

From: [Briana Arlene](#)
To: ohio@fws.gov
Cc: [Mitchell Dehmer](#); [Shannon Healy \(She/Her\)](#); [Michelle Rome \(She/Her\)](#); [Lance Rakovan](#); [Steve Koenick](#)
Subject: Project submittal for review (IPaC Consultation Code: 2024-0006782)
Date: Friday, September 6, 2024 7:29:00 AM



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

Dear Ohio Ecological Services Field Office:

The purpose of this email is to notify you of the U.S. Nuclear Regulatory Commission (NRC) staff's determination that the proposed license renewal of Perry Nuclear Power Plant, Unit 1 (Perry Plant) in Lake County, Ohio, is not likely to adversely affect (NLAA) the northern long-eared bat (NLEB) (*Myotis septentrionalis*), Indiana bat (*M. sodalis*), tricolored bat (*Perimyotis subflavus*), Great Lakes distinct population segment (DPS) of the piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), and monarch butterfly (*Danaus plexippus*). This email describes the proposed action and summarizes the NRC staff's environmental review. This letter also requests the U.S. Fish and Wildlife Service's (FWS) concurrence with the NRC staff's NLAA determinations pursuant to Section 7 of the Endangered Species Act of 1973, as amended (ESA).

Proposed Action

Perry Plant is a single-unit nuclear power plant that lies on the southeastern shore of Lake Erie in Lake County, Ohio. The Perry Plant site is approximately 1,000 acres. Vistra Operations Company, LLC (VistraOps) operates the plant. The NRC issued the facility operating license for the Perry Plant in November 1986, and it expires in November 2026. The NRC's current Federal action is to determine whether to renew this license for an additional 20 years of operation until November 2046.

Draft Supplemental Environmental Impact Statement

In support of its review of the proposed action, the NRC staff prepared a draft environmental impact statement (EIS) to comply with the National Environmental Policy Act of 1969, as amended (NEPA), and the NRC's environmental regulations at Title 10 of the *Code of Federal Regulations* (10 CFR) Part 51 that implement NEPA. The draft EIS addresses the environmental impacts of the proposed action and reasonable alternatives to the proposed action. The NRC staff recently completed the draft EIS, and it is available online at [ML24241A256](#).

ESA NLAA Determinations

The NRC staff's biological evaluation for ESA-protected species and critical habitats is contained within the draft EIS.

Section 3.8 of the draft EIS describes the ESA action area; the federally listed, proposed, and candidate species potentially present in the action area; and the impacts of the proposed action on those species. No critical habitats occur in the action area.

Notably, the staff analyzed three species (NLEB, tricolored bat, and piping plover that appeared in an October 19, 2023, Information for Planning and Conservation (IPaC)

species list but that were not included in the most recent IPaC report generated for the project on September 6, 2024. ⁽²⁾ Links to both IPaC reports are below under “References” for your awareness.

In **Section 3.8.4** of the draft EIS, the NRC staff finds that the proposed action is NLAA the NLEB, Indiana bat, tricolored bat, piping plover (Great Lakes DPS), red knot, and monarch butterfly. The NRC staff evaluated the potential for these species to be affected by several stressors, all of which the staff determined would result in no more than insignificant or discountable effects to all species.

Appendix C.2 of the draft EIS describes the NRC’s obligations under Section 7 of the ESA and relevant correspondence with the FWS in connection with the NRC staff’s review of the proposed action.

FWS Concurrence Under the Northern Long-eared Bat Determination Key

The NRC staff used the FWS’s NLEB determination key on IPaC to receive the FWS’s concurrence that the proposed Perry Plant license renewal is NLAA this species. This determination is primarily because license renewal would not involve construction or the removal, modification, or degradation of suitable woodland habitat, and would only require occasional removal of hazard trees. On October 19, 2023, the FWS provided the NRC with a letter documenting the determination key finding and concluding the NRC’s responsibilities for the proposed Perry Plant license renewal under ESA Section 7(a)(2) with respect to the NLEB.⁽³⁾ Since that time, the NRC staff has not identified any new information that would affect this determination or require further consultation.

ESA Determination for Monarch Butterfly

The NRC staff determined that the proposed Perry Plant license renewal is NLAA the monarch butterfly. This determination is because the proposed action would not involve any habitat loss, land-disturbing activities, or any activities that would degrade existing natural areas or potential habitat for monarch butterflies. Continued preservation of the existing natural areas on the site would result in positive impacts on monarch butterflies. Herbicides would only be applied according to labeled uses in developed and manicured areas of the site, and herbicides would not be applied in natural areas. Monarchs would only have the potential to occur in the action area seasonally and infrequently, making the likelihood of herbicide exposure low. This represents an insignificant effect because it is unlikely to reach the scale at which a take might occur. Finally, the contribution of Perry Plant operations to climate change-related effects on monarch butterflies would be too small to be meaningfully measured, detected, or evaluate.

The monarch butterfly is currently a candidate for ESA listing. The ESA and its regulations do not require consultation for candidate species. However, the NRC staff welcomes any comments you may have on this species or the staff’s determination.

Request for NLAA Concurrence for Indiana Bat, Tricolored Bat, Piping Plover Great Lakes DPS, and Red Knot

The NRC staff determined that the proposed Perry Plant license renewal is NLAA the Indiana bat, tricolored bat, piping plover (Great Lakes DPS), and red knot. These determinations are because the proposed action would not involve any construction, land clearing, or other ground-disturbing activities. The proposed action would continue to preserve existing natural habitats on the site, which would result in positive impacts on these species. Additionally, bat and bird collisions with nuclear power plant structures in the United States are rare, and none have been reported at Perry Plant. Vehicle collisions

attributable to the proposed action are also unlikely, and none have been reported at Perry Plant. Finally, listed bats and birds, if present in the action area, have likely already acclimated to the noise, vibration, and general human disturbances associated with site maintenance, infrastructure repairs, and other site activities. During the license renewal term, such disturbances and activities would continue at current rates and would be limited to the industrial-use portions of the site.

With respect to the tricolored bat, the NRC staff understands that this species is currently proposed for listing as endangered under the ESA. Under the ESA regulations, a conference is required when an action is likely to jeopardize the continued existence of a proposed species (50 CFR 402.10(c)). Therefore, based on the NRC staff's NLAA determination, a conference is not required for this action. Nonetheless, the NRC staff requests your written concurrence with its NLAA determination for the tricolored bat because it is likely that the FWS will issue a final rule to list this species before the NRC makes a decision on the Perry Plant license renewal, which will then necessitate consultation under ESA Section 7(a)(2). The NRC's license renewal decision is currently scheduled for August 2025.

Please provide your responses regarding the staff's NLAA determinations electronically to the following email addresses: EndangeredSpecies@nrc.gov and Briana.Arlene@nrc.gov.

NEPA Comment Period and Public Meeting

With respect to the NEPA process, the NRC staff is currently seeking public comments on its draft EIS through October 21, 2024. If you wish to submit NEPA comments on the draft EIS unrelated to ESA Section 7 consultation, you may submit such comments either online or via U.S. mail. Information on how to submit NEPA public comments is provided in the NRC's *Federal Register* notice at [89 FR 72901](#).

In connection with the NEPA public comment period, the NRC staff will hold two virtual public meetings on October 1, 2024, at 1 p.m. eastern time (ET) and on October 2, 2024, at 6 p.m. ET that will include a presentation on the staff's preliminary findings and an opportunity for members of the public to submit oral comments. Meeting details can be found on the NRC's [public meeting website](#).

Conclusion

Should you need to discuss the information in this email or if you require additional information concerning this project, please reach out to me by phone at 301-415-1042 or by email at Briana.Arlene@nrc.gov.

Thank you,

Briana

Briana S. Arlene

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References

1. October 19, 2023, IPaC Report for Perry Plant License Renewal: [ML23292A248](#).
2. September 6, 2024, Updated IPaC Report for Perry Plant License Renewal: [ML24250A041](#).
3. October 19, 2023, FWS Concurrence under NLEB Determination Key: [ML23292A248](#).

IPaC Consultation Code: 2024-0006782

Docket No.: 50-440

ADAMS Accession No.: ML24247A021

CONCURRENCE				
OFFICE	PM:REFS	BC:REFS	OGC(NLO)	CB:ELRB:REFS
NAME	LRakovan	MRome	JWachutka	BArlene
DATE	9/3/2024	9/5/2024	9/4/2024	9/6/2024
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