

# FAX Cover Letter

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## **CONFIDENTIAL**

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**To:** US Fish and Wildlife Service

**Subject:** Indiana Bat Summer Survey Guidelines

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**Company:** US Fish and Wildlife Service

**From:** William K. Brensinger

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**Comments:**

**PPL Comments on the Indiana Bat Summer Survey Guidelines**

Should this message be interrupted or other difficulty be encountered, please contact Bill at ( 610 ) 774 - 4666. Thank You.

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March 11, 2013

## **Endangered and Threatened Wildlife and Plants; Draft Revised Indiana Bat Summer Survey Guidelines**

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This letter is in response to the request for comment published in Federal Register Notice Vol. 78, No 6 January 9, 2013 concerning the availability of draft revised summer survey guidelines for the Indiana Bat (*Myotis sodalis*) for public review and comment. We appreciate the opportunity for comment and share your concern in implementing measures for protecting the existing populations of the Indiana Bat.

Although we share your concern for the Indiana Bat, the guidelines in their present form require significant planning and investment and offer an uncertain outcome which can be progressively expensive. In order to extend knowledge of Indiana Bat populations and behaviors and encourage the public and private sectors in the actions that support the restoration of this specie the guidelines should result in a process that is less restrictive, less expensive and make the outcomes more certain. A positive attribute of the guideline is that it provides an early endpoint if no Indiana Bat summer habitat is present in the area or if no Indiana bats are detected during the acoustical survey.

The proposed guidelines outlines only one alternative for satisfying USFWS expectations related to Indiana Bat "due diligence". The alternative outlines a scope of work that appears to be complicated and cumbersome; its scope is not well defined and could change as the investigation proceeds. Also, there is a very limited window in which the most challenging portion of the work can be satisfactorily completed. Delays in completing Indiana Bat surveys can result in significant and costly project delays by preventing or delaying required permitting, studies, environmental impact statements and other regulatory issues that are contingent upon completion of the survey. The guidance would benefit from a program that includes another alternative. An alternative that may prove useful is a mitigation approach that would offset potential takings. The approach should provide certainty, shorten time lines and be consistent throughout the country. The mitigation approach could include mitigation monies which could be used to fund land set asides, develop artificial hibernaculum or research managed and conducted by USFWS.

The following are additional comments that we have on the draft guidelines;

1. It is unclear as to whether these guidelines are confined to proposed projects. The guidelines should not be applied to approved operating projects due to the uncertainty that might result.
2. It is not clear in the guidelines whether or not the acoustical surveys (Phase 2) must be conducted by a federal permit holder. As provided in the Indiana Bat Q&A document, although current federal permit holders are considered qualified to conduct acoustic surveys due to their direct knowledge and experience working with Indiana bats, federal Section 10A (1) (a) stipulates that permits are not required to conduct acoustic surveys because no take, as defined by the ESA, is expected to occur. However, Phase 3 (Mist Netting) must be performed by a federal permit holder. Without the use of a federal permit holder for Phase 2 unwanted delays may result if Indiana bats are identified during Phase 2 and Phase 3 needs to be implemented.
3. The duration of acoustical surveys is too long. The proposed duration requires recording begin before sunset and to extend beyond sunrise. Factoring in the weather-related criteria offers significant potential for disqualification of a night's recording activities. It appears that any weather-related disqualification requires an additional full night event as a replacement which in a period of marginal weather conditions could unduly prolong the sampling.
4. There are difficulties that are inherent to this program because of the limited time frame allowed for completing the activities proposed. Since the surveys can only be performed during May 15 to

August 15, any potential project requiring this type of survey would have to be well-planned. Additionally, the limited time frame for completing the surveys would complicate the matter significantly if it became necessary to do Phase 2 (Acoustical Survey), Phase 3 (Mist Netting), and Phase 4 (Radio Tracking & Emergence Surveys). While the guidance says the work may be conducted in separate years, it encourages completion in a single year. There are inherent difficulties in any process where the conduct of one phase is contingent upon the outcome of another. I.e. Phase 2 is conducted and based on its outcome, Phase 3 must be conducted and based on its outcome, phase 4 must be conducted (which includes 7 days of radio telemetry tracking of transmitters affixed to bats that have been known to fly 50 miles or more in a day).

5. The requirements/expectations of Phase 4 are not clear and the 7-day tracking time period seems excessive. Without limiting specific tracking requirements the scope of the tracking is limitless. It could be very costly and challenging to hire biologists to track bats that may fly up to 50 miles, possibly in different directions, at night, especially if the phase's completion ends up having nothing to do with the project

PPL appreciates the opportunity to submit these comments and would appreciate the opportunity to comment on future revisions to the guidelines. If you have any questions please call me at 610-774-4666.

Sincerely,

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