

Lead Agency Notice

STATE OF NEW YORK: WESTCHESTER COUNTY  
MUNICIPALITY: NORTH SALEM

Proposed Lead Agency: NORTH SALEM CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION  
Name of Action/Project: NORTH SALEM SCHOOL PROPOSED SITE IMPROVEMENTS AND ADDITIONS

RESPONSE TO REQUEST THAT THE ABOVE  
NAMED AGENCY SERVE AS LEAD AGENCY  
REGARDING THE ABOVE ACTION

On behalf of the NYS EDUCATION DEPT (involved agency), I acknowledge receipt of the lead agency notice in this matter.

The above named involved agency hereby (Please check one):

- CONSENTS that the above named agency serve as lead agency in this application, and requests that the undersigned continue to be notified of SEQR determinations, proceedings and hearings in this matter.
- DOES NOT CONSENT to the above named agency serving as lead agency in this application and wishes that \_\_\_\_\_ serve as lead agency. To contest lead agency designation, the undersigned intends to follow the procedures outlined in 6 N.Y.C.R.R. 617.6(e).
- TAKES NO POSITION on Lead Agency designation.

DATED: 02/18/2020

NYS EDUCATION DEPT  
Agency Name

By Rosanne Groff  
(signature)

ROSANNE GROFF, COORDINATOR, OFFICE OF FACILITIES PLANNING.  
(signer's name and title printed)

**PLEASE RETURN ASAP BY EMAIL OR US MAIL TO:**

Kenneth Freeston, Superintendent  
Email: kfreeston@northsalemschools.org  
230 June Road  
North Salem, NY 10560



March 4, 2020

Kenneth Freeston, Superintendent  
North Salem Central School District  
230 June Road  
North Salem, NY 10560

**Vincent Sapienza P.E.**  
Acting Commissioner

Re: **Notice of Intent to be Lead Agency**  
**North Salem Central School District Athletic Fields Improvements**  
**230 June Road**  
**Town of North Salem; Westchester, NY**  
**Tax Map #: 5.-1735-50**  
**DEP Log#: 1999-MUL-0552-SQ.2**

**Paul V. Rush, P.E.**  
Deputy Commissioner  
Bureau of Water Supply  
prush@dep.nyc.gov

Dear Mr. Freeston:

465 Columbus Avenue  
Valhalla, NY 10595

T: (845) 340-7800  
F: (845) 334-7175

The New York City Department of Environmental Protection (DEP) has reviewed the North Salem Central School District Board of Education (District) Notice of Intent to act as Lead Agency and full Environmental Assessment Form (EAF) for the above referenced project. DEP does not object to the District acting as Lead Agency for the Coordinated Review of the proposed action pursuant to the New York State Environmental Quality Review Act (SEQRA).

The project site is located in both the Muscoot and Titicus Reservoir drainage basins of New York City's Water Supply Watershed. Both Muscoot and Titicus Reservoirs are phosphorous restricted; therefore, water quality impacts to the receiving reservoir from pollutant-laden runoff must be avoided or mitigated.

The proposed action involves the construction of a new athletic field to be constructed of synthetic turf and a 670 sq. ft. bathroom addition. Other on-site improvements include a 12-foot wide asphalt pedestrian access path and stormwater management facilities.

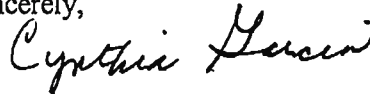
DEP's status as an involved agency stems from its review and approval authority for a Stormwater Pollution Prevention Plan (SWPPP) pursuant to Section 18-39(b)(4) of the *Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and Its Sources* (Watershed Regulations).

Based upon the review of the submitted documents, DEP respectfully submits the following comments for the Planning Board's consideration:

1. According to the EAF, 5.0 acres are to be physically disturbed. As such Part 1.B. under governmental approvals should include DEP as a regulatory agency requiring a SWPPP approval.
2. Part D.1 of the EAF anticipates that construction will last for 32 months. Consequently, site disturbance will last through several wet seasons and freeze-thaw cycles. Open works during wet seasons and freeze-thaw cycles are more susceptible to soil erosion and degradation. As such, methods to avoid or mitigate these potentially adverse impact must be addressed.
3. DEP must witness soil testing and perform a site inspection for any new proposed onsite stormwater management practices. The applicant's representative may contact Bonnie Liu of Stormwater Programs at (914) 749-5603 to schedule soil testing.

Thank you for the opportunity to provide comments. You may reach the undersigned at [cgarcia@dep.nyc.gov](mailto:cgarcia@dep.nyc.gov) or (914) 749-5302 with any questions or if you care to discuss the matter further.

Sincerely,



Cynthia Garcia, Supervisor  
SEQRA Coordination Section

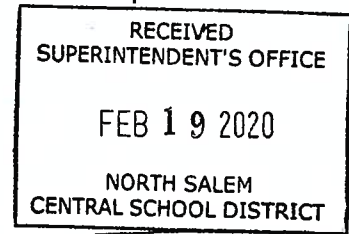
X: J. Petronella, NYSDEC - Region 3

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Division of Environmental Permits, Region 3  
21 South Putt Corners Road, New Paltz, NY 12561-1620  
P: (845) 256-3054 | F: (845) 255-4659  
www.dec.ny.gov



**Department of  
Environmental  
Conservation**



February 13, 2020

Kenneth Freeston  
North Salem School  
230 June Road  
North Salem, New York 10560

**RE: North Salem CSD Athletic Fields Improvement Project – 230 June Road  
Town of North Salem, Westchester County  
CH# 8663; DEC Facility ID# 3-5540-00009  
SEQR Lead Agency Designation**

Dear Mr. Freeston:

The New York State Department of Environmental Conservation (Department or DEC) has reviewed the State Environmental Quality Review (SEQR) Notice of Intent to Serve as Lead Agency submitted by the North Salem Central School District (CSD) for the above-referenced project. According to the submitted information, the applicant proposes to construct an approximate 245-foot by 390-foot athletic field west of the existing school, construct a new 670-square-foot bathroom facility, and install a new drainage system for an existing athletic field (identified as Tompkins Field).

The DEC has no objection to the CSD serving as lead agency for this project. Based upon our review of your inquiry received by this office on February 7, 2020, the Department offers the following comments:

**PROTECTION OF WATERS**

The following stream is located within or near the site you indicated:

<b>Name</b>	<b>Class</b>	<b>DEC Water Index Number</b>	<b>Status</b>
Sub-tributary of East Branch Croton River	C	H-31-P44-24-1-P82-9	Non-Protected

A permit is not required to disturb the bed or banks of "non-protected" streams.

If a permit is not required, please note, however, you are still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.



### **FRESHWATER WETLANDS**

Your project site is near or in Freshwater Wetland L-32, Class 2. A Freshwater Wetlands permit is required for any physical disturbance within these boundaries or within the 100-foot adjacent area. To have the boundary delineated, please contact Josh Fisher, Bureau of Ecosystem Health, at (845) 256-3113 or at [Joshua.fisher@dec.ny.gov](mailto:Joshua.fisher@dec.ny.gov).

### **WATER QUALITY CERTIFICATION**

The project site appears to contain federally-regulated wetland areas. If the United States Army Corps of Engineers (ACOE) requires a permit for work completed in or impacting a federal wetland, you will need a Section 401 Water Quality Certification from the Department. Please contact the ACOE at (917) 790-8411 for a determination.

### **STATE-LISTED SPECIES**

The DEC has reviewed the State's Natural Heritage records. We have determined that the site is located within or near records of the following state-listed species:

<u>Name</u>	<u>Status</u>
Northern long-eared bat ( <i>Myotis septentrionalis</i> )	Threatened

Any potential impacts of the proposed project on this species should be fully evaluated during the review of the project pursuant to SEQR. A permit is required for the incidental taking of any species identified as "endangered" or "threatened," which can include the removal of habitat. To avoid adverse impacts to northern long-eared bats and the need for an Incidental Take Permit pursuant to 6 NYCRR Part 182, all tree removal must take place from November 1st to March 31st. If the project sponsor cannot complete tree clearing within this time of year restriction, then the Department will require further review on the impacts to this species. Additional project modifications may be needed to avoid or adequately mitigate any potential impacts identified.

Please note that a project sponsor may not commence site preparation, including tree clearing, until the provisions of SEQR are complied with and all necessary permits are issued for the proposed project.

For technical questions regarding these species and their associated avoidance and mitigation measures, please contact the NYSDEC Bureau of Wildlife at (845) 256-3098.

The absence of data does not necessarily mean that other rare or state-listed species, natural communities, or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

### **STATE POLLUTION DISCHARGE ELIMINATION SYSTEM (SPDES)**

Since project activities will disturb over one acre of land, the project sponsor must obtain coverage under the current SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) and develop a Stormwater Pollution Prevention Plan (SWPPP) that conforms to requirements of the General Permit.

As this site is within a Municipal Separate Storm Sewer System (MS4) community, the municipality is responsible for review and acceptance of the SWPPP, and the MS-4 Acceptance Form must be submitted to the Department. For information on stormwater and the general permits, see the DEC website at <http://www.dec.ny.gov/chemical/8468.html>.

According to the project narrative, the proposed bathroom addition will connect to the existing internal plumbing systems. Per the narrative, the project will not generate additional wastewater. Please note that the existing surface disposal system is permitted under DEC ID# 3-5540-00009/00002 (SPDES ID# NY0105732) and expires August 31, 2024. This SPDES permit authorizes the surface discharge of 7,500 gallons per day (gpd) of treated sanitary wastewater to outfall 001, received by Holly Stream Tributary.

If the design flow quantities from the proposed project would differ from the existing SPDES permit, modifications of this permit will be required. The project sponsor must demonstrate that the existing permit is sufficient to meet the current and proposed flows. For questions regarding this permit, please contact Aparna Roy at (914) 428-2505 x362 or [Aparna.roy@dec.ny.gov](mailto:Aparna.roy@dec.ny.gov).

### **WATER WITHDRAWAL**

According to the Full Environmental Assessment Form (EAF), the proposed project will be served by an existing on-site water well. The anticipated demand for water is not indicated. Please note that an Article 15 Water Withdrawal permit may be required to undertake activities pursuant to 6 NYCRR Part 601.6, such as the construction, operation and maintenance of a water withdrawal system with the capacity to withdraw 100,000 gallons or more per day regardless of the actual demand on the system (6 NYCRR Part 601.6c). For additional information on Water Withdrawal permits, see the DEC website at <https://www.dec.ny.gov/lands/55509.html>.

### **NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION (NYCDEP)**

The project site is located within the NYCDEP watershed. Please contact NYCDEP directly about any jurisdiction they may have.

### **OTHER**

Other permits from this Department or other agencies may be required for projects conducted on this property now or in the future. Also, regulations applicable to the location subject to this determination occasionally are revised and the project sponsor should, therefore, verify the need for permits if your project is delayed or postponed. This determination regarding the need for permits will remain effective for a maximum of one year. More information about DEC permits may be found on our website, [www.dec.ny.gov](http://www.dec.ny.gov), under "Regulatory" then "Permits and Licenses." Application forms may be downloaded at <http://www.dec.ny.gov/permits/6081.html>.

February 13, 2020

Please contact this office if you have questions regarding the above information. Thank you.

Sincerely,



Christina Pacella  
Division of Environmental Permits  
Region 3, Telephone No. (845) 256-2250

Enc: Protection of Northern Long-eared Bats

cc: Josh Fisher, NYSDEC Bureau of Ecosystem Health  
Meena George, NYSDEC Division of Water  
Aparna Roy, NYSDEC Division of Water  
Lisa Masi, NYSDEC Bureau of Wildlife  
Rosita Miranda, ACOE  
Town of North Salem Town Clerk  
Maria Tupper-Goebel, NYCDEP



**Department of  
Environmental  
Conservation**

# Protection of Northern Long-eared Bats

## Protective Measures Required for Northern Long-eared Bats When Projects Occur within Occupied Habitat

### Background

The USFWS has the authority to write special rules and exemptions for threatened species under section 4(d) of the federal Endangered Species Act. These rules are referred to as "4(d) rules." On January 14, 2016, USFWS issued a Final 4(d) Rule for the Northern long-eared bat (NLEB), imposing a number of specific conservation measures. Purposefully harming NLEB remains prohibited except in defense of human health and safety.

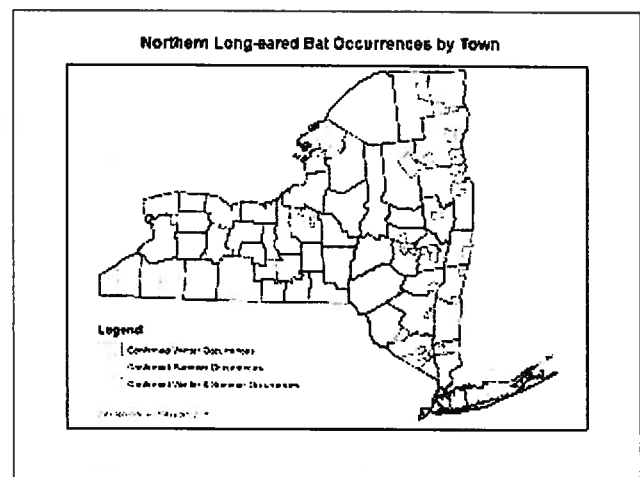
In contrast, most incidental take (defined as impacts to the species from otherwise legal activities) is allowed without the need for a federal permit with the following specific exceptions:

- All incidental take within known hibernacula is prohibited;
- Incidental take resulting from tree removal within a 0.25 mile buffer around known occupied northern long-eared bat hibernacula or within a 150-foot buffer around known occupied maternity roost trees during the pup season (June 1 through July 31).

On April 27, 2016, USFWS announced its determination that it would not designate critical habitat for the NLEB because "Northern long-eared bat summer habitat is not limited or in short supply and summer habitat loss is not a range-wide threat to the species."

### Guidance from DEC

The Department concurs with the conclusion of the USFWS that the NLEB population decline is not the result of habitat loss. However, because the State endangered species law and its implementing regulations require consideration of impacts to occupied habitat of listed species, the Department is requiring additional conditions on tree cutting in order to protect any bats that may be roosting in the trees in the vicinity of the hibernacula and documented summer occurrences. Therefore, **in addition to the requirements of USFWS Final 4(d) Rule for the NLEB**, all forest management activities must comply with the following conditions in areas of known occupied habitat. Forest management activities that incorporate the following requirements do not need a permit from the Department under 6 NYCRR Part 182 because cutting of live trees under the prescribed conditions is unlikely to result in an incidental take of NLEB.



*Click to view a larger map and a list of NLEB Occurrences by Town (PDF, 493 KB).*

### How to Proceed with Projects

Requirements for projects within NLEB occupied habitat (e.g. located within 5 miles of a known hibernation



site or 1.5 miles of a documented summer occurrence see map of known locations) vary depending on the type of project proposed. Projects can be split into two major types:

- Projects that result in a change in land use - Is any portion of forest habitat or a hibernation site being converted to another form of land use (e.g. development)? If yes, see Requirements for projects that result in a change of land use within NLEB Occupied Habitat.
- Projects that maintain existing land uses - Is forest habitat or a hibernation site being managed to perpetuate their existing use (e.g. sustainable forestry, forest maintenance, cave or hibernacula maintenance)? If yes, see Requirements for projects that do not result in a change of land use within NLEB occupied habitat.

## Requirements for Projects that Result in a Change of Land Use within NLEB Occupied Habitat

Projects that are intended to convert forested habitat to other uses have a greater impact on NLEB than projects that allow for the regeneration and retention of forest habitat on the landscape. This is because even though trees are not currently a limiting resource for NLEB, the species also uses forest habitat of all types for feeding. NLEB will use regenerating forest for foraging habitat within the same year that cuts are implemented. However, when forest habitat is lost from the landscape because the land is converted to another use, these areas no longer provide any benefit to NLEB.

For projects requiring tree removal to convert forest habitat to another land use between April 1 and October 31 that are within 5 miles of an occupied hibernaculum or 1.5 miles of a documented summer occurrence, the following recommendations must be followed unless a permit is obtained from the Department.

### November 1 to March 31

During this period of time, the NLEB are inactive and are within the hibernation sites.

- No cutting of any trees may occur within the ¼ mile buffer around a hibernation site.
- No activities that may result in disturbance to a hibernation site including, but not limited to, actions that would alter the hydrology, increase noise or introduce fill may occur.
  - Please note that if you plan any development or tree clearing activities within ¼ mile of a hibernation area for NLEB, you may be required to obtain a permit from the US Fish and Wildlife Service and the DEC.
- For cutting of trees outside of the ¼ mile buffer around hibernacula:
  - No restrictions, with the following **voluntary** measures recommended:
    - Leave uncut all known and documented roost trees, and any trees within a 150 foot radius of a documented summer occurrence.
    - Leave uncut **all** snag and cavity trees unless their removal is necessary for protection of human life and property. For the purposes of this guidance, protection of human life and property includes removal of trees that, if not removed, could result in the loss of electric service. Snag and cavity trees are defined under DEC Program Policy ONR-DLF-2 Retention on State Forests.

### April 1 to October 31

During this period of time, NLEB are active and are within the forested landscape. The following restrictions are **required** unless a permit is obtained from the DEC:

- No cutting of any trees may occur within the ¼ mile buffer around a hibernaculum.
  - Please note that if you plan any tree clearing activities within ¼ mile of a hibernation area for NLEB, you may be required to obtain a permit from the US Fish and Wildlife Service and DEC.

- For cutting of trees in occupied NLEB habitat outside of the ¼ mile buffer around hibernacula or within 1.5 miles of a summer occurrence:
  - The following are restrictions that must be followed for forest management activities at this time of year:
    - Leave uncut **all** snag and cavity trees unless their removal is necessary for protection of human life and property. For the purposes of this guidance, protection of human life and property includes removal of trees that, if not removed, could result in the loss of electric service. Snag and cavity trees are defined under DEC Program Policy ONR-DLF-2 Retention on State Forests.
    - Leave uncut all known and documented roost trees, and any trees within a 150 foot radius of a documented summer occurrence.
      - Please note that if you plan any tree clearing activities within 150 ft of a summer occurrence for NLEB during June or July, you may be required to obtain a permit from the US Fish and Wildlife Service and DEC.
    - If any bats are observed flying from a tree, or on a tree that has been cut, forestry activities in the area should be suspended and DEC Wildlife staff notified as soon as possible.

If a project cannot follow the restrictions above, a permit from DEC under Part 182 would be required. Applications for incidental take permits are handled by regional Division of Environmental Permits offices. To be eligible for a permit, the project proponent must be able to demonstrate a net conservation benefit to NLEB as a result of their action. For information on how to apply, contact your regional DEC permit administrator.

This guidance is only intended to address NLEB protective measures. Additional regulations may apply to the land, including wetland and stream protection regulations and protective measures for other federal or state endangered species that may be present. Regional DEC staff in Division of Environmental Permits can help determine if any of these restrictions apply to the property and project in question.

## Requirements for Projects That Do Not Result in a Change of Land Use within NLEB Occupied Habitat

November 1 to March 31

During this period of time, the NLEB are inactive and are within the hibernacula.

- No cutting of any trees may occur inside of the ¼ mile buffer around a hibernaculum.
  - Please note that if any tree clearing activities are required within ¼ mile of a hibernation area for NLEB, you may be required to obtain a permit from the US Fish and Wildlife Service.

April 1 to October 31

During this period of time, the NLEB are active and will be found outside the hibernacula.

- Within 5 miles of known hibernacula or within 150' of documented summer occurrence the following cutting restrictions apply:
  - Leave uncut **all** snag and cavity trees unless their removal is necessary for protection of human life and property. For the purposes of this guidance, protection of human life and property includes removal of trees that, if not removed, could result in the loss of electric service. Snag and cavity trees are defined under DEC Program Policy ONR-DLF-2 Retention on State Forests.
  - Leave uncut all known and documented roost trees, and any trees within a 150 foot radius of a documented summer occurrence.
    - Please note that if you plan any tree clearing activities within 150 ft of a summer occurrence for NLEB during June or July, you may be required to obtain a permit from the US Fish and Wildlife Service.

- o If any bats are observed flying from a tree, or on a tree that has been cut, forestry activities in the area should be suspended and DEC Wildlife staff notified as soon as possible.
- Within a ¼ mile of a hibernaculum, leave all trees uncut unless their removal is necessary for protection of human life and property.
  - o Please note that if any tree clearing activities are required within ¼ mile of a hibernation area for NLEB, you may be required to obtain a permit from the US Fish and Wildlife Service.

If a project cannot follow by the restrictions above, a permit from DEC under Part 182 would be required. Applications for incidental take permits are handled by regional Division of Environmental Permits offices. To be eligible for a permit, the project proponent must be able to demonstrate a net conservation benefit to NLEB as a result of their action. For information on how to apply, contact your regional DEC permit administrator.

This guidance is only intended to address NLEB protective measures. Additional regulations may apply to the land, including wetland and stream protection regulations and protective measures for other federal or state endangered species that may be present. Regional DEC staff in Division of Environmental Permits can help determine if any of these restrictions apply to the property and project in question.

## Northern Long-eared Bat Occurrences by Town

Data accurate as of May 5th, 2016

**Northern Long-eared Bat Occurrences by Town**

County	Town	Winter	Summer
Albany	Guilderland	Yes	
	Knox	Yes	
	New Scotland	Yes	
Allegany	Belfast		Yes
	Caneadea		Yes
	New Hudson		Yes
Cattaraugus	Franklinville		Yes
	Little Valley		Yes
	Lyndon		Yes
	Mansfield		Yes
	New Albion		Yes
Cayuga	Ledyard		Yes
Chautauqua	Chautauqua		Yes
	Ellington		Yes
Clinton	Ausable	Yes	
	Black Brook	Yes	
Columbia	Ancram	Yes	
	Canaan	Yes	
Erie	Collins		Yes
	Newstead	Yes	
Essex	Crown Point	Yes	

	Elizabethtown	Yes	
	Minerva	Yes	
	Moriah	Yes	
	Ticonderoga	Yes	
	Westport	Yes	
Franklin	Bellmont	Yes	
Greene	Catskill	Yes	
Hamilton	Indian Lake	Yes	
Jefferson	Alexandria		Yes
	Brownville	Yes	
	Champion		Yes
	Clayton		Yes
	Le Ray		Yes
	Watertown	Yes	Yes
Lewis	Denmark		Yes
	Diana		Yes
Livingston	Portage	Yes	
Montgomery	Root	Yes	
Onondaga	Clay		Yes
	De Witt	Yes	
	Geddes		Yes
	Lysander		Yes
Orange	Blooming Grove	Yes	
	Highlands	Yes	
	Tuxedo	Yes	
	Warwick	Yes	
	Woodbury	Yes	Yes
Putnam	Putnam Valley	Yes	
	Southeast	Yes	
Rensselaer	Berlin	Yes	
Saratoga	Greenfield	Yes	
Schoharie	Carlisle	Yes	
	Cobleskill	Yes	
	Schoharie	Yes	
	Wright	Yes	
Schulyer	Hector		Yes
Steuben	Caton		Yes
	Lindley		Yes
	Tuscarora		Yes
Suffolk	Brookhaven		Yes

Sullivan	Manmakating	Yes	
Ulster	Kingston	Yes	
	Rosendale	Yes	
Warren	Hague	Yes	
Washington	Dresden	Yes	
	Fort Ann	Yes	