Indiana Bat, FW3 <indiana_bat@fws.gov>

Fwd: Fw: Comments on Draft Revised Indiana Bat Summer Survey Guidelines

1 message

King, Andrew <andrew_king@fws.gov> Mon, Feb 25, 2013 at 2:51 PM
To: FW3 Indiana Bat <indiana_bat@fws.gov>

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02/07/2013 11:07 AM

To: "'Indiana_bat@fws.gov'" <Indiana_bat@fws.gov>
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Subject: Comments on Draft Revised Indiana Bat Summer Survey Guidelines

On behalf of the Kentucky Department for Natural Resources submitted for your consideration are comments regarding the draft "Revised Indiana Bat Summer Survey Guidelines". The original signed document is being sent via the U.S. Postal Service. Thank you for the opportunity to provide review and comment. *(See attached file: 2013_02_07_11_00_53.pdf)*

2013_02_07_11_00_53.pdf
395K

ENERGY AND ENVIRONMENT CABINET
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February 7, 2013

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

RE: Draft Indiana Bat Summer Survey Guidelines

To whom it may concern:

The Department for Natural Resources is tasked with administering both Title V (Regulatory) and Title IV (Abandoned Mine Lands) programs of the Surface Mining Control and Reclamation Act of 1977. On a programmatic level however it should be understood that conducting Indiana Bat surveys in Kentucky is largely the purview of the Kentucky Department for Fish and Wildlife Resources (KDFWR) as it applies to surface mining applications. While KDFWR does not review survey proposals, they do review and approve survey reports and assess the qualifications of bat biologists. The Division of Miner Permits (DMP) subsequently reviews the approved survey reports that may be used to generate, if appropriate, protection and enhancement plans for the Indiana Bat during the permit application process. DMP does not possess the level of expertise, or responsibility to assess what may be correct and legitimate survey methods.

However, upon review of the guidelines, DMP requests clarification on the usage of the terms of Indiana Bat "summer habitat" and "roosting habitat" which seems to be used interchangeably, though with different definitions. On page 3, second paragraph, summer habitat includes 3 inch "diameter at breast height" (dbh) trees. A reference footnote cites 5 inch dbh trees as roosting habitat. As a default, the new *Range-wide Indiana Bat Protection and Enhancement Plan Guidelines for Surface Coal-Mining Operations (revised October 2012)* developed by state regulatory agencies, Office of Surface Mining and the U.S. Fish and Wildlife Service defines bat habitat using the 5 inch dbh trigger. Clarification could be improved by elevating the footnote to the regular page context and demoting that "potential roosts include 3 inch dbh trees" to a footnote. The same situation is also found on page 7, Appendix A which can be resolved in the same manner.

The proposed Range-wide Indiana Bat Summer Survey Guidelines are very detailed and comprehensive in regards to the components of acoustic detection, mist-netting, emergence inventory and subsequent radio tracking. Be aware that these protocols will take a considerable amount of time within a short time window, exacerbated by the relatively few qualified bat

biologists in Kentucky. Rather than conducting these multiple components for a summer survey, DMP believes the coal applicant may elect to assume presence of the Indian bat, thereby negating any opportunity for the Service to collect much needed information on the range and distribution of the male and female Indiana Bats.

DMP observes that the biggest change to the survey guidelines is the heavy reliance on acoustic surveys rather than mist-netting and question if that technology has improved to the point where they are more accurate, given historical deficiencies with the monitors / software. Additional concerns would be the anticipated cost associated with the acoustic surveys. With only one company making the monitors and software used to detect the bats, the technology is either unaffordable or unavailable to most consultants. The assumption of presence will limit the window of tree cutting to the winter months, with the risk of the property owner clear cutting the trees thus eliminating any potential bat habitat prior to the company's submittal of a permit application.

Our Division of Abandoned Mine Land (DAML) is responsible for preparing and facilitating the reclamation of un-reclaimed or poorly reclaimed coal mined lands that are impacting the health, safety and welfare of the public. Lands eligible for this program must have been disturbed prior to 1982. The DAML offers the following comments.

There is doubt among biologists that the acoustic detection software can accurately distinguish between some bat species and any one misidentification of individual bat species could place an undue financial burden on any company engaged in a federally regulated activity (e.g. coal mining) or upon any agency spending federal monies (DOT, DAML, etc.).

Call detection will be targeted with a "known maternity area" designation, which is a mitigation cost multiplier. If the call recognition software is in question regarding the identification of species, identification of the sex of the species must also be in question. When this guidance was first put forth for use in 2012 it appeared that every acoustic survey would generate a "maternity colony" record unless proven otherwise by an extensive mist-netting effort. We understand that is currently impossible to determine the sex and maturity of a bat from an acoustic recording. Thus a 2.5 mile radius, such as that attached to male mist-net records, would also serve the same purpose, but not place an undue burden on projects in more remotely surrounding areas.

It should be understood that if the KY DAML were to lose the winter-time clearing exemption associated with tree removal, the cost of Indiana Bat mitigation would become very expensive and consume a substantial portion of the DAML annual grant and limit our ability to address impacts to the public.

Most AML projects, especially those that address high-priority threats and/or impacts to human health and safety, result in little to no potential for impact to M. sodalis, and the fiscal burden of assuming presence on those small areas is relatively low. However, AML sites that produce long-term environmental impacts are the projects most likely to disturb significant acreages of potential bat habitat. For example, a relatively large (300 acre) AML project, such as those conducted in western KY to address acid mine drainage (AMD) impacting local streams,

could easily result in the disturbance of forested areas because of the need for soil to cover acidic spoils, slurry and remnant mine pits. Either assumption of presence or acoustic detection could easily add over $500,000 or more to the price of such a project. This financial burden will have the immediate effect of this agency working on fewer projects, especially those addressing purely environmental impact. However, it is those projects that address major environmental impacts that, while causing a temporary small-scale disruption to potential bat roost and/or brood colony habitat, will have the greatest potential to create a long-term positive environmental improvement.

It would be appropriate, and DNR recommends that the U.S. Fish & Wildlife Service conduct an economic impact analysis on state mining programs for the proposed survey guidelines. Thank you for the opportunity to provide comment.

Sincerely,

Steve Hohmann
Commissioner