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John Arway  
President, NEAFWA  
Director, PA Fish & Boat Commission  
1601 Elmerton Avenue • Harrisburg, PA 17110  
(717) 705-7801

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Dan Ashe, Director  
U.S. Fish and Wildlife Service  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Director Ashe:

This letter is in response to the U.S. Fish and Wildlife Service's (Service) proposal (78 Federal Register 61046-61080; Proposal) to list the northern long-eared bat (*Myotis septentrionalis*; NLEB) as an endangered species under the federal Endangered Species Act (ESA). The Northeast Association of Fish and Wildlife Agencies (NEAFWA) appreciates the opportunity to comment on the proposed rule and offers the following for your consideration. We represent the 12 state agencies responsible for the management and regulation of fish and wildlife resources from Virginia to Maine and the District of Columbia.

The region covered by NEAFWA is the epicenter of White Nose Syndrome (WNS). As such, we have experienced the devastating effects of the disease longer than other region of the country. While the data record for NLEB varies from state to state, we do have the benefit of several sources of data on the abundance and distribution of NLEB in our member states, some from both before and after the appearance of WNS. We also have the benefit of having had a longer time period to develop and implement conservation actions to address the impacts of this disease.

Based upon the multiple data sources on NLEB from our region, there is no doubt that populations have declined across the region. This is evident in the number of NLEB submitted to the New York State Department of Health for rabies testing before and after the arrival of WNS, the decline in the number of NLEB caught during mist net surveys, a decline in the number of NLEB counted during hibernacula survey since WNS arrived, and the low frequency of detection during summer acoustic surveys. There is also no doubt that the declines in NLEB are due to WNS and that most of the Northeast region has been affected. As such, we concur that the NLEB warrants consideration for listing and meets the definition of a threatened species.

NEAFWA does not concur, however, that the species merits listing as endangered. As mentioned above, the data in the northeast certainly support listing the NLEB. However, as the region that has experienced the impacts of WNS the longest, there are still NLEB on both the summer and winter landscape. While the numbers are significantly lower throughout most of New York, there is evidence that extirpation in even the hardest hit state is not imminent. For

example, in Suffolk County on Long Island in 2014, surveyors continued to capture NLEB at a similar rate to the statewide average before WNS was discovered. In Pennsylvania, where there is strong evidence of declines in the numbers of wintering bats at known hibernacula, NLEB are still encountered throughout much of the state during summer surveys, albeit at numbers considerably reduced from pre-WNS surveys. A similar situation exists in West Virginia, where the distribution of NLEB on the summer landscape remains essentially unchanged from the distribution of the species prior to WNS. With several states within the range of the species yet to experience WNS and other affected states still apparently detecting NLEB at significant numbers post-WNS exposure, concluding that the species is in danger of extinction is not warranted at this time. Additionally, recent evidence documents a multitude of species in Europe coexist with the causative agent and do so by getting minimal infection and without documented mortality (Zukal et al. 2014). Data recently presented at the WNS 2014 meeting show the amount of infection on surviving bats in the northeast has decreased significantly from the period where mass mortality was experienced and is now closer to the level of European infection. This observations, coupled with a few hibernating populations in the northeast now documented with stable and increasing populations, are factors to be considered as well.

The Service should also consider the effects of ongoing conservation actions in making its final decision. In portions of several NEAFWA member states, the NLEB is sympatric with other federally listed bat species such as the Indiana bat, Virginia big-eared bat, and gray bat. These species are found in many of the same hibernacula and utilize similar forest habitats during the summer. As a result, protection of hibernacula and regulation of summer habitat is already occurring in a significant percentage of the range of the species. Our member states are participating in ongoing hibernacula monitoring and summer surveys to document the trends of bat species throughout the northeast. Additional actions include adoption of the National White-Nose Syndrome Decontamination Protocol as a standard condition on permits issued to researchers and bat survey crews. Human disturbance has been restricted through gating projects at several locations throughout our region such as Graphite Mine in Warren County, NY, and Roxbury Mine in Litchfield County, CT. Most importantly, our member agencies are actively supporting numerous WNS research projects that are focused on identifying the mechanisms for the spread of WNS and understanding all aspects of the disease.

Depending on the outcome of the listing decision by the Service, these ongoing conservation actions may be in jeopardy. If the species is listed as endangered, many of the resources currently devoted to research, conservation, and monitoring of the species may need to be diverted to address new regulatory concerns wherever NLEB occur. As the Service is seeing from other regions within the range of NLEB, NEAFWA members have data indicating that this formerly ubiquitous species is still very widely distributed across the forested landscape. If the species is listed as endangered, the scope of the potential regulatory burden will likely increase the project review responsibilities for our member agencies by an order of magnitude. As capacity to address these concerns is unlikely to be augmented, we see little value in forcing the Service, states, and local governments to divert their limited conservation resources into project reviews instead of addressing WNS, the primary threat to the species.

To balance the potential regulatory burden with the recognized declines and the obvious threat that WNS poses to this species, we encourage the Service to use the threatened classification. If

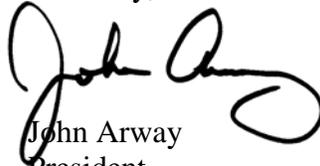
WNS is not abated and its effects continue to systematically reduce populations throughout the range, the species status could be changed to endangered at a future date when data support such a conclusion and the rigorous protection of all remaining bats is warranted.

By listing the NLEB as threatened, the Service can take advantage of Section 4(d) of the ESA to promulgate a rule exempting certain types of habitat alteration from consideration under the ESA. Implementing such a rule will be paramount to reducing the inevitable conflicts with the millions of forest owners throughout the range of the species and allowing natural resource agencies to focus on the cause of the decline. Forest habitat is not limiting for NLEB, and current trends do not indicate that it will be in the near future. Indeed, active forest management, including prescribed fire, is necessary in the Northeast in order to maintain the structural complexity and diversity thought to be important for the species. This fact is recognized in the Service's Northern Long-eared Bat Interim Conference and Planning Guidance, which states that "...many types of timber management, when properly designed, will not impact (or may improve) NLEB habitat..." Without active forest management, forest habitat will mature towards climax stage, resulting in decreased habitat suitability for NLEB. Therefore, a carefully constructed 4(d) rule would not only reduce conflicts without adverse impacts on the potential for species recovery, it may even hasten that recovery.

NEAFWA believes that the focus on NLEB conservation has to remain on WNS. Without the advent of WNS, there would be no reason to consider the species under the ESA. This is due in no small part to the abundant availability of habitat on the landscape. Unlike many species considered for listing, a lack of available habitat is not an important issue for the species. In many locations within its range, forested habitat has steadily increased over the last century and is now relatively stable. Known hibernacula supporting NLEB are plentiful in many states, with 89 known in New York and 119 in Pennsylvania alone. Therefore, the potential for recovery is very high if WNS can be dealt with. Because of the widespread distribution of the species and ubiquitous habitat, listing the species as endangered could create an unnecessary regulatory burden upon millions of landowners throughout the range. Because of the potential to utilize the 4(d) rule under the ESA, listing the species as threatened could allow for species restoration to focus on addressing WNS and its impacts without committing limited State and Service resources to the review of projects that, even taken cumulatively, are unlikely to have any meaningful impact on the status of the species.

We appreciate this opportunity to comment on the Proposal, and look forward to opportunities to work in partnership with the Service to conserve the NLEB.

Sincerely,

A handwritten signature in black ink, appearing to read "John Arway", with a large, stylized flourish at the end.

John Arway  
President

Northeast Association of Fish and Wildlife Agencies