section 2.3 for details): (1) Shorter Permit Term; (2) Additional Covered Species; (3) Retain Current Indiana Bat and Northern Long-Eared Bat Buffer Zones; (4) Reduced Prescribed Burns; (5) Indiana Bat Only; and (6) No Take. The six-alternatives the Service dismissed is summarized as followed:

- **Shorter Permit Term:** The Service would issue an ITP covering a 30-year permit term with the implementation of the proposed HCP. A 30-year permit term would provide long-term incidental take coverage for the Covered Activities, except for some forestry treatments that occur over longer time horizons. However, a 30-year permit term does not allow for a sufficient assessment of the impacts of the proposed forest management activities on Covered Species. The full duration of harvest treatments can take more than 50 years and as a result, the habitat benefits resulting from long-duration harvest treatments may not be fully evident during a 30-year permit term.
- **Additional Covered Species:** The Service considered covering additional species in the HCP. Several other federally listed species occur or potentially occur in the Plan Area. MDC has not proposed these species as Covered Species in the HCP because incidental take of these species from the Covered Activities is not anticipated.
- **Retain Current Indiana Bat and Northern Long-Eared Bat Buffer Zones:** MDC would avoid the incidental take of Indiana and northern long-eared bats by precluding or minimizing forest management activities around known roost locations during the active season. Currently, MDC avoids take of these bats by precluding or minimizing forest management activities around known roost locations during the active season. Avoidance areas are established by creating buffer zones around known roost trees. Avoiding forest management activities within buffer areas minimizes flexibility and creates uncertainty for MDC. In addition, the buffer zones do not provide protection for little brown and tricolored bats.
- **Reduced Prescribed Burns:** Incidental take would be minimized by reducing or removing the prescribed burning practice. Removal of prescribed fire as a Covered Activity would require MDC to rely only on tree-cutting method to manage forest ecosystems. However, prescribed burns have ecosystem benefit, especially for bats. Fire kills smaller trees leaving larger more mature trees that provide habitat for bats. Finally, prescribed fire may kill trees, but those dead trees remain on the landscape as snags and continue to provide habitat for bats. Fire has been documented to create roost trees for bats and improve habitat in many instances. Covering the full suite of MDC habitat management activities at the preferred extent and frequency would allow managers to better enhance forest conditions for bats. The flexibility in timing of prescribed burning proposed in the HCP would allow MDC to take advantage of favorable environmental conditions and opportunistic burns.
- **Indiana Bat Only:** Under the Indiana Bat Only alternative, the northern long-eared bat would be managed in accordance with the existing ESA 4(d) rule, which does not prohibit incidental take in certain circumstances. The Plan Area and Covered Lands, Covered Activities, conservation strategies, and monitoring protocol would apply to the Indiana bat as set forth in HCP, and an ITP would be issued only for Indiana bat. Managing take for the northern long-eared bat from the Covered Activities under the 4(d) rule would reduce certainty for MDC should the listing status of the northern long-eared bat change from threatened to endangered.
- **No Take:** MDC would not engage in forest management activities that result in the take of Covered Species, thereby removing the need for an incidental take permit from the Service. Forest management activities are necessary for MDC to meet its required mandates, and because Covered Activities are necessary, take of the covered species can be minimized but not entirely avoided.

#### IV. IMPACT OF HCP IMPLEMENTATION

The EA evaluated potential impact that would result from issuance of the ITP and implementation of the proposed HCP. Effects on the human environment were analyzed for each alternative to assess the significance of its impacts. The degree of effects considered included both short- and long-term effects, beneficial and adverse effects, and effects on public health and safety within the setting of the proposed action in accordance with 40 CFR § 1501.3(b).

MDC conducts habitat and forest management activities throughout Missouri that will result in incidental take from Covered Activities (e.g., future tree removal during construction, maintenance, repairs of facilities; vehicle operations; and demolition of structures) (see EA Section 3.8.2.3). The HCP proposes actions that will minimize and mitigate impacts to Covered Species while managing forests to provide long-term habitat benefits for bats and other wildlife. Implementation of the HCP conservation strategy would result in beneficial impacts on Covered Species (detailed in HCP Section 5.3). Beneficial effects to Covered Species result from a combination of implementing several measures and activities, including protecting, managing, and enhancing existing habitats (e.g., prescribed fires); creating Priority Bat Management Zones (PBMZs); establishing protective buffers; practicing seasonal avoidance; and conducting public outreach. The Sodalis Nature Preserve, which contains the largest known Indiana bat hibernaculum, would be protected with a 10-mile buffer. Over the 50-year permit term, habitat management activities, such as prescribed fire and tree removal, are expected to promote a diversity of forest types and ages; and therefore, a diversity of suitable Covered Species foraging and roosting habitat throughout the state. EA Table 3-13 highlights the HCP's beneficial effects on Covered Species that contribute to offsetting take, and EA Table 3-14 shows the total net benefits compared to take. The Covered Activities may have adverse effects to other physical and biological resources, as documented in the EA. However, implementing the Proposed Action is not expected to result in significant impacts to any of the environmental resources identified in the EA in consideration of the context and intensity of the Covered Activities. The Proposed Action is consistent with the Service's purpose and need as stated in the EA, therefore the Proposed Action as outlined in the Final EA is the Preferred Alternative.

## **V. PUBLIC INVOLVEMENT**

On September 15, 2021, the Service published the Draft EA and Draft HCP in the Federal Register (86 FR 51367). Public comments were accepted during a 30-day period following publications of the Federal Register Notice of Availability; comments were accepted through October 15, 2021. Electronic copies of the documents were available for review under Docket No. FWS-R3-ES-2021-0062 and through the project website at <http://www.mobatnepa.com/>.

Four comments were received from the public and taken into account in assessing the Proposed Action impacts. Responses to comments on the Draft EA and Draft HCP can be found in Appendix D of the Final EA and are incorporated herein by reference.

## **VI. SERVICE FINDING**

After providing a comprehensive review and analysis of the HCP and consideration of the findings presented in the EA and summarized above, the Service has determined that the Proposed Action meets the agency purpose and need to conserve the Covered Species and to respond to an ITP application while fulfilling the Service's statutory mission and responsibilities, considering the economic, environmental, technical, and other factors. The Service bases this decision on the review of information taken from:

1. Agency and public comments on the Draft EA and Draft HCP;
2. Considered alternatives and their environmental consequences disclosed in the Draft and Final EA;
3. The Service's Biological Opinion; and
4. The Service's Statement of Finding.

## **VII. CONCLUSION**

Based on the review and evaluation of the information contained in the supporting references, it was determined that the Proposed Action is not a major Federal action that would significantly affect the

quality of the human environment, within the meaning of NEPA Section 102(2)(c). Accordingly, the Service is not required to prepare an environmental impact statement for this action. Furthermore, it was found that implementing the Proposed Action will have no significant impact on any of the environmental resources identified in the EA.

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