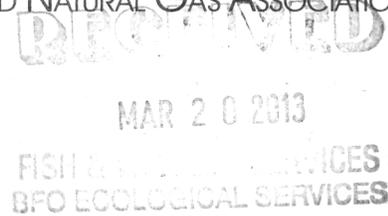


WEST VIRGINIA OIL AND NATURAL GAS ASSOCIATION

March 5, 2013

United States Fish and Wildlife Service
620 South Walker Street
Bloomington, Indiana 47403-2121



Re: Federal Register Notice FWS-R5-ES-2012-N195; FXES11130300000-134-FF03E00000
Endangered and Threatened Wildlife and Plants; Draft Revised Indiana Bat Summer
Survey Guidelines

To whom it may concern:

We appreciate the opportunity to comment on the U.S. Fish and Wildlife Service's (USFWS) consideration of revised Indiana Bat summer survey guidelines. The notice in the Federal Register from Wednesday January 9, 2013, has been reviewed and we offer the USFWS the following comments on the proposed revision.

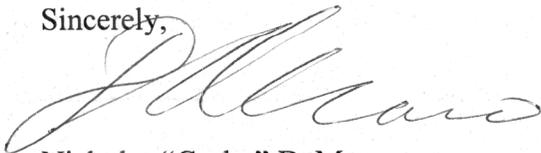
1. The guidance is not clear on when the survey must be initiated. For example, in Appendix B it indicates that one site for acoustic surveys must be completed for every 30 acres of suitable habitat (page 14) but there no clear disturbance threshold. Specifically, if you disturb only one acre in 30 acres of suitable habitat, are you required to complete an acoustic survey or is the requirement for disturbances that are larger than 30 acres. This should be clarified. As currently written, it could be interpreted that any type of disturbance in most locations in West Virginia would require an acoustic survey.
2. The use of acoustic identification of bats requires some level of expertise in use of the equipment as well as the necessary programs utilized to determine species identification. The program used to identify bats must contain an "extensive call library of free-flying bats" but no minimum number of calls has been recommended by the USFWS. Will this practice of not requiring a known number of calls for each species in the call result in the use of insufficient data banks for the required analysis and lead to inaccurate classification? It seems if you are going to standardize a program so that the data may be pooled and utilized to determine both species health and habits, a more stringent recommendation of the programs to be utilized to actually complete the analysis should be considered.
3. The literature regarding acoustic surveys indicates that the number of survey nights suggested by the USFWS are sufficient for catching "more common species" (Skalak et al. 2012); however, rare species require a much longer study period. As this technology is being used to assess a listed species, it would seem that the effort proposed by the USFWS would be inadequate for determining species absences. When viewed in this context it would seem that a substantial amount of surveying cost will be expended for a limited amount of certainty on the agencies part that the species is not present in the study area.

4. There is a tremendous amount of concern regarding the potential for project delays as a result of the implementation of this protocol, particularly in 2013. The USFWS, as the lead agency, is the responsible party for what could potentially be a substantial amount of effort in reviewing and coordinating the efforts associated with this protocol. Is the agency prepared to respond to the additional coordination requirements proposed by this new protocol? Has additional funding been allocated? This issue is particularly important when the guidance is recommending both acoustic and mist-net surveys be completed in the same season. Has the USFWS considered the effort it will take on their part to meet this recommendation?
5. As indicated, the acoustical equipment and software programs utilized for bat detection have not been thoroughly vetted in the scientific literature. It also does not appear that there has been any effort to determine what equipment and or programs are best at determining the presence of the Indiana bat. Therefore, is there sufficient data to require this type of evaluation at this junction when no species specific evaluations have been completed or is it the USFWS assumption that they will scrutinize equipment, etc., once a sufficient amount of data has been collected by the regulated community? What will occur if data is collected using equipment or software package later determined to be insufficient?

In general, there is concern that this effort by the USFWS is a broad data collecting venture at the regulated communities' expense that will allow the service to make future determinations on best available technologies and is not grounded in proven science which indicates that this is the most practicable method for determining presence/absence of the Indiana bat. If the USFWS has not come to reasonable conclusions with regard to the reliability of the equipment, software programs, and applicability to detection of the Indiana bat, the agency should reconsider these changes until more reliable data is available.

In closing, I would like to thank you in advance for your consideration of this matter. Should you have any questions or comments, please feel free to contact me at 304-343-1609 or by email at demarco@wvonga.com.

Sincerely,



Nicholas "Corky" DeMarco
Executive Director
West Virginia Oil and Natural Gas Association