



**2015
ND COUNTY
ENGINEERS &
HIGHWAY
SUPERINTENDENTS
CONVENTION**

ENDANGERED SPECIES ACT

- ESA passed in 1973
- The purpose of the ESA is to protect and recover imperiled species and the ecosystems upon which they depend
- Section 7 of the ESA requires federal agencies to effects of actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species
- US Fish and Wildlife Service (USFWS) is responsible implementing the ESA for terrestrial and freshwater species

ENDANGERED SPECIES ACT

- FHWA must determine affect of proposed action:
 - No effect
 - May affect, not likely to adversely affect May affect, likely to adversely affect
 - May affect, likely to adversely affect May affect, likely to adversely affect
 - Likely to jeopardize the continued existence of the species
 - Take

NO EFFECT

- “**No effect**” means ESA-listed species or critical habitat will not be affected, directly or indirectly. Generally, this means no ESA-listed species or critical habitat will be exposed to any potentially harmful/beneficial elements of the action
- Some examples of when a “no effect” conclusion would be:
 - The species doesn’t occur in the project area
 - The species occurs seasonally in the area, but the project will be timed to avoid their presence
 - The species occurs in the area but there is no plausible way the species would be affected
- If no effect based on NDDOT table, no need to consult USFWS

MAY AFFECT, NOT LIKELY TO ADVERSELY AFFECT MAY AFFECT, LIKELY TO ADVERSELY AFFECT

- Means that all effects are *beneficial*, *insignificant*, or *discountable*.
 - **Beneficial effects** have an immediate positive effect without any adverse effects to the species or habitat.
 - **Discountable effects** are those that are extremely unlikely to occur.
 - **Insignificant effects** relate to the size or severity of the impact and include those effects that are undetectable, not measurable, or so minor that they cannot be meaningfully evaluated.

May affect, not likely – requires Biological Assessment and Concurrence from USFWS

SPECIES LISTED IN ND

Species	Listing
Interior Least Tern	Endangered
Whooping Crane	Endangered
Black-footed Ferret	Endangered
Pallid Sturgeon	Endangered
Gray Wolf	Endangered
Poweshiek Skipperling	Endangered
Piping Plover	Threatened
Western Prairie Fringed Orchid	Threatened
Dakota Skipper	Threatened
Northern Long-Eared Bat	Proposed
Rufa Red Knot	Proposed
Greater Sage Grouse	Candidate
Sprague's Pipit	Candidate
Piping Plover Critical Habitat	Designated
Poweshiek Skipperling Critical Habitat	Proposed
Dakota Skipper Critical Habitat	Proposed

NORTHERN LONG-EARED BAT

Myotis septentrionalis

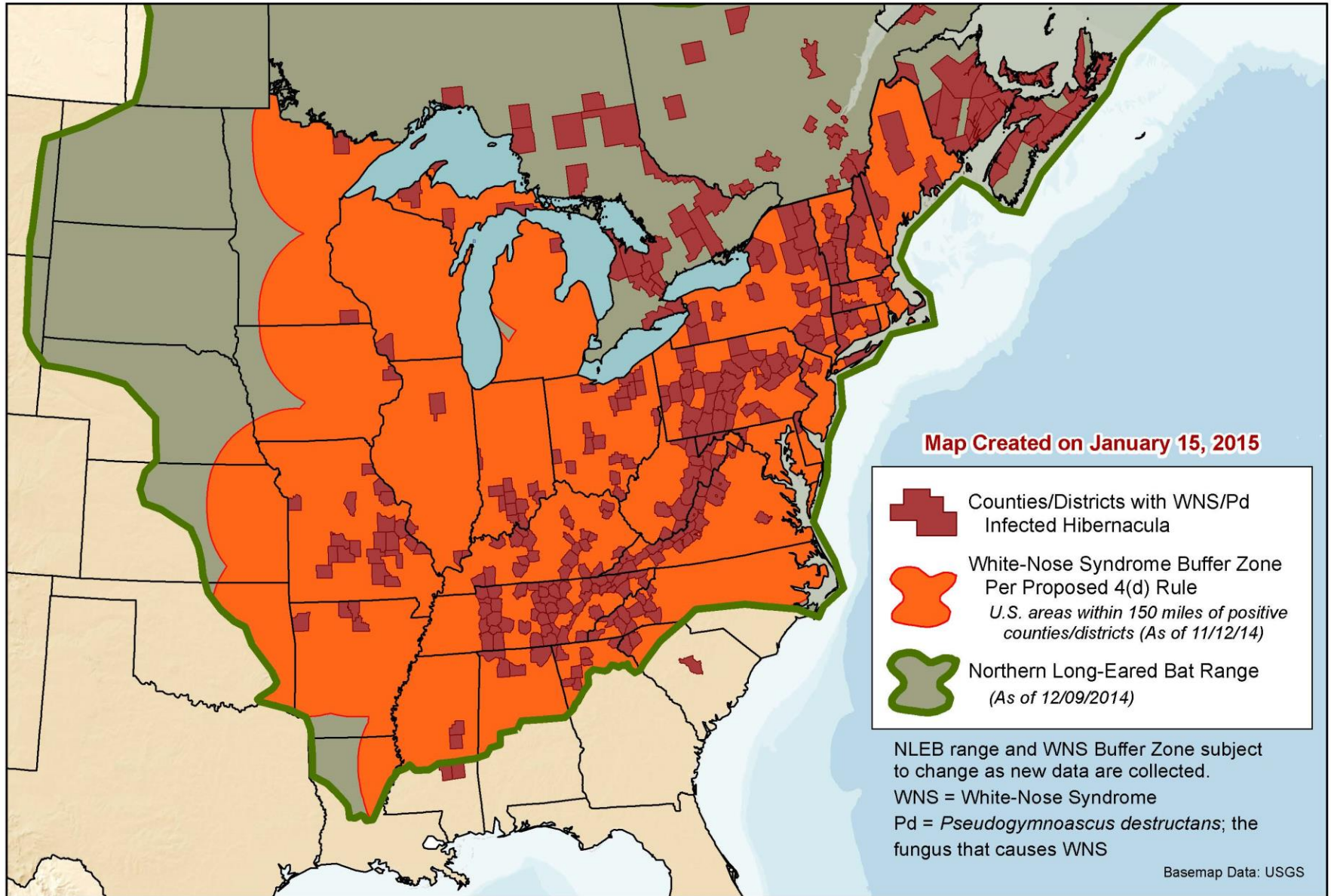




U.S. Fish & Wildlife Service

Northern Long-Eared Bat Proposed 4(d) Rule

White-Nose Syndrome Buffer Zone Around WNS/Pd Positive Counties/Districts



Unsuitable Habitat

NLEB

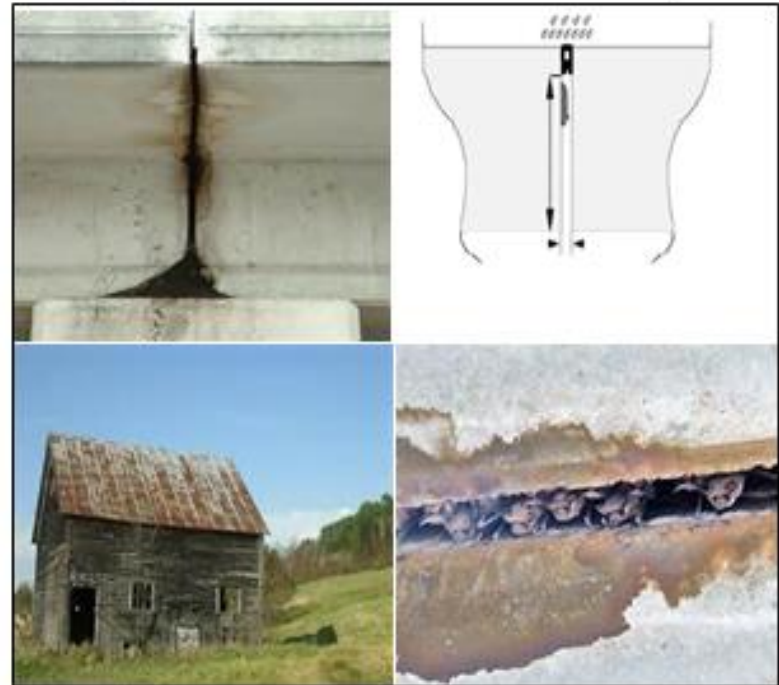
- White-nose syndrome
- Final decision on proposal due on April 2, 2015
- No known winter hibernacula in ND
- Projects involving tree removal and work on structures
- Need to determine if suitable summer habitat exists in project area



Suitable Night Roosting Structures



Suitable Day Roosting Structures



- Day roosts are used for extended rest periods and rearing young, while night roosts are used briefly for resting during foraging
- Need to inspect structures for signs of bat usage
- If tree removal on project, need to determine if trees are suitable habitat

Project:	PCN:	Location:	County:	FHWA Review Required?		Determination		Additional Documentation Included
Species	Listing	Guidance	Yes	No	Not Present	No Effect		
			Interior Least Tern	E	FHWA Review required for work in or along the shoreline of the Missouri River System including reservoirs from April 15 through August 1.			
Whooping Crane	E	FHWA Review required for work involving above ground utilities or towers, or new guy wires unless lines are buried.						
Black-footed Ferret	E	FHWA Review required for ground disturbing activities within 100 feet of prairie dog towns of at least 80 acres in size. Projects within the existing right-of-way will not require FHWA review.						
Pallid Sturgeon	E	FHWA Review required for work in or along the shoreline of the Missouri River (including reservoirs) and Yellowstone River Systems.						
Gray Wolf	E	Listed West of US 83; Delisted East of US 83						
Poweshiek Skipperling	E	FHWA Review required for work occurring outside of the right of way in undisturbed native tall grass prairie and wet swales						
Piping Plover	T	FHWA Review required for ground disturbing activities within ½ mile of designated piping plover critical habitat or known nesting sites. See link for piping plover designated critical habitat maps: http://www.fws.gov/mountain-prairie/species/birds/pipingplover/						
Western Prairie Fringed Orchid	T	FHWA Review required for all ground disturbing activities on non-flooded, undisturbed ground, known habitat, and native prairie. High probability of species in or near the Sheyenne National Grassland.						
Dakota Skipper	T	FHWA Review required for work occurring outside of the right of way in high quality native prairie containing a high diversity of wildflowers and grasses.						
Northern Long-Eared Bat	P	FHWA Review required for work involving the removal of trees or buildings, ground disturbance in areas with caves, mines, and rock crevices, or work on structures. See NLEB Guidance for NDDOT Projects for further assistance.						
Rufa Red Knot	P	FHWA Review required for work activities impacting Piping Plover Critical Habitat or sewage lagoons. See link for piping plover designated critical habitat maps: http://www.fws.gov/mountain-prairie/species/birds/pipingplover/						
Greater Sage Grouse	C	FHWA Review Required for work activities occurring outside the right of way in native sagebrush grasslands where big sagebrush (<i>Artemisia tridentata</i>) is present.						
Sprague's Pipit	C	FHWA Review Required for work activities occurring outside the right of way in large native short-to-mixed grass prairie patches of approximately 72 acres or greater.						
Piping Plover Critical Habitat	D	FHWA Review required for ground disturbing activities within ½ mile of designated piping plover critical habitat or known nesting sites. See link for piping plover designated critical habitat maps: http://www.fws.gov/mountain-prairie/species/birds/pipingplover/						
Poweshiek Skipperling Critical Habitat	P	FHWA Review required for ground disturbing activities within 0.6 mile of proposed Poweshiek Skipperling critical habitat. See link for Poweshiek Skipperling proposed critical habitat maps: https://www.fws.gov/midwest/endangered/insects/posk/poskPropCHMapUnitsND_SD.html						
Dakota Skipper Critical Habitat	P	FHWA Review required for ground disturbing activities within 0.6 mile of proposed Dakota Skipper critical habitat. See link for Dakota Skipper proposed critical habitat maps: http://www.fws.gov/midwest/endangered/insects/dask/CHmaps/daskNDCHmaps.pdf						

NLEB CONSERVATION MEASURES

- Avoid removal of potential habitat during Summer Maternity Season (May 1 – Sep 30)
- If your project area contains only suitable night roosting habitat, limit work to daylight hours
- Waiting for additional guidance from USFWS

QUESTIONS?

