

Kristin L. Watt
Direct Dial (614) 464-8398
Direct Fax (614) 719-5081
Email klwatt@vorys.com

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VIA EMAIL Indiana bat@fws.gov

U.S. Fish and Wildlife Service
620 South Walker Street
Bloomington, IN 47403-2121

Re: Comments to Draft Revised Indiana Bat Summer Survey Guidelines

To Whom It May Concern:

The Ohio Oil & Gas Association (“Association”) appreciates the opportunity to comment on the U.S. Fish and Wildlife Service’s (“USFWS”) revised summer survey guidelines for the Indiana bat.

The Association is one of the largest and most active state-based oil and natural gas associations in the country and has served as the representative of Ohio’s oil and gas producing industry since 1947. The Association also serves to protect its members’ interests by participating in federal and state regulatory actions involving the crude oil and natural gas industry.

Fortunately, Ohio is experiencing a resurgence of economic energy activity, due in large part to the emerging development of the Marcellus and Utica Shales. These formations have tremendous potential, and the Association submits these comments to encourage the continued development of these natural resources in a manner that is efficient and effective, while being protective of our natural environment.

General Comments

A significant concern of the Association is that the draft revised guidelines rely on the use of acoustic detection/monitoring standards that have not been field-tested or peer-reviewed. Moreover, the USFWS must still determine if any existing software is suitable for distinguishing various species of bats, especially the Indiana bat. The USFWS indicates that it will internally approve software for monitoring use (using the Acoustic Bat Identification

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Software Testing Criteria), but there are no concrete, peer-reviewed guidelines as to how that will be done. As admitted by the USFWS, “no automated software programs for identifying Indiana bats (or other eastern U.S. bat species) have been peer-reviewed and published in the scientific literature yet.” If there are no programs that can be recommended now, why is this protocol being pushed now?

We have spoken with personnel from the Ohio Department of Natural Resources Division of Wildlife (“ODNR-DOW”) who have indicated they have tested software and the results were very erratic and untrustworthy. The Association believes that further field testing of equipment and software be completed prior to finalization and implementation of acoustical tracking.

In its answer to question 20 of its Frequently Asked Questions (“FAQ”), the USFWS provides: “[w]ith the recent developments and ongoing improvements to automated acoustic ID programs, we have confidence that acoustics are suitable for use in the capacity recommended.” The “Fort Drum” report this statement relies upon is unpublished and has not been peer-reviewed.

How did the USFWS determine that an allowed 10% error rate (that a call is an Indiana bat, when in fact it is not) would be acceptable? Such a large error rate forces regulated entities into proving that an Indiana bat population is not present. We believe a proven, field-tested and peer-reviewed protocol with a more reasonable error rate is required.

The ODNR-DOW has its own set of protocols regarding mist netting. If these draft survey guidelines are adopted, the regulated community in Ohio may be required to use two different methods – with the potential for different results. What plans are in place to coordinate with state agencies to minimize confusion and unnecessarily burdensome impact on the regulated community?

In Appendix C and the FAQ #38, the USFWS states that biologists must “walk” and not drive between mist nets. If a mist net must be checked every 10 minutes, and in many cases the mist net locations can be miles apart, this will require a significantly increased number of biologist surveyors than previously required. Small vehicles, such as ATVs, should be allowed. No justification is provided for this change that will bring significant cost increases.

The draft guideline includes significantly increased Phase 3 mist netting nights. What is the basis for these substantial increases, which will significantly shorten the time available for acoustic monitoring and mist netting in the same season. We believe the “net night” requirements should remain in line with the existing protocols.

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The Guidelines indicate that “future changes to this guidance are likely and will be posted on the . . . USFWS Indiana bat website” More formal notification should be made and the changes should be subject to public comments and peer review.

The proposed guidelines will clearly expand the area of forested land that could come under formal review by changing the “suitable habitat” from 6” diameter trees to 3” diameter trees. Thus, many more areas will likely be deemed potential suitable habitat and will require further investigation. Due to the seasonal nature of these additional studies, there will necessarily be a significant delay in the processing of various permits, particularly under the USACE Section 404 permit program wherein Nationwide Permit review is 45 days unless the process is “suspended until the required consultation is complete” under section 7 of the Endangered Species Act. Such delays could costs permit applicants a full season of delay.

In addition, at page 3 of the draft guidelines, the USFWS state that the surrounding non-forested habitats are included in the definition of “suitable summer habitat” – implying that the non-forested areas should also be investigated. Agricultural fields, open pasture and old fields should not be considered suitable summer habitat for Indiana bats.

In summary, the Association requests the USFWS to delay the implementation of the acoustic survey requirements until peer-reviewed methods can be documented and approved. We appreciate the opportunity to provide these comments.

Sincerely yours,



Kristin L. Watt

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