



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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January 28, 2011

DeVela J. Clark  
District Ranger  
Wayne National Forest, Athens Ranger District  
13700 US Hwy 33  
Nelsonville, OH 45764-9880

TAILS: 31420-2011-F-0294

RE: Proposed Pleasant Bear Vegetation Management Project, Marietta Unit, Athens District, WNF

Dear Mr. Clark:

This letter is in response to your January 14, 2011 request for site-specific review, pursuant to Section 7 of the Endangered Species Act of 1973, as amended, regarding the proposed Pleasant Bear Vegetation Management Project located in the Marietta Unit of the Athens District of the Wayne National Forest (WNF). The Forest Service proposes to improve the quality of wildlife habitat within the project area on 2,523 acres of National Forest System land. We understand that the proposed project activity includes hardwood and pine forest habitat management using even-aged, uneven-aged, intermediate, and prescribed burn treatments; non-native pine plantation treatments; improvements to riparian habitat diversity; creation of herbaceous openings; and non-native invasive species (NNIS) treatments. This review represents a Tier 2 consultation, as explained below.

On November 22, 2005, the U.S. Fish and Wildlife Service (Service) issued a programmatic biological opinion (PBO) for the Wayne National Forest's Revised Land and Resource Management Plan (Forest Plan). This PBO established a two-tiered consultation process for Forest Plan activities, with issuance of the programmatic opinion being Tier 1 and all subsequent site-specific project analyses constituting Tier 2 consultations. Under this tiered process, the Service will produce tiered biological opinions when it is determined that site-specific projects are likely to adversely affect federally listed species. When may affect, not likely to adversely affect determinations are made, we will provide written concurrence and section 7(a)(2) consultation will be considered completed for those site-specific projects.

In issuing the PBO (Tier 1 biological opinion), we evaluated the effects of all Forest Service actions outlined in your Biological Assessment on the federally listed Indiana bat (*Myotis sodalis*), American burying beetle (*Nicrophorus americanus*), northern monkshood (*Aconitum noveboracense*), running buffalo clover (*Trifolium stoloniferum*), small whorled pogonia (*Isotria medeoloides*), Virginia spiraea (*Spiraea virginiana*), fanshell mussel (*Cyprogenia stegaria*), and the pink mucket pearly mussel (*Lampsilis abrupta*). In response to your PBO, we concurred with your determinations of not likely to adversely affect for the American burying beetle, northern monkshood, small whorled pogonia, Virginia spiraea, fanshell mussel, and the pink mucket pearly mussel. We also concurred with your determination of likely to adversely affect for the Indiana bat and running buffalo clover. Since the PBO, two other

mussel species have been proposed for listing as endangered: the rayed bean (*Villosa fabalis*) and the snuffbox (*Epioblasma triquetra*), and so these species will be included in future correspondence.

Your current request for Service review of the Pleasant Bear Vegetation Management Project is a Tier 2 consultation under the November 22, 2005 PBO. We have reviewed the information contained in the Biological Evaluation (BE), received by our office on January 19, 2011, describing the effects of the proposed project on federally listed species. You have indicated that the proposed action will have no effect on the American burying beetle, northern monkshood, and Virginia spiraea, and thus, consultation is not required for these species for this project. Additionally, based on a November, 2010 discussion with Angela Boyer in the USFWS Ohio Field Office concerning federally listed mussels, you have also indicated that the proposed project will have no effect on the fanshell mussel, pink mucket pearly mussel, rayed bean, and snuffbox, and therefore consultation is not required for these species for this project.

You have additionally indicated that the proposed action may affect, not likely to adversely affect the small whorled pogonia and running buffalo clover because habitat for these species is found within the project area, though no individuals or communities were located during surveys at time of flowering, and because the proposed action may benefit these species through opening the canopy and midstory and non-native invasive species (NNIS) control. *We concur that the proposed action may affect, not likely to adversely affect these species due to the proposed project nature and location and due to the implementation of avoidance and minimization measures.*

For this project, you have determined that the proposed project may adversely affect the Indiana bat due to the slight chance that an occupied, yet undetected, secondary or lesser important roost tree could be cut as a result of road, skid rail, log landing, or fireline construction, the burial of oil/gas surface pipelines in prescribed burn areas, or hazard tree removal associated with proposed actions. *We concur with your determination that the action is likely to adversely affect the Indiana bat.* As such, this review focuses on determining whether: (1) this proposed site-specific project falls within the scope the Tier 1 PBO, (2) the effects of this proposed action are consistent with those anticipated in the Tier 1 PBO, and (3) the appropriate standards and guidelines identified in the Forest Plan are adhered to.

That is, this letter serves as the Tier 2 biological opinion for the proposed Pleasant Bear Vegetation Management Project. As such, this letter also provides the level of incidental take that is anticipated and a cumulative tally of incidental take that has been authorized and exempted under the PBO.

#### Description of the Proposed Action

Pages 3 -15 of your Wildlife BE include the location and a thorough description of the proposed action. Pleasant Bear lies within portions of Fearing, Independence, Lawrence, and Newport Townships in Washington County, Ohio, and covers approximately 11,678 acres of mixed oak, beach, mixed mesophytic forest, and planted walnut and white pine plantations. Four WNF management areas occur within the proposed project area: Forest Shrubland Mosaic (FSM; 6,848 acres), Diverse Continuous Forest (DCF; 2,592 acres), River Corridor (RC; 2,155 acres), and Special Area Felter Ridge (SA; 83 acres). The proposed action aims to provide management to WNF lands to move the stands toward the desired future condition in each Management Area, with the primary emphasis being to create early successional hardwood and native pine forest habitat, and all-aged, multi-layered hardwood forest habitat within three of the Management Areas. We understand that, to achieve the proposed goal, the project activities include creating early successional habitat, regenerating native pine stands, restoring oak-hickory ecosystems, providing diversity in age class, treating NNIS, reducing fuel accumulations, developing structural diversity in current even-aged forest stands, and providing support to the local economy.

Your BE contains three different alternatives: 1) No action alternative – provides for no active management of the stands within Pleasant Bear project area, which would lead to the increased dominance of undesirable species within the project area; 2) Proposed action alternative – creates early successional hardwood and pine forest habitat, creates all-aged, multi-layered forest habitat, restores native habitat by treating non-native pine plantations, improves riparian habitat diversity, utilizes prescribed fire to maintain openings and restore native pine and oak/hickory forests, creates herbaceous openings, improves stands through intermediate treatments, and treats NNIS to improve the quality of wildlife habitat in the project area; and 3) Proposed action alternative without fire – similar to Alternative 2, but does not include the use of prescribed fire to restore native pine and oak/hickory forests, reduce the abundance of NNIS, and maintain four grassland/shrub openings within the project area.

#### Status of the Species

Species descriptions, life histories, population dynamics, status and distributions are fully described on pages 13-24 for the Indiana bat in the PBO and are hereby incorporated by reference. The most recent population estimate indicates that 501,260 Indiana bats occur rangewide (King 2007). The current revised Indiana Bat Recovery Plan: First Revision (2007) delineates recovery units based on population discreteness, differences in population trends, and broad level differences in land-use and macrohabitats. There are currently four recovery units for the Indiana bat: Ozark-Central, Midwest, Appalachian Mountains, and Northeast. All of Ohio falls within the Midwest Recovery Unit.

In 2007, white nose syndrome (WNS) was found to fatally affect several species of bats, including the Indiana bat in eastern hibernacula. The skin of WNS-affected bats is colonized by a psychrophilic fungus (*Geomyces destructans*). WNS has affected hibernacula throughout the eastern United States and two provinces in Canada, though no indication of WNS exists in Ohio or the WNF. In May, 2008, a Review of New Information (RONI) was prepared by the WNF to address WNS, and states that the discovery of WNS does not present a seriously different picture with regard to the environmental effects disclosed in the Environmental Impact Statement for the 2006 Forest Plan. Since the RONI was prepared, little new information has been documented regarding WNS, though mortality of bats at affected hibernacula can exceed 75% and can be greater than 99% at some hibernacula, and new modeling suggests that little brown bats (*Myotis lucifigus*) may be regionally extinct from the eastern United States in less than 20 years. In 2010, WNF signed a 5-year Closure Order on all underground mines to help reduce disturbance to bats and to help slow the spread of WNS, as well as to promote human safety.

#### Environmental Baseline

The action area for this project encompasses approximately 11,768 acres of land within the Marietta Unit of the Athens Ranger District of the WNF. Since the issuance of the PBO in 2005, the environmental baseline on the WNF has only changed minimally. On the WNF, 244.69 acres (36.59 acres for permanent road construction, 8.3 acres for temporary road construction, and 199.8 acres for skid trails and log landings) and 138.06 miles of firelines for projects have been applied toward your incidental take, not including this project.

#### *Status of the species within the action area*

Since 1997 on the WNF, 24 Indiana bats have been captured during netting surveys (16 males and 8 females) and a maximum of 333 individuals have been observed in the Ironton hibernaculum. No known potential fall swarming or winter hibernation habitat exists within the proposed project area or within the Marietta Unit of the Athens District of the WNF. Additionally, no Indiana bats have been documented on the Marietta Unit, as past survey efforts suggest that the Indiana bat has a focused distribution in two distinct areas within the WNF: Bear Run Area on the Ironton Ranger District and the Dorr Run/Monkey Hollow/Snake Hollow Area on the Athens District.

### Effects of the Action

Based on our analysis of the information provided in your Wildlife BE for the Pleasant Bear Vegetation Management Project, we have determined that the effects of the proposed action are consistent with those contemplated and fully described on pages 22 through 46 of the Wildlife BE. Additionally, a summary of direct and indirect effects to Indiana bats for the preferred Alternative (2) are located in Table 4 of the Wildlife BE. Firelines will be utilized for the prescribed fire activities as summarized in Table 3 of the Wildlife BE, and additional avoidance and minimization measures will be implemented to protect Indiana bats, as discussed on page 40 of the Wildlife BE.

Potential direct adverse effects to the Indiana bat from this project could occur due to loss of occupied secondary or lesser important roost trees, exposure to smoke and heat, and disturbance from noise and human presence. Prescribed burning will only occur from August 15 to early spring and all applicable S&G will be implemented to protect Indiana bats. Potential indirect adverse effects to the Indiana bat include short- or long-term alterations of roosting and foraging habitats, loss of potential roost trees, short-term disturbance from noise/human presence, and ingestion of contaminated insects from herbicide application.

Potential benefits of the preferred Alternative (2) include the regeneration of oak/hickory forest and other native and desirable species, snag creation, increased solar exposure of potential roost trees, the creation of four new permanent herbaceous or herbaceous/shrub openings, the creation of linear foraging habitat features, creation of new roosting and foraging habitat by girdling trees within RA management area, decreased sediment and erosion of aquatic habitat, installation of waterholes and nest/roost boxes, reduced size and intensity of wildfires, and reduction of understory clutter, fuels, and canopy cover in densely covered areas.

Although impacts may not be avoided, implementation of the Forest Plan Standards and Guidelines (S&G) provided on pages 10-11 in the PBO will minimize potential adverse direct and indirect effects. The WNF will adhere to S&G that protect suitable roosting, foraging, and hibernation habitat for the Indiana bat now and into the future.

### Cumulative Effects

The cumulative effects analysis area for effects to the Indiana bat within the proposed project includes the outer project boundary (42,925 acres of which NFS land is 11,678 acres) plus 5 miles (approximately 204,299 acres), while the temporal boundary is 20 years into the past and 10 years into the future. A detailed account of the cumulative effects of this project is included in the Wildlife BE pages 23 through 28 for Alternative 1, pages 44 through 45 for Alternative 2, and page 46 for Alternative 3. Cumulative effects include the effects of State, tribal, local, or private actions that are reasonably certain to occur within the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. We are not aware of any additional effects beyond those contemplated in the PBO (page 22) at this time.

### Conclusion

We believe the proposed Pleasant Bear Vegetation Management Project is consistent with the PBO. After reviewing site specific information, including 1) the scope of the project, 2) the environmental baseline, 3) the status of the Indiana bat and its potential occurrence within the project area and surrounding Wayne NF land, 4) the effects of the action, and 5) any cumulative effects, *it is the Service's biological opinion that this project is not likely to jeopardize the continued existence of the Indiana bat.* As explained in the Effects of the Action section, we anticipate that there may be individual fitness consequences but do not expect any colony or population level fitness implications. Thus we do not anticipate any appreciable reductions in reproduction, numbers, or distribution for Indiana bats rangewide.

Incidental Take Statement

The Service anticipates that the preferred alternative (2) of the proposed action will result in incidental take associated with permanent road creation and reconstruction, temporary road construction, skid trails and log landings, utility development, and fire lines. It is anticipated that occupied secondary roost or less important roost trees may be unknowingly cut. These trees are likely to be occupied by either singly roosting males or a few females. It is reasonable to assume that only a subset of these individuals will be directly taken through injury or death and that most of the individuals in the occupied roost tree will escape, and hence not be incidentally taken. Although very difficult to predict, we anticipated in the PBO that one unknown occupied roost tree could be cut during road construction over a ten year period. As incidental take is difficult to detect, the PBO established habitat acreages as a surrogate for tracking take. The preferred alternative (2) of the project includes 85.3 acres and 28.1 miles, while Alternative 3 includes 82.9 acres of the cumulative total of incidental take for the implementation of the WNF's Revised Forest Plan. With the implementation of Alternative 2, this brings the total amount of incidental take to 330.09 acres and 166.16 miles (see table below: Alt.2 plus IT granted). This project, added to the cumulative total of incidental take for the implementation of the WNF's Revised Forest Plan, is well within the level of incidental take anticipated in the PBO through 2015.

<b>Activity</b>	<b>IT anticipated in PBO</b>	<b>IT for this project Alt. 2</b>	<b>IT for this project Alt. 3</b>	<b>Cumulative IT granted to date</b>
Permanent Road Construction (acres)	392 acres	24.5	24.5	36.59
Temporary Road Construction (acres)	146 acres	4.8	4.8	8.3
Skid Trails & Log Landings (acres)	740 acres	53.6	53.6	199.8
Utility Development (acres)	50 acres	2.4	0	0
Fire Lines (miles)	750 miles	28.1	0	138.06

We determined that this level of anticipated and exempted take of Indiana bats from the proposed project, in conjunction with the other management actions taken by the WNF pursuant to the PBO to date, is not likely to result in jeopardy to the species.

The Forest Service is implementing all pertinent Indiana bat standards and guidelines, specifically GFW-TES-9 and SFW-TES-10 stipulated in the Forest Plan and on pages 88-94 of the PBO. In addition, the Forest Service is monitoring the extent of incidental take that occurs on a project-by-project basis. These measures sufficiently minimize the impact of the anticipated incidental take, and thus, no further Reasonable and Prudent Measures are necessary.

This fulfills your section 7(a)(2) requirements for this action; however, should the proposed project be modified or the level of take identified above be exceeded, the Forest Service should promptly reinstate consultation as outlined in 50 CFR 402.16. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the continued implementation of the Revised Wayne National Forest Land and Resource Management Plan and projects predicated upon it may affect listed species in a manner or to an extent not considered in this opinion; (3) the continued implementation of the Revised Wayne National Forest Land and Resource Management Plan and projects predicated upon it is

subsequently modified in a manner that causes an effect to federally listed species not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease, pending reinitiation. Requests for reinitiation, or questions regarding reinitiation, should be directed to the U.S. Fish and Wildlife Service's Ohio Field Office.

We appreciate your continued efforts to ensure that this project is consistent with all provisions outlined in the Forest Plan and PBO. If you have any questions regarding our response or if you need additional information, please contact Julie Proell by email at [Julie\\_Proell@fws.gov](mailto:Julie_Proell@fws.gov).

Sincerely,

A handwritten signature in cursive script that reads "Mary M. Knapp". The signature is written in black ink and is positioned above the printed name and title.

Mary M. Knapp, Ph.D.  
Supervisor