



ENVIRONMENTAL SOLUTIONS & INNOVATIONS, INC.

4525 Este Avenue
Cincinnati, OH 45232
Phone: (513) 451-1777; Fax: (513) 451-3321

***Submitted via e-mail to indiana_bat@fws.gov and lynn_lewis@fws.gov
and via U.S. Postal Service***

23 January 2013

Ms. Lynn M. Lewis
U.S. Fish and Wildlife Service
Region 3, Assistant Regional Director, Ecological Services
5600 American Blvd. West, Suite 990
Bloomington, MN 55437

Mr. Andrew King, Endangered Species Biologist
U.S. Fish and Wildlife Service
620 South Walker Street
Bloomington, IN 47403-2121

Ms. Robyn Niver, Endangered Species Biologist,
U.S. Fish and Wildlife Service
Ecological Services Field Office
3817 Luker Road, Cortland, NY 13045

Mr. Mike Armstrong, Endangered Species Biologist
U.S. Fish and Wildlife Service
Ecological Services Field Office
J. C. Watts Federal Building, Room 265
330 West Broadway
Frankfort, KY 40601-8670

RE: Request for extend the comment period for the “Draft Revised Rangewide Indiana Bat Summer Survey Guidelines (January 2013)” as identified in the Notice of Availability in the Federal Register /Vol. 78, No. 6/Wednesday, January 9, 2013/Notices, pp. 1879-1880.

Dear Ms. Lewis:

On behalf of Environmental Solutions & Innovations, Inc., and employees listed below, I am requesting an extension of the comment period for the above referenced guidelines for summer survey of the Indiana bat. All of these individuals are currently on federal permits for the summer survey of the Indiana bat.

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Dr. Virgil Brack, Jr.: permit holder for 35 years; Ph.D. dissertation on the Indiana bat; member of the recovery team; provide technical insight and information to FWS and state agencies; author of peer-reviewed articles on the Indiana bat (and 2 other species of federally endangered bats) pertaining to both summer and winter ecology; active in compliance regulation sampling for 30 years.

Dr. Dale Sparks: permit holder for 16 years; Ph.D. dissertation on the Indiana bat; provide technical insight and information to FWS and multiple state agencies; author of numerous peer-reviewed articles on the Indiana bat (and federally endangered gray bat); active in compliance regulation sampling.

Mr. Jason Duffey: permit holder for 8 years; author of peer-reviewed article on summer sampling for the Indiana bat; active in ecological studies and compliance regulation sampling for both summer and winter.

Mr. Darwin Brack: permit holder for 1 year; active in compliance regulation sampling for 3 years; participant of winter sampling and data collection for WNS in several states.

Since the notice was published, contributors to this letter have worked to review the guidelines and determine extent of the comments to be made. We do not feel that a period of thirty (30) days provides sufficient time for us (and other interested parties) to review, synthesize and develop potential analyses and information on the guidelines and attendant information in FWS's notice.

The reason for this request is to allow more time to provide input on aspects of the guideline document that we feel need additional attention and consideration. Areas within the guidelines that need to be addressed include but are not limited to:

- The fallibility and current status of bat detectors and software for ID of species and their suitability of the task as proposed.
- Use of a combination of sampling techniques (including detectors), employing the strength of each technique to produce better sample results, shorten timelines, reduce costs, and provide flexibility.
- "Stop and go" criteria that will prevent completion of large projects in a single season unless FWS commits to substantial personnel increases. Such delays inherently give compliance a low priority.
- Identify financial and ecological costs of false positive "occurrences" based solely on call identification software – for current and future projects.
- Determine whether the survey season should be extended.
- Request that FWS validate the need and effectiveness of their methods for WNS decontamination, which are inherent in the protocol.
- Identify the need for a diversified Guideline Team: (a) members should be qualified to obtain a federal permit if they are setting guidelines for its use, and (b) the Team should include individuals active in compliance sampling.

The 30-day window narrowly limits the public's ability to comment. It took FWS nearly a year (utilizing many team members) to respond to voluminous comments of the previous draft guidelines, while making limited changes that we believe (and we have

been told by our constituents) do not adequately address the issues raised. It is unreasonable to expect that 30 days is sufficient for the public to review and provide comments on the new draft. We have been told by constituents that they would like to respond but they are unable to meaningfully participate in the limited window allowed by FWS.

Further, there is no reason to believe that a time extension will cause hardship to FWS.

The FWS is required by the ESA to make decisions based on the "best scientific and commercial data available." The proposed guidelines directly affect the data available for ESA compliance decisions. There are alternative, balanced survey approaches that improve decisions that are made by using the strengths of available techniques that improve the quality of the sample, reduce costs and time of sampling to project proponents and FWS, and increase the likelihood of proponent participation in the compliance process. However, we cannot address these issues in the time allotted.

For the reasons stated above, ESI and employees respectfully requests that, at a minimum, the comment date for these guidelines be extended by 60 days, until 8 April 2013.

Sincerely,

A handwritten signature in blue ink, appearing to read "Virgil Brack, Jr.", with a stylized, cursive script.

Virgil Brack, Jr., Ph.D., MBA
Certified Wildlife Biologist, The Wildlife Society
Certified Senior Ecologist, Ecological Society of America
VBrack@EnvironmentalSI.com

For: Virgil Brack, Jr.
Dale Sparks
Jason Duffey
Darwin Brack
Environmental Solutions & Innovations, Inc.