



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Tennessee Ecological Services Field Office
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February 15, 2024

Mr. Johnny O. Moore, Manager
Department of Energy
Oak Ridge National Laboratory
1 Bethel Valley Road
Oak Ridge, TN 37830

Subject/Re: FWS #: 2023-0021311, Final Biological Opinion for Environmental Management Disposal Facility in Anderson and Roane Monroe counties, Tennessee

Dear Mr. Moore:

This letter transmits our enclosed biological opinion (BO) for the Environmental Management Disposal Facility project on the Oak Ridge Reservation (the Action). The Department of Energy proposes to construct this new landfill in the Bear Creek watershed. On October 9, 2023, we received your letter requesting formal consultation for the Action and associated Biological Assessment (BA). You determined that the Action is likely to adversely affect the Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and gray bat (*Myotis grisescens*).

In response to your request for formal consultation, we concur with your determination that the proposed activity is likely to adversely affect these species. We have addressed effects to the species in the enclosed BO, which concludes that the Action is not likely to jeopardize the continued existence of the species. This finding fulfills the requirements applicable to the Action for completing consultation under §7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended.

The BO includes an Incidental Take Statement that requires implementation of reasonable and prudent measures that we consider necessary or appropriate to minimize the impacts of anticipated taking of listed species. Incidental taking of listed species that are in compliance with the terms and conditions of this statement are exempted from the prohibitions against taking under the Endangered Species Act.

This letter completes consultation requirements for the Action relative to the Indiana bat, northern long-eared bat, and gray bat. Reinitiating consultation relative to these species is required when:

- the amount or extent of incidental take is exceeded;
- new information reveals that the Action may affect listed species or designated critical habitat in a manner or to an extent not considered in the BA;
- the Action is modified in a manner that causes effects to listed species or designated critical habitat not considered in the BA; or
- a new species is listed or critical habitat designated that the Action may affect.

We appreciate the opportunity to work with you and your staff and look forward to our continued partnership in developing the related programmatic consultation and conservation bank. A complete administrative record of this consultation is on file at our Cookeville, TN office. If you have any questions about the BO, please contact Steve Alexander by phone at 931/525-4980 or via email at steven_alexander@fws.gov.

Sincerely,

Field Supervisor