

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4

1130 North Westcott Road, Schenectady, NY 12306-2014

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[www.dec.ny.gov](http://www.dec.ny.gov)

April 28, 2023

Kenneth Kovalchik, Town Planner  
Town of Guilderland  
5209 Western Turnpike  
P.O. Box 339  
Guilderland, NY 12084

Emailed to: [kovalchikk@togny.org](mailto:kovalchikk@togny.org)

**Re: Endangered & Threatened Species  
Inquiry (Northern Long-eared Bat)  
Proposed Costco  
Off Crossgates Mall Road  
Town of Guilderland, Albany County**

Dear Kenneth Kovalchik:

Thank you for contacting the New York State Department of Environmental Conservation (DEC) regarding the reclassification of Northern long-eared bats (NLEB) by the United States Fish & Wildlife Service from threatened to endangered on March 31, 2023, as it relates to the Environmental Impact Statement adoption for the proposed Costco special use permit.

Your questions have been reviewed by DEC Region 4's wildlife staff and the responses can be found below in italics:

**Question 1:** Does DEC have any updated draft regulations related to the NLEB that may impact the review of the proposed Costco?

**DEC Response:** *No, the DEC does not have any updated draft regulations related to NLEB.*

**Question 2:** If the effective date for the reclassification is March 31, 2023, will any new regulations to be enacted by DEC also take effect on March 31st?

**DEC Response:** *In New York, all federally endangered species that occur in the state are afforded endangered status under the New York Endangered Species Law (6 CRR-NY 182). The effective date for reclassification from threatened to endangered on both the state and federal level occurred on March 31, 2023. No new regulations will be enacted by DEC at this time, as state listed threatened and endangered species are offered the same level of protection.*

**Question 3:** In DEC's opinion, if any new regulations are to be enacted by the DEC related to the NLEB reclassification, will this require an addendum to the previously adopted EIS by the Planning Board?

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**DEC Response:** *No new regulations are to be enacted by DEC at this time, therefore no addendum will be needed.*

Please feel free to contact me by e-mail at [kristen.peek@dec.ny.gov](mailto:kristen.peek@dec.ny.gov) or by telephone at (518) 357-2373 if you have any questions.

Sincerely,



Kristen Peek  
Environmental Analyst Trainee 2

ecc: Patricia M. Gabriel, DEC R4 DEP  
Rachel Bakerian, DEC R4 Wildlife



Department of  
Environmental  
Conservation