



March 7, 2013

Mr. Andrew King
U.S. Fish & Wildlife Service
620 South Walker Street
Bloomington, IN 47403-2121

Via email to: indiana_bat@fws.gov

RE: Endangered and Threatened Wildlife and Plants;
Draft Revised Indiana Bat Summer Survey Guidelines
[FWS-R3-ES-2013-N033;FXES11130300000-134-FF03E00000]

Dear Mr. King:

The following are the Pennsylvania Coal Alliance (PCA) comments submitted on behalf of its members regarding the proposed *Endangered and Threatened Wildlife and Plants; Revised Indiana Bat Summer Survey Guidelines* ("Guidelines") per the January 9, 2013 Federal Register notice (78 FR 2421).

PCA is the principal trade organization representing underground and surface bituminous coal operators in Pennsylvania, as well as other associated companies whose businesses rely on coal mining and the thriving coal economy. Our member companies produce almost 80 percent of the bituminous coal mined annually in Pennsylvania, which totaled nearly 60 million tons last year.

Still lighting the way, Pennsylvania is the fourth largest coal producing state and coal continues to be, and will continue to be, a major source of fuel for inexpensive electricity generation, employment and tax revenue—more than 40,000 jobs across the Commonwealth and approximately \$7.5 billion in economic output to the Commonwealth of Pennsylvania.

PCA appreciates the opportunity to provide input regarding the above proposed guidelines. We particularly have concerns regarding the need for protocols using acoustic tracking technology and software, which appear to lack the proven precision and accuracy expected of equipment upon which so much exactness is based. Furthermore, we have concerns regarding the lack of peer support for this technology and the lack of sufficient testing for the equipment and software. We offer the following specific comments:

General

PCA believes the focus of all Indiana Bat work should be on White Nose Syndrome (WNS) research and less on revising protocols that 1) have no scientific basis for being revised and 2) do nothing to end the WNS plight of the Indiana Bat.

Page five of the USFWS document entitled, *A National Plan for Assisting States, Federal Agencies, and Tribes in Managing White-Nose Syndrome in Bats* dated May 2011 states, "Research is

underway to improve our understanding of what are believed to be the primary vectors for WNS, namely bat movement and contact with infected bats and environments.” Given that statement, we believe the USFWS should focus more on White Nose Syndrome (WNS) research than on revising

protocols that will do nothing to aid in fighting the WNS plight of the Indiana Bat. For years, industry in Pennsylvania has been held to guidelines that do nothing to determine the true cause of any purported bat decline, but do add delays and costs to permitting.

Need for Protocol Changes

PCA questions the need for these changes in light of the U. S. Fish and Wildlife Service’s (USFWS) own Indiana Bat population estimates. The USFWS’ website showing the Indiana Bat range-wide population indicates a 2.2 percent increase from 2009 to 2011¹. In Pennsylvania, the Indiana Bat population amounts to significantly less than one percent of the entire Indiana Bat population across the 17 states of its range². And while there may have been recent additional equipment being brought forward for use in detecting the presence or absence of Indiana Bats, simply because the USFWS believes “there are new and improved ways to detect presence of Indiana bats in the summer”³ is not a scientific basis on which to compel the use of controversial protocols--particularly given that leading bat experts across the country (including some State agency personnel) have not been able to agree upon, or even recommend, specific acoustic monitoring equipment.

The coal mining industry in Pennsylvania annually spends hundreds of thousands of dollars related to bats. Forcing the industry to conduct what should be USFWS’ research of an unproven, flawed approach is inappropriate.

Acoustic Tracking Technology and Software Not Yet Ready for Full-time Use

PCA is concerned that the accuracy of the tracking technology and related software is nowhere near being proven for field use. While the USFWS website shows a May 1 letter⁴ regarding “peer” input, the summary of that letter may not accurately reflect the thinking of leading bat experts regarding whether the acoustic tracking technology and software is ready for widespread use in developing data on which permit decisions are made, and their input may require additional scrutiny.

The USFWS itself in the January 9, 2013 Federal Register notice indicates that if “...no USFWS-approved software programs be concurrently available, we propose to follow an intermediary contingency plan.” No such contingency plan would be needed if the USFWS truly believed this was ready for wide-spread use.

Requiring industries to implement this approach and use equipment and software that may give false positive or false negative results does not provide the level of scientifically “acceptable data” on which permitting decisions should be made. It is our understanding that no software yet meets the criteria outlined in the USFWS *Acoustic Bat Identification Software Testing Criteria - Draft*

¹ Page 1, 2011 Range-wide Population Estimate for the Indiana Bat (*Myotis sodalis*) by USFWS Region. Found at: <http://www.fws.gov/midwest/Endangered/mammals/inba/pdf/2011inbaPopEstimate04Jan12.pdf>

² Page 2, Ibid.

³ USFWS, *Frequently Asked Questions, Range-wide Indiana Bat Summer Survey Guidance January 2013*, found at: <http://www.fws.gov/midwest/Endangered/mammals/inba/surveys/pdf/DrftIBatSummerSurveyGuidanceFAQ3Jan13.pdf>

⁴ Found at: <http://www.fws.gov/midwest/Endangered/mammals/inba/inbasummersurveyguidance.html>

January 2013 (found at:

<http://www.fws.gov/midwest/Endangered/mammals/inba/surveys/pdf/AcousticPrgrmDrftTestCriteria3Jan13.pdf>).

Furthermore, the USFWS discusses acoustic analysis through the earlier discriminate function analysis (DFA) saying "its use as an investigative tool to a regulatory assessment tool requires additional scrutiny [emphasis added] to better understand its accuracy rates, risk, and probabilities in this new context."⁵

Additionally, because the USFWS has not provided formal specific equipment or software recommendations, consulting companies will need to invest in several different types of equipment and software to ensure acceptable data resulting in increased costs to our industry.

Also, because the PA Game Commission currently supports only mist-netting for detecting the presence or absence of Indiana Bats, our industry would have to provide two surveys for the same project utilizing two different approaches that may supply two different results.

Given the above, PCA suggests comprehensive testing and true peer-review of both the acoustic equipment and the related software in coordination with leading bat experts before this approach is finalized for implementation.

Specifics

1. Summer Habitat Assessments. The Guidance states:

"Suitable summer habitat for Indiana bats consists of the variety of forested/wooded habitats where they roost, forage, and travel, as well as surrounding non-forested habitats (e.g., agricultural fields, emergent wetlands, old fields, pasture)."⁶

The perception of this sentence is that the USFWS is attempting to include all types of habitat, whether intentional or not, as suitable summer habitat. Agricultural fields, open pasture and old fields should not be considered suitable "summer habitat" for Indiana Bats.

PCA requests this sentence be revised as follows:

"Suitable summer habitat for Indiana bats consists of the variety of forested/wooded habitats where they roost, forage, and travel."

2. Increased Mist Netting. The Guidelines suggest an increase in the level of mist netting from what was typically two net sets for two nights or a total of 4 net nights, to now a total of 10 net nights. Again, this appears to have been set without any scientific basis. This is a more than doubling of effort and results in a doubling of costs to the industry with no apparent benefit to the environment or the bats.
3. Lack of Physical Evidence. We are concerned that the USFWS' focus is more on identifying bat locations rather than determining how to combat the true cause of any bat decline--White Nose Syndrome. Acoustic monitoring does not provide the physical evidence such as tissue samples that mist netting provides which could be used in White Nose Syndrome research.

⁵ Ibid.

⁶ Page 3, USFWS, *Draft Revised Rangewide Indiana Bat Summer Survey Guidelines*, January 2013.

CONCLUSION

PCA requests that the proposed Guidelines be delayed until further testing can be conducted on the equipment and in particular the software to assure the accuracy and integrity of this approach. We further request USFWS provide official recommendations for both the acoustic monitors and the software. We look forward to the implementation of our suggested changes.

Should you wish to discuss our comments, please do not hesitate to contact us.

Sincerely,

Josie Gaskey
Dir., Reg. & Tech. Affairs

Cc: George Ellis