

## **APPENDIX B**

Threatened and Endangered Species Habitat Evaluation (including IPaC) and USFWS Review

November 6, 2019

Des Moines Industrial, LLC  
512 ½ East Grand Avenue  
Des Moines, IA 50309

Attn: Mr. Paul Cownie  
E: [paulcownie@dsmindustrial.com](mailto:paulcownie@dsmindustrial.com)

Mr. Gabe Claypool  
[gabeclaypool@dsmindustrial.com](mailto:gabeclaypool@dsmindustrial.com)

**Re: Threatened & Endangered Species Habitat Evaluation**

Des Moines Area Transloading Facility  
200 SE 15th Street  
Des Moines, IA 50317  
Terracon Proposal No. 08197038

Dear Sirs:

Terracon Consultants, Inc. (Terracon) is pleased to submit this Threatened and Endangered Species Habitat Evaluation report detailing the results of field studies for the above referenced site. This work was performed in general accordance with the scope of services outlined in Terracon Proposal No. P08197267 dated September 23, 2019. This report has been prepared for the exclusive reliance of Des Moines Industrial, LLC. Use or reliance by any other party is prohibited without the written authorization of Des Moines Industrial, LLC. and Terracon.

We appreciate the opportunity to provide services to Des Moines Industrial, LLC. If you have any questions concerning this report, or if we can assist you in any other matter, please call our office at 515-244-3184.

Very truly yours,  
**Terracon Consultants, Inc.**

Adam C. Corcoran  
Environmental Scientist

Gerald T. Hentges, P.G.  
Senior Project Manager



Terracon Consultants, Inc. 600 SW 7<sup>th</sup> Street, Suite M Des Moines, Iowa 50309  
P [515] 244-3184 F [515] 244-5249 [terracon.com](http://terracon.com)

Geotechnical



Environmental



Construction Materials



Facilities

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## ATTACHMENTS

Exhibit 1 – Topographic Site Vicinity Map

Exhibit 2 – Site Diagram

Exhibit 3A & 3B – Habitat Evaluation Map

Photo-log

# THREATENED AND ENDANGERED SPECIES HABITAT EVALUATION DES MOINES AREA TRANSLOADING FACILITY NE 14<sup>TH</sup> STREET & MLK PARKWAY DES MOINES, IOWA

Terracon Project No. 08197038  
November 6, 2019

## 1.0 Introduction

Des Moines Industrial, LLC is preparing plans to develop the project site located north of MLK Parkway in the area of NE 14<sup>th</sup> Street. The subject site covers approximately 40-acres and is located in the SE ¼ of Section 3 and the SW ¼ of Section 2, Township 78 North, Range 24 West, Des Moines, Iowa as depicted on Exhibit 1 in Appendix A. The center of the project area is located at approximately the following latitude and longitude: 41°35'10.09", 93°35'48.73".

Terracon ordered a United Fish and Wildlife Service (USFWS) Information, Planning, and Consultation System (IPAC) report for the site (report dated November 6, 2019, consultation code 03E18000-2020-SLI-0165). According to the IPAC report, the Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), least tern (*Sterna antillarum*), prairie bush-clover (*Lespedeza leptostachy*), and western prairie fringed orchid (*Platanthera praeclara*) are federally-listed endangered species whose range extends into Polk County, Iowa where the proposed project area is located. The IPAC did not identify critical habitat for the listed species on the project site. The purpose of our services is to evaluate whether potential habitat exists for the listed species.

### 1.1 General Site Description

The project site is an approximately 40-acre tract of land with four City stormwater detention basins. The site formerly consisted of a railyard followed by a salvage yard. There are approximately 6.45-acres of woodlands in the assessed area. The remaining land consists of disturbed grassland and City stormwater basins. Standing water was observed in two of the four stormwater basins onsite.

## 2.0 Habitat Survey

Terracon's habitat survey was performed by Mr. Adam Corcoran (Terracon Environmental Scientist). The survey was conducted on October 15, 2019.

## 2.1 Methods

The habitat evaluation for the Indiana and northern long-eared bats was performed in accordance with the 2018 Range Wide Indiana Bat Summer Guidelines (2018 Guidelines). These guidelines define suitable habitat as a wide variety of forested/wooded habitats where they can roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields, and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags  $\geq 5$  inches diameter breast height (dbh) (12.7 centimeters) that have exfoliating bark, cracks, crevices, and/or hollows), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet (305 meters) of other forested/wooded habitat. Potentially suitable Northern Long-Eared Bat summer habitat is similar to that of the Indiana Bat with the exception of the inclusion of trees and/or snags  $\geq 3$  inches dbh.

Terracon also evaluated the site for suitable habitat for the least tern, prairie bush-clover, and western prairie fringed orchid. Suitable habitat for these species is based on the USFWS 2015 County Distribution of Federally Threatened, Endangered, Proposed Candidate Species.

- Least Tern: Bare alluvial and dredged spoil islands.
- Prairie bush-clover: Dry to mesic prairies with gravelly soils.
- Western prairie fringed orchid: Wet prairies and sedge meadows.

## 2.2 Field Observations

On October 15, 2019, Terracon performed the threatened and endangered species habitat evaluation on the site. During the visit, suitable habitat for the prairie bush-clover, western prairie fringed orchid, and least tern were not observed. Bare alluvial, dredged spoil islands, and prairie or prairie remnants were not observed. The grassland that was observed was highly disturbed from past railyard and salvage yard activities and consisted largely of species such as smooth brome, wild parsnip, white aster, thistle, giant and western ragweed, and red clover.

Terracon did identify suitable habitat for the Indiana/northern long-eared bats. Terracon evaluated the trees' suitability based on the USFWS guidelines presented in Section 2.1.

<b>Tree Inventory Table</b>			
<b>Number<sup>1</sup></b>	<b>Species</b>	<b>Size (inches DBH)</b>	<b>Notes</b>
1	Cottonwood	22/36	Dual trunks, dead or dying, 20% lose & peeling bark
2	Cottonwood	17	Snag, lose and peeling bark, crevices
3	Cottonwood	7.5	Snag, 40% lose and peeling bark
4	Black Walnut	7.5	Snag, 15% lose and peeling bark
5	Black Walnut	5.5	Snag, 10% lose and peeling bark, most of bark gone
6	Black Walnut	8	Split vertically, crevices
7	Boxelder	5.5/7.5	Dual trunk, 10% lose and peeling bark
8	Dead/Unknown	4 to 14	Cluster of 4 snags, bark mostly gone, crevices, hollows
9	Black Walnut	9.5	10-15% lose and peeling bark
10	Dead/Unknown	3/4/6	3 snag cluster, 20% lose and peeling bark
11	Dead/Unknown	9/10/11	3 snag cluster, crevices, hollows, most of bark gone
12	Dead/Unknown	8 to 13	6 snag cluster, most of bark is gone, what is left is loose and peeling
13	Dead/Unknown	8.5	Snag, most of bark gone, of what's left, 80% is lose and peeling
14	Dead/Unknown	11	Snag, 30% lose and peeling bark
15	Elm	6	Snag, 20% lose and peeling bark
16	Cottonwood	6/7	3 tree cluster, both snapped off around breast height and leaning against nearby trees. Crevices and some lose and peeling bark
17	Dead/Unknown	5	Half of bark missing, of that, 20% lose and peeling bark.
18	Red Mulberry	6	Snag, 30% lose and peeling bark
19	Dead/Unknown	7	Sang, most of bark missing, of that, 10-15%
20	Boxelder	5.5 to 7	5 tree cluster, mostly dead, 35% lose and peeling bark, crevices
21	Dead/Unknown	5	Sang, 30-40% lose and peeling bark
22	Dead/Unknown	4.5	Snag, most of bark gone, of that, 25% lose and peeling bark
23	Elm	4	Triple trunk but only one trunk suitable, 20% lose and peeling bark
24	Dead/Unknown	5 to 7	Triple trunk, dead, 30% lose and peeling
25	Dead/Unknown	7.5	Dead, 15-20% lose and peeling bark
26	Dead/Unknown	8 to 13	5 snag cluster, 20% lose and peeling bark, crevices <b><i>Please Note that these snags were not marked with marker paint due to accessibility problems</i></b>

27	Dead/Unknown	9	Snag, crevices
28	Dead/Unknown	6 to 8	3 snag cluster lose and peeling bark, crevices, hallows
29	Dead/Unknown	15.5	30% lose and peeling bark, crevices
30	Dead/Unknown	9 to 12	Multi trunk snag, crevices
31	Black Cherry	9/18	Dual trunk, partially broken with crevices
32	Dead/Unknown	9	Snag, 30% lose and peeling bark
33	Dead/Unknown	11	Snag, crevices
34	Dead/Unknown	10.5	Snag, half of bark gone, of that, 40% is lose and peeling
35	Red Mulberry	4/9	Dual trunk, half dead, crevices, 10-20% lose and peeling bark
36	Dead/Unknown	8 to 14	7 tree cluster, crevices, hallows, lose and peeling bark
37	Red Mulberry	6/10	Dual trunk, split, crevices, 10% lose and peeling bark
38	Elm	8 to 14	Triple trunk, crevices, split
39	Elm	14	crevices
40	Dead/Unknown	7/8	2 snag cluster, one had bark and the other did not, crevices
41	Red Mulberry	4	20% lose and peeling bark

<sup>2</sup>Cluster with multiple suitable habitat trees. Each tree within the cluster was counted when figuring the total number suitable habitat trees.

Based on the 2018 Guidelines, seventy-two trees at 41 locations were observed that could potentially provide suitable habitat for the Indiana/northern long-eared bat on the project site. The tree locations identified in the table above are depicted in in Exhibits 3A and 3B.

A photo log depicting the site and representative suitable habitat trees has been attached as Appendix B.

### 3.0 Summary of Findings

- Trees that could potentially provide suitable habitat for the Indiana/northern long-eared bat were identified on the project site.
- Permanent waterbodies were identified on the site.
- Suitable habitat for the prairie bush-clover, western prairie fringed orchid, and least tern were not identified.

Based on information collected for this Threatened and Endangered Species Habitat Evaluation, suitable Indiana/northern long-eared bat was identified. However, due to the urban setting and abundance of suitable habitat along the Des Moines River corridor located approximately one-mile south of the site, the Indiana/northern long-eared bat would not likely be adversely affected

as long as the trees are cleared outside of the Indiana bat active season, which is considered to be April 1 through September 30<sup>th</sup> in Iowa.

## **4.0 General Comments**

The Threatened and Endangered Species Habitat Evaluation was conducted based on UFWS criteria as described in this report. The guidance provided assistance for identifying potential Indiana/northern long-eared bat habitat; however, this guidance alone may not satisfy requirements by all agencies for a threatened and endangered species habitat assessment. Terracon did not attempt to identify every possible tree species within the project area. Due to seasonal changes, Terracon cannot guarantee the area to exhibit permanent water sources. The limitations of this habitat evaluation should be recognized. This report has been prepared in accordance with generally accepted scientific and engineering evaluation practices. This report is for the exclusive use of the client for the project being discussed. No warranties, either express or implied, are intended or made.

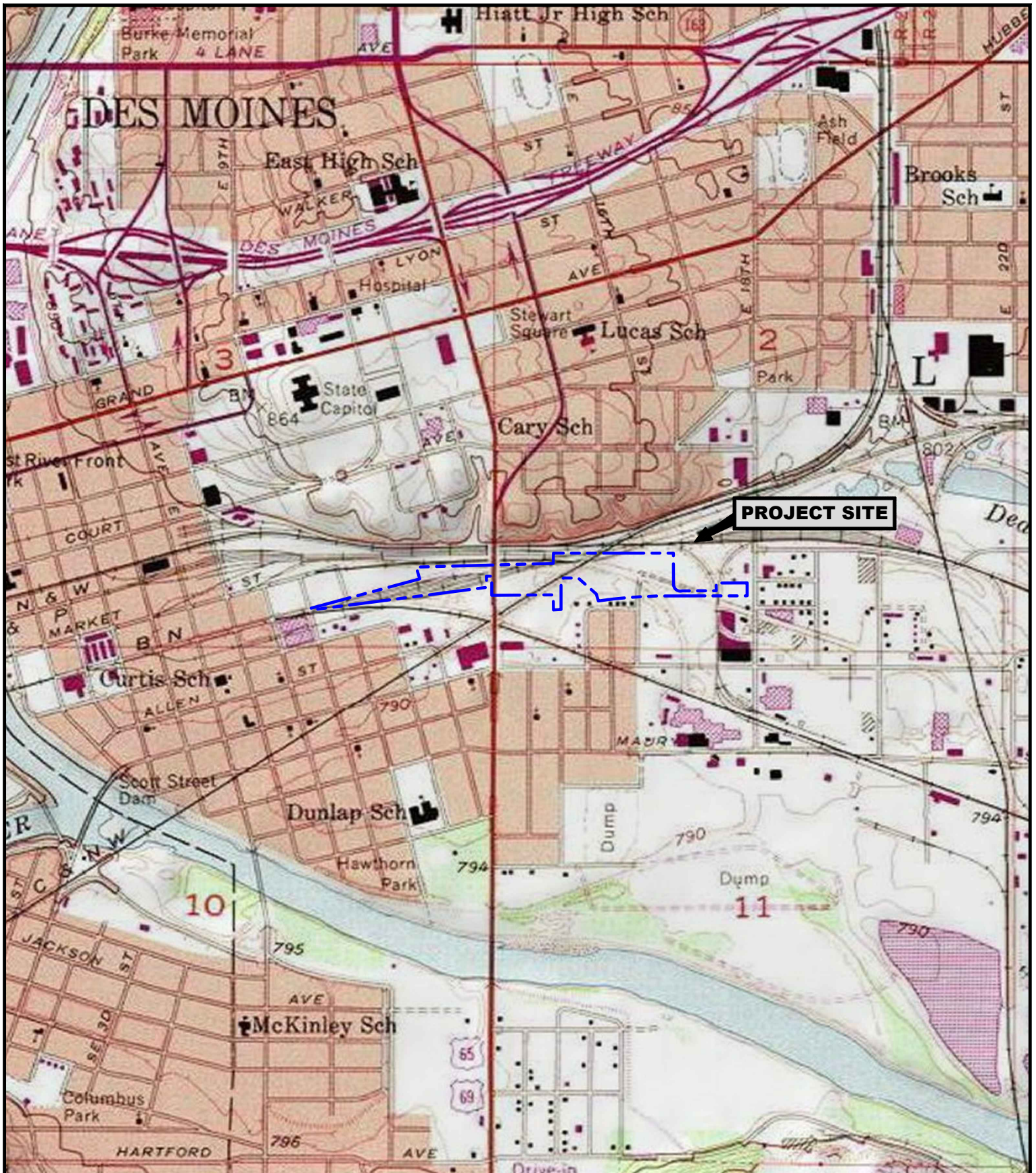
## **5.0 References**

*USFWS, 2018. Range Wide Indiana Bat Summer Survey Guidelines, dated April 2018.*

USFWS, 2015. County Distribution of Federally Threatened, Endangered, Proposed Candidate Species.



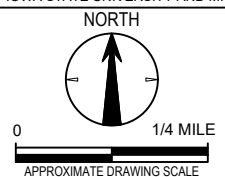
# EXHIBITS



TOPOGRAPHIC IMAGE FROM IOWA GEOGRAPHIC MAP SERVER MAINTAINED BY IOWA STATE UNIVERSITY AND MIT - <http://cairo.gis.iastate.edu/map.html>

**LEGEND**

--- BOUNDARY OF ASSESSED AREA



Project No:	Date:
08197038-T1	11/1/2019
Project Mng:	Drawn By:
JAH	JAL
File Name:	
08197038-T3-BATS.dwg	
Layout Name:	
E1	

**Terracon**  
Consulting Engineers and Scientists

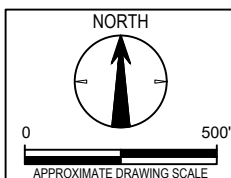
600 SW 7TH STREET DES MOINES, IOWA 50309  
PH. (515) 244-3184 FAX. (515) 244-5249

TOPOGRAPHIC SITE VICINITY MAP
ENVIRONMENTAL ASSESSMENT
DES MOINES INDUSTRIAL - TRANSLOAD CENTER
200 SE 15TH STREET
DES MOINES, IOWA

EXHIBIT
1



AERIAL PHOTO FROM GOOGLE EARTH



Project No: 08197038-T1  
 Date: 11/1/2019  
 Project Mng: JAH  
 Drawn By: JAL  
 File Name: 08197038-T3-BATS.dwg  
 Layout Name: E2

**Terracon**  
 Consulting Engineers and Scientists

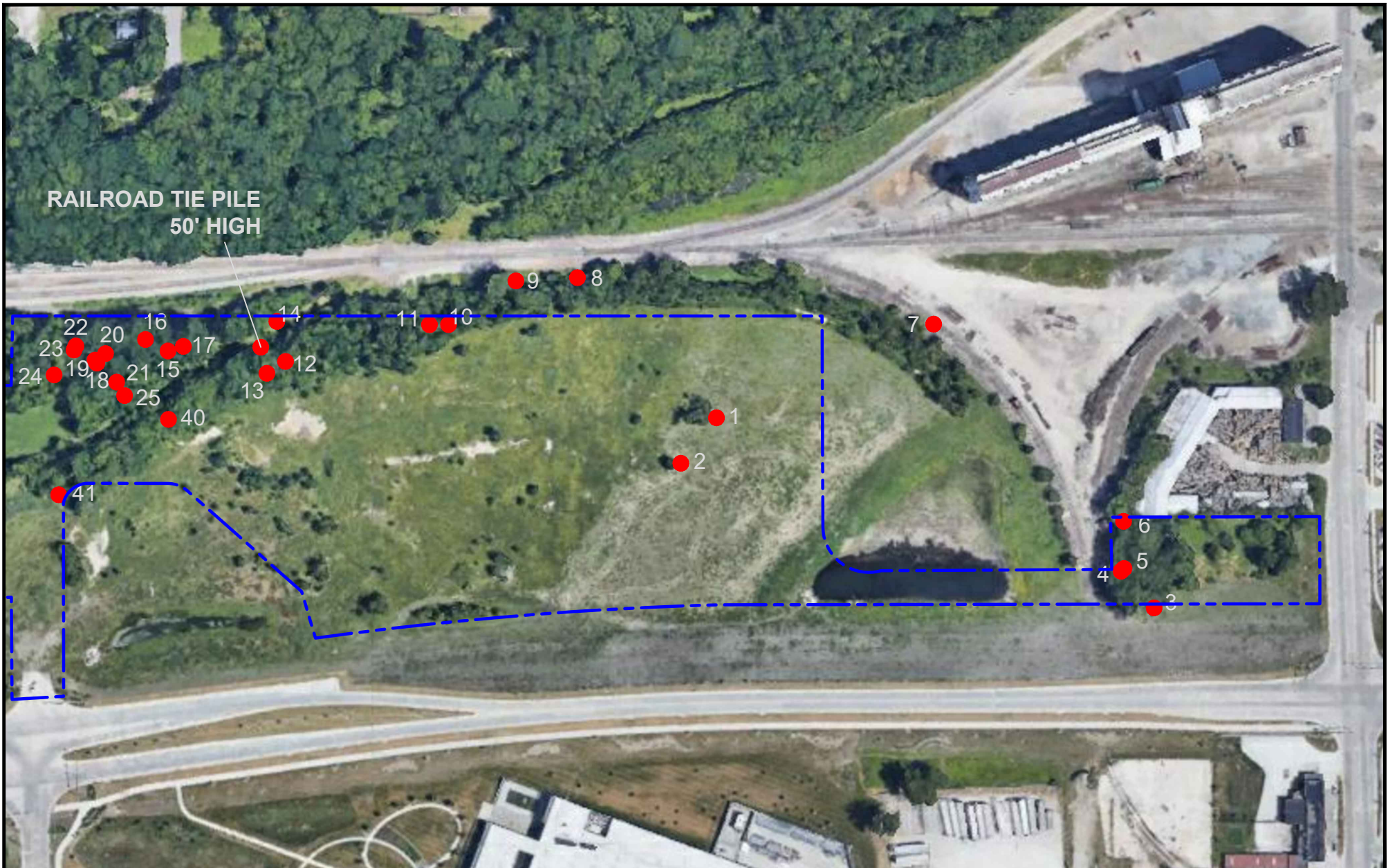
600 SW 7TH STREET DES MOINES, IOWA 50309  
 PH. (515) 244-3184 FAX. (515) 244-5249

**LEGEND**

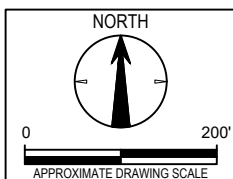
--- BOUNDARY OF ASSESSED AREA

SITE DIAGRAM  
 ENVIRONMENTAL ASSESSMENT  
 DES MOINES INDUSTRIAL - TRANSLOAD CENTER  
 200 SE 15TH STREET  
 DES MOINES, IOWA

EXHIBIT  
 2



AERIAL PHOTO FROM GOOGLE EARTH



Project No. 08197038-T1	Date: 11/1/2019
Project Mngr: JAH	Drawn By: JAL
File Name: 08197038-T3-BATS.dwg	
Layout Name: E3A	

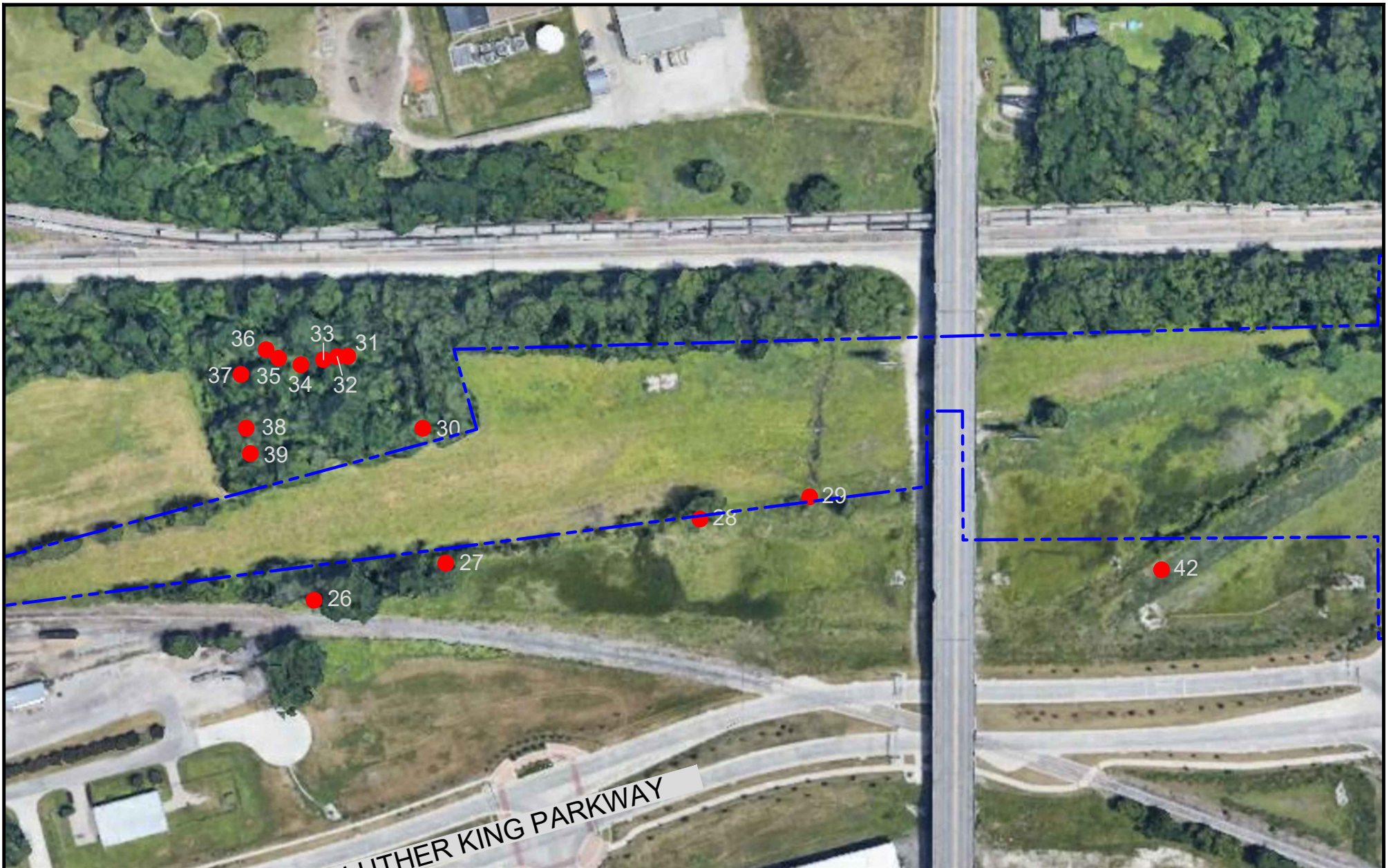
**Terracon**  
Consulting Engineers and Scientists

600 SW 7TH STREET DES MOINES, IOWA 50309  
PH. (515) 244-3184 FAX. (515) 244-5249

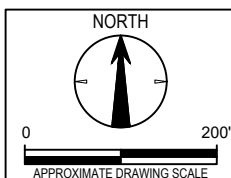
LEGEND

--- BOUNDARY OF ASSESSED AREA

HABITAT EVALUATION MAP		EXHIBIT  3A
ENVIRONMENTAL ASSESSMENT		
DES MOINES INDUSTRIAL - TRANSLOAD CENTER 200 SE 15TH STREET DES MOINES, IOWA		



AERIAL PHOTO FROM GOOGLE EARTH



Project No:	Date:
08197038-T1	11/1/2019
Project Mng'r:	Drawn By:
JAH	JAL
File Name:	
08197038-T3-BATS.dwg	
Layout Name:	
E3B	

**Terracon**  
Consulting Engineers and Scientists

600 SW 7TH STREET DES MOINES, IOWA 50309  
PH. (515) 244-3184 FAX. (515) 244-5249

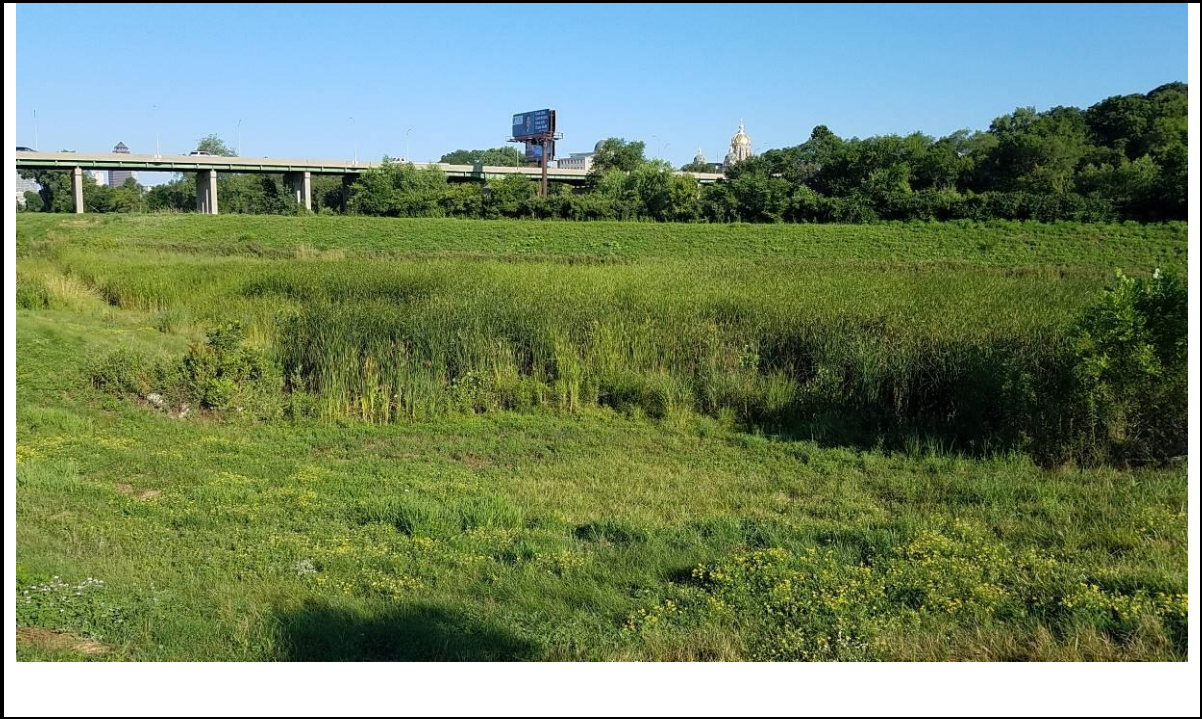
**LEGEND**

--- - BOUNDARY OF ASSESSED AREA

HABITAT EVALUATION MAP		EXHIBIT
ENVIRONMENTAL ASSESSMENT		
DES MOINES INDUSTRIAL - TRANSLOAD CENTER		
200 SE 15TH STREET		
DES MOINES, IOWA		3B

## **PHOTO-LOG**

**WETLAND DELINEATION  
Des Moines Area Transloading Facility  
Des Moines, Iowa**



**Photo 1:** View of the central portion of the site, looking northwest.



**Photo 2:** View of the west-central portion of the site, looking west.

**WETLAND DELINEATION**  
**Des Moines Area Transloading Facility**  
**Des Moines, Iowa**



**Photo 3:** View of the westernmost portion of the site, looking west.



**Photo 4:** View of the eastern portion of the site, looking west.



**WETLAND DELINEATION  
Des Moines Area Transloading Facility  
Des Moines, Iowa**



**Photo 5:** View of tree identified in the table as No. 1, looking northeast.



**Photo 6:** View of the tree cluster identified in the table as No 11.

**WETLAND DELINEATION**  
**Des Moines Area Transloading Facility**  
**Des Moines, Iowa**

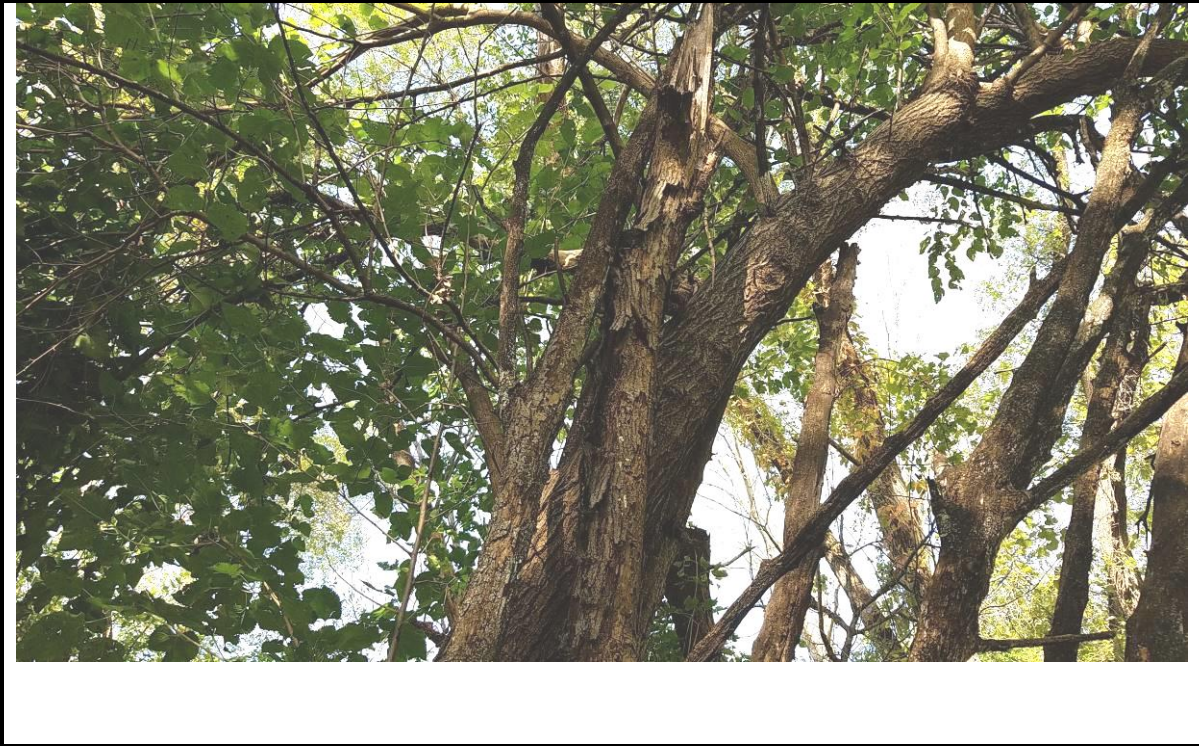


**Photo 7:** View of cluster identified in the table as No. 20.



**Photo 8:** View of the tree identified in the table as No. 27.

**WETLAND DELINEATION  
Des Moines Area Transloading Facility  
Des Moines, Iowa**



**Photo 9:** View of the tree identified in the table as No. 35.



**Photo 10:** View of the tree identified in the table as No. 41.

# **IPAC REPORT**



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Illinois-Iowa Ecological Services Field Office  
Illinois & Iowa Ecological Services Field Office  
1511 47th Ave  
Moline, IL 61265-7022  
Phone: (309) 757-5800 Fax: (309) 757-5807

In Reply Refer To:  
Consultation Code: 03E18000-2020-SLI-0165  
Event Code: 03E18000-2020-E-00398  
Project Name: Des Moines Insustrial

November 06, 2019

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

## To Whom It May Concern:

The attached species list identifies any federally threatened, endangered, proposed and candidate species that may occur within the boundary of your proposed project or may be affected by your proposed project. The list also includes designated critical habitat if present within your proposed project area or affected by your project. This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation.

Section 7 of the Endangered Species Act of 1973 requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service if they determine their project “may affect” listed species or critical habitat.

Under 50 CFR 402.12(e) (the regulations that implement Section 7 of the Endangered Species Act) the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally. You may verify the list by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation and completing the same process you used to receive the attached list. As an alternative, you may contact this Ecological Services Field Office for updates.

Please use the species list provided and visit the U.S. Fish and Wildlife Service's Region 3 Section 7 Technical Assistance website at - <http://www.fws.gov/midwest/endangered/section7/s7process/index.html>. This website contains step-by-step instructions which will help you

determine if your project will have an adverse effect on listed species and will help lead you through the Section 7 process.

For all wind energy projects, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.) and Migratory Bird Treaty Act (16 U.S.C. 703 et seq), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at <http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html> to help you determine if you can avoid impacting eagles or if a permit may be necessary.

We appreciate your concern for threatened and endangered species. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
  - USFWS National Wildlife Refuges and Fish Hatcheries
  - Wetlands
-

## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Illinois-Iowa Ecological Services Field Office**

Illinois & Iowa Ecological Services Field Office

1511 47th Ave

Moline, IL 61265-7022

(309) 757-5800

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## Project Summary

Consultation Code: 03E18000-2020-SLI-0165

Event Code: 03E18000-2020-E-00398

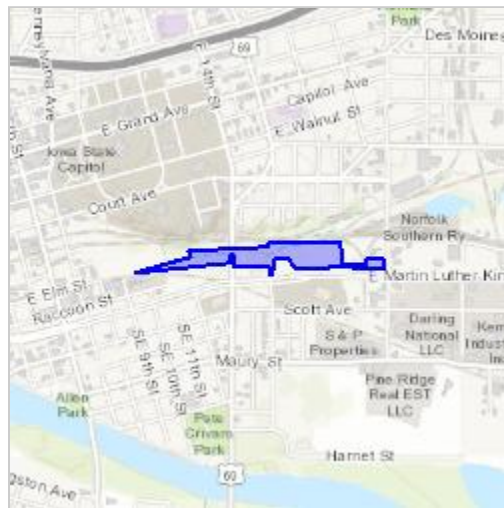
Project Name: Des Moines Industrial

Project Type: DEVELOPMENT

Project Description: The project will consist of the construction of a transloading facility. The site is located in the SE 1/4 of Section 3 and the SW 1/4 of Section 2, Township 78 North, Range 24 West, Des Moines, Iowa.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/41.58604236423649N93.59334787843369W>



Counties: Polk, IA

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## Endangered Species Act Species

There is a total of 5 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### Mammals

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a>	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

### Birds

NAME	STATUS
Least Tern <i>Sterna antillarum</i> Population: interior pop. No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/8505">https://ecos.fws.gov/ecp/species/8505</a>	Endangered

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## Flowering Plants

NAME	STATUS
<p>Prairie Bush-clover <i>Lespedeza leptostachya</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/4458">https://ecos.fws.gov/ecp/species/4458</a></p>	Threatened
<p>Western Prairie Fringed Orchid <i>Platanthera praeclara</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1669">https://ecos.fws.gov/ecp/species/1669</a></p>	Threatened

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

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# USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

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# Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

## FRESHWATER EMERGENT WETLAND

- [PEM1Ax](#)
- [PEM1Cx](#)
- [PEM1Fx](#)

## FRESHWATER FORESTED/SHRUB WETLAND

- [PFO1Ax](#)
  - [PSS1Cx](#)
-



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Rock Island Field Office  
1511 47<sup>th</sup> Avenue  
Moline, Illinois 61265  
Phone: (309) 757-5800 Fax: (309) 757-5807

IN REPLY REFER  
TO:  
IL-IAFO

Amanda E. Ciampolillo  
Federal Railroad Administration (FRA):

Electronic Mail  
February 13, 2020

We have reviewed your electronic mail dated February 13, 2020, for the Des Moines Transloading facility located north of Martin Luther King Parkway in the area of NE 14<sup>th</sup> Street, Des Moines, Polk County, Iowa. The proposed project covers approximately 40 acres and involves the construction of tracks, warehousing, storage areas, and retention ponds to create the transloading facility. The proposed facility is in an urban setting and will require approximately 3.15 acres of tree clearing.

FRA has reviewed the list of threatened or endangered species which may be present in Polk County and has determined that there may be suitable habitat in the project area for Indiana bats and Northern long-eared bats. A tree clearing date restriction will be included to avoid direct impacts to bat species. Additionally, FRA will add the following Avoidance and Minimization Measures (AMMs) for this project:

- General AMM 1. Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all Transportation Agency environmental commitments, including all applicable AMMs.
- Tree Removal AMM 1. Modify all phases/aspects of the project (e.g., temporary work areas, alignments) to the extent practicable to avoid tree removal in excess of what is required to implement the project safely.
- Tree Removal AMM 3. Ensure tree removal is limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).
- Lighting AMM 2. When installing new or replacing existing permanent lights, use downward-facing, full cut-off<sub>33</sub> lens lights (with same intensity or less for replacement lighting); or for those transportation agencies using the BUG system developed by the Illuminating Engineering Society,<sup>34</sup> the goal is to be as close to 0 for all three ratings with a priority of "uplight" of 0 and "backlight" as low as practicable.

FRA used the NLEB-Ibat determination key within IPaC to determine applicability of the project with the USFWS revised programmatic biological opinion for transportation projects dated 12-15-2016 and to assess what effect the project would have on Northern long-eared bats (NLEB) or Indiana bats (Ibats). FRA completed an IPaC qualification interview and determined that the project is not within the scope of the programmatic biological opinion. FRA, therefore, has determined that the project is not likely to adversely affect the NLEB or Ibat provided the tree clearing date restriction is in place. We concur with this determination. Further, FRA has adequately addressed

the potential impacts of the project alternatives on federally listed threatened and endangered species in the project area.

Although no longer protected under the Endangered Species Act, be aware that bald eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.) and Migratory Bird Treaty Act (16 U.S.C. 703 et seq), as are golden eagles. Projects affecting these species may require measures to avoid harming eagles or may require a permit. If your project is near an eagle nest or winter roost area, see our Eagle Permits website at <http://www.fws.gov/midwest/midwestbird/EaglePermits/index.html> to help you determine if you can avoid impacting eagles or if a permit may be necessary.

This precludes the need for further action on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. Should this project be modified or new information indicate endangered species may be affected, consultation should be initiated.

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