

1 Please insert letterhead for FO

2 [Insert Date]

3
4 [First and Last Name]

5 [Title, Agency]

6 [Street Address]

7 [City, State Zip]

8
9 Subject: [Name of Project, County, State]

10 Technical Assistance Letter (Effective for [enter year(s)])

11
12 Dear [Title and Last Name]:

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14 The U.S. Fish and Wildlife Service (Service) has been coordinating with [company name] on
15 behalf of the [specific wind project company name (i.e., normally an LLC)] (Project Company)
16 regarding their development of the [project name](Project), an approximately [size of facility in
17 MW] wind energy facility in [location county(ies), state]. On [insert date] the Project Company
18 requested the Service provide them with a technical assistance letter (TAL) documenting their
19 compliance with the Endangered Species Act of 1973 (as amended) for northern long-eared bats
20 (*Myotis septentrionalis*) following the Service's Land-based Wind Energy Voluntary Avoidance
21 Guidance for the Northern Long-eared Bat (*Myotis septentrionalis*) (dated [insert guidance date])
22 using the blanket curtailment approach.

23
24 Section 9(a)(1)(B) of the ESA, 16 U.S.C. § 1538 (a)(1)(B), makes it unlawful for any person to
25 "take" an endangered species. "Take" is defined by the ESA as to "harass, harm, pursue, hunt,
26 shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct" 16 U.S.C.
27 § 1532(19).

28
29 Pre-construction surveys¹ of the wind facility project area conducted in [insert year(s)] indicated
30 ["summer presence" or "no summer presence"] of the northern long-eared bat. [If the project has
31 either summer presence, add the following: "The [insert project name] wind facility has summer
32 risk to northern long-eared bat and therefore will implement the summer risk curtailment
33 strategies in the Guidance." or If the project had no summer presence and the following
34 statement is correct, add the following: "In addition, the Service is not aware of any northern
35 long-eared bat maternity colonies within 3-miles of the project area outlined in the Guidance and
36 can operate during the summer risk periods (pup season) at the Project's turbine(s)
37 manufacturers cut-in speeds"]. In addition, the Service reviewed recent hibernacula records² for
38 northern long-eared bats in the greater project area (10-mile buffer). Therefore, the Project has

¹ Surveys were conducted according to the Service's [insert year(s)] ["Range-wide Indiana Bat Survey Guidelines" or "Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidelines"]

² White nose syndrome (WNS) is a threat to northern long-eared bats and the disease has not yet reached parts of the species range; although, it is expected to in the future. Therefore, the local Field Office will determine what "recent" records means for the species, which may change over time. For most of the northern long-eared bat range, recent records are those collected during the established (5-7 years post *Pd*) and endemic (7+ years post-*Pd*) phases of WNS as described in the SSA (USFWS 2022, pg. 34).

39 met all eligibility requirements outlined in the Service's Northern Long-eared Bat (*Myotis*
 40 *septentrionalis*) Wind Guidance dated [insert version date] and is eligible for the Service's wind-
 41 specific TAL for northern long-eared bats.

42
 43 To ensure that take of the federally listed northern long-eared bat is not reasonably certain to
 44 occur, the [insert company name] commits to the following operating procedures (Table 1),
 45 monitoring, and reporting procedures for their [insert project name] project.

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 47 **Table 1. Operational Measures (cut-in speed) displayed in miles per hour (mph) and**
 48 **meters per second (m/s) by date, for NLEB at the by Season, for Northern Long-**
 49 **eared bats at the [Insert project name] wind facility in [insert County, State]. At**
 50 **minimum, turbines should be feathered below the curtailment wind speeds starting**
 51 **30 minutes before sunset to 30 minutes after sunrise when temperatures are above**
 52 **40°F³.**

53

Season	Dates	Feathering ¹ Below Cut-in Speed (m/s)	When
Spring staging	[insert dates for FO]	[insert the manufacturer's cut-in speed for the Company's turbine model]	From ½ hour before sunset to ½ hour after sunrise
Pup season	[insert dates for FO]	11.2 mph (5.0 m/s)	From ½ hour before sunset to ½ hour after sunrise
Fall migratory (Fall swarming)	[insert dates for FO]	11.2 mph (5.0 m/s)	From ½ hour before sunset to ½ hour after sunrise

54 ¹ Project should feather turbines below these cut-in speeds. Feathering occurs when turbine
 55 blades are pitched parallel with the prevailing wind direction to slow rotation speeds
 56 (generally less than 1 rotation per minute).

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58 In addition to implementing the operational measures specified in Table 1, [insert company
 59 name] will develop and implement a detailed post-construction mortality monitoring plan
 60 (PCMM) in coordination with the Service's [insert field office name] that will include specifics
 61 on the numbers of turbines searched, size of plots, frequency of searches, details on bias
 62 correction trials, and statistical analyses. By January 31 of each year that this Technical
 63 Assistance Letter (TAL) is implemented, [insert project company name] will provide an annual
 64 report to the Service's [insert field office name] that describes the operational measures
 65 implemented that year, along with the methods and results of the monitoring as prescribed in the
 66 detailed PCMM plan created in coordination with the Service. The framework for the monitoring
 67 program is as follows:

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³ Temperatures should be measured at the nacelle and can be specific to individual turbines on a project.

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- The Project will develop and implement a detailed monitoring plan in consultation with the Service and will use [insert either: “EoA to design a post-construction mortality monitoring plan” or describe the alternative sampling design method] to achieve [insert either “a minimum cumulative detection probability of $g=0.2$ ” or an alternative approach to achieve similar detection certainty]. The plan will specify data to be collected, searcher efficiency trials, carcass persistence trials, area correction, and other appropriate measures. The Project may periodically consult with the Service regarding cost-effective and logistically feasible changes to the monitoring approach and implementation of applicable new methods or regulatory changes.
 - The Evidence of Absence (EoA) model and software (Huso et al. 2015, Dalthorp et al. 2017) [or an alternate model approved by the Service] will be used to assess the potential for take of northern long-eared bats.
 - Efficacy monitoring protocol will consist of two components⁴ while this TAL is in effect: (1) post-construction fatality monitoring for one year designed to achieve [“a minimum detection probability (g) of 0.2” or the agreed upon alternative approach] during the entire active season for bats [insert dates for your FO]; and (2) post-construction fatality monitoring every 7 years afterward designed to achieve [insert either “a g of 0.08” or the agreed upon alternative approach] during the entire active season for bats [insert dates for FO].
 - If any northern long-eared bat carcasses are found during PCMM, [insert company name] will report the fatality within 24 hours of discovery to the [insert local Field Office and contact information] and the Service’s Office of Law Enforcement (OLE) [insert local OLE information]. In addition, the Project will immediately work with the Field Office to determine and implement avoidance measures for northern long-eared bats (e.g., cut-in speeds).

98 Annual reports will be sent to the Field Office by January 31st. Annual reports will reaffirm that
99 operational commitments were implemented (i.e., operating at cut-in wind speeds and if post-
100 construction mortality monitoring was implemented as designed⁵). Annual reports with post-
101 construction mortality monitoring will include compiled bat fatality data for all bat species using
102 this reporting form [([Region 3 Wind Post-Construction Monitoring Bat Reporting Form](#)
103 [FWS.gov](#)) or insert another reporting form that your FO would like to use]. The Service will
104 provide email confirmation that the TAL is still valid within 90 days after a report is received.
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106 As of the date of this letter, the [insert field office name] concludes that the Project is not
107 reasonably certain to result in the take of northern long-eared bats. The Service reached this

⁴ The Service is currently developing a monitoring framework for wind facilities with low risk of taking listed bat species. We intend to use the new framework in place of these monitoring requirements when completed.

⁵ The Service will accept the monitoring results if the report demonstrates that post-construction mortality monitoring was implemented as designed (i.e., resulting g -value may fall short of 0.2 as long as monitoring was implemented as designed).

108 conclusion through coordination and ongoing discussions with [insert project company name],
109 including [insert project company name]'s commitment, in writing to the USFWS, that the above
110 measures will be implemented as long as the TAL is in effect. If applicable, we recommend that
111 [insert project company name] further coordinate these plans with the [insert state agency name],
112 as the northern long-eared bat is a [insert either: state-listed species, species of conservation
113 concern, or the language used by the state agency]. Please contact [insert state name and contact
114 information].

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116 This office is not authorized to provide guidance in regard to the Service's Office of Law
117 Enforcement (OLE) investigative priorities involving federally listed species. However, we
118 understand that OLE carries out its mission to protect ESA-listed species through investigation
119 and enforcement, as well as by fostering relationships with individuals, companies, and
120 industries that have taken effective steps to minimize take to the level that it is not reasonably
121 certain to occur for northern long-eared bats. It is not possible to absolve individuals or
122 companies from liability for unpermitted take of listed species, even if such take occurs despite
123 the implementation of appropriate minimization strategies to which take is not reasonably certain
124 to occur, such as described in this guidance. However, the OLE focuses its enforcement
125 resources on individuals and companies that take listed species without identifying and
126 implementing all reasonable, prudent, and effective measures to minimize take to the level that
127 take is not reasonably certain to occur. To be in compliance with the take prohibitions of the
128 ESA, the facility must work with the Field Office to implement avoidance measures (e.g., not
129 operating at night during the period of risk, etc.) and consider applying for an incidental take
130 permit under 10(a)(1)(B) of the ESA. This office concludes that, if [insert project company
131 name] follows the measures above, the [insert project name] project is not reasonably certain to
132 take ESA listed species.

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134 Thank you for your continuing coordination on project development. Should you have questions
135 regarding this TAL, please contact [Insert FO contact name and contact information], of our
136 office.

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Sincerely,

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[insert Field Supervisor name]

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Field Supervisor

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cc: [insert state agency contact for bats and wind projects, if applicable]