



March 8, 2013

U.S. Fish and Wildlife Service
620 South Walker Street
Bloomington, IN 47403-2121

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

These comments are submitted on behalf of the Marcellus Shale Coalition (MSC), a regional trade association with a national membership. The MSC was formed in 2008 and is currently comprised of approximately 300 producing and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the development of the natural gas resources in the Marcellus, Utica and related geological formations. Our members represent many of the largest and most active companies in natural gas production, gathering and transmission in the country, as well as the suppliers and contractors who service the industry.

Species management and related conservation efforts are integral to our industry and its operations. The MSC, with the assistance of several stakeholder interest groups, have developed a Site Planning, Development and Restoration Recommend Practice which can be found on our website, www.marcelluscoalition.org. This recommend practice presents guidelines on the critical steps our members follow when planning, developing and restoring a project site. Early coordination and avoidance is paramount with respect to species management for our industry.

The MSC's comments to the United States Fish and Wildlife Service (USFWS) proposed Draft Revised Indiana Bat Summer Survey Guidelines are summarized in this letter. These comments have been provided in order to make the survey process workable in the field and to allow for the continued, responsible development of clean, domestic natural gas.

- The USFWS contends that the proposed changes in bat survey protocol are related to reduced bat densities across an expanding area due to white nose syndrome as well as recent advances in the equipment and quantitative analysis (USFWS, Frequently Asked Questions [FAQ's], January, 2013). The USFWS's own population estimates for Indiana Bats show a 2.2% population increase from 2009 to 2011 (2011 Rangewide Population Estimate for the Indiana Bat [*Myotis sodalist*] by USFWS Region). The MSC questions the need to revise the bat survey protocol in light of these trends.
- The MSC is concerned about the accuracy and development of the acoustic tracking technology and software. The document provided by the USFWS specifies the use of acoustical equipment and software programs that have not been peer-reviewed and field tested. Moreover, the USFWS has not provided recommendations on equipment or software for acoustical tracking. Many of our bat experts believe that the technology and

software is not advanced enough to distinguish between bat species. For example, all bat species can produce greater than 35 KHz, and this may result in many false Indiana Bat detections.

Implementing equipment and software which may yield false positive or negative results could lead to inaccurate assessments of bat populations. Companies with bat experts will have to invest in many different types of equipment and software in order to provide the USFWS with acceptable data. Without a peer reviewed, proven and acceptable technology recommendation from the USFWS, a significant investment will have to be made by companies who provide these services. The MSC suggests that further field testing of equipment and software be completed prior to the finalization and implementation of acoustical tracking. After such testing has been completed, the MSC suggests that the USFWS provide recommendations on both the equipment and software, beyond what is proposed in the guidelines.

- The USFWS proposes to require the regulated community to conduct a survey every 30 acres, whereas the previous requirement was every 272 acres. Based on the consultation of several bat experts, the current spacing requirement provides an adequate sampling area. Conducting surveys as closely spaced as 30 acres will not achieve additional environmental benefit. The MSC recommends that the USFWS maintain the previous requirement.
- In Appendix C, the USFWS emphasizes the requirement of walking between mist net locations. In addition, the FAQ document (Pg. 13 #38) states that surveyors are required to walk (not drive) between locations. Considering that each mist net location must be checked every 10 minutes, and in many cases these locations are miles apart, this would require an increased number of surveyors than previously required. The MSC questions the requirement of the USFWS with respect to transportation. The utilization of small vehicles (e.g., ATVs) should be allowed to transport surveyors from site to site. There does not appear to be legitimate justification to require surveyors to travel on foot.
- The USFWS has reduced the validity of a survey from five years to two years. The MSC has consulted several bat experts which believe that the validity of an Indiana Bat survey should remain five years. These experts believe that Indiana Bat habitats do not change over the span of just two years. However, the five-year survey duration requirement does prove valid given their experience in the field.
- The Pennsylvania Game Commission (PGC) currently allows bat surveying only via mist netting. If the USFWS adopts these draft survey guidelines, then the Pennsylvania regulated community may need to provide a survey for the same project utilizing two different methods, which may yield completely different results. The MSC suggests that the USFWS should coordinate with the PGC to establish a protocol on these surveys prior to finalizing and implementing this measure.
- On Page 1 of the draft guidelines, the introductory paragraph says that once these guidelines are finalized, future changes are likely to occur and will be posted on the USFWS website. The MSC requests more formal notification of changes to the guidance

than simply posting on a website. The USFWS should conduct a public comment period for any future changes to the guidelines.

- On Page 3 of the draft guidelines, the USFWS states that surrounding non-forested habitats are included in the definition of “suitable summer habitat,” and as such implies that those non-forested areas should be investigated as part of the Summer Habitat Assessment. In the past, these areas have been excluded from being considered “habitat.” Agricultural fields, open pasture, and old fields should not be considered suitable summer habitat for Indiana Bats. In effect, the USFWS is attempting to include every type of habitat as a suitable summer habitat. The inclusion of this requirement will add substantial effort, time and cost for no additional environmental value.
- Currently, the draft protocol requires mist netting after an Indiana bat has been documented by acoustic surveys (Phase 3 Mist Netting). The level of mist netting effort seems to be significantly greater in this protocol than what has been required in the past. Under the old system, a typical mist net survey required two net sets for two nights, or a total of four net nights. The current protocol calls for a total of ten net nights, more than doubling the previous level of effort. We believe that this additional level of effort is excessive and will shorten the time available for acoustic monitoring and mist netting in the same season. Since there has not been a justification for additional nights of mist netting, the MSC requests that net nights remain at four.
- Due to the limited seasonal survey window (May 15 – August 15) mist net surveys can be difficult to conduct within the required timeframe. This issue is compounded in colder climates such as northeast Pennsylvania, West Virginia, and New York, where temperatures and precipitation can significantly reduce the number of nights that qualify for survey. The MSC requests that the USFWS postpone the requirement of acoustic monitoring until the equipment and software is further tested and proven. The MSC believes that adding the step of an unproven acoustic monitoring technology into an already compressed survey timeframe, with many of the same temperature and precipitation limitations, while doubling the number of required mist net nights, will result in projects being unnecessarily delayed for an additional nine months until the survey season opens the following year.
- The justification given by USFWS in their FAQs sheet, which touts the recent advancements in acoustic monitoring equipment, is inaccurate. The USFWS and leading bat experts throughout the country have not been able to agree upon (or recommend) specific acoustic monitoring equipment, which calls into question the appropriateness of issuing a draft survey protocol. Although advances to the equipment have been made, the USFWS should not require the regulated community to use an unproven protocol.
- The MSC notes that most Indiana Bat surveys have been conducted to fulfill Endangered Species Act related requirements. They have not been strategically or evenly conducted across the species’ geographic range nor routinely conducted through time. Therefore, in conjunction with these survey guidelines, the USFWS should develop more accurate habitat mapping to incentivize more avoidance measures.

The MSC requests that the proposed Draft Revised Indiana Bat Summer Survey Guidelines be postponed until further testing has been performed on the equipment and software and the USFWS provides formal recommendations for both. The USFWS should coordinate with both the regulated professional community, including bat experts, and the PGC, prior to adopting this revised survey guideline.

The MSC is committed to working with the USFWS on this important issue and supports the conservation, protection and management of the Indiana Bat using proven surveying and tracking methods.

Yours very truly,



Kathryn Z. Klaber
Chief Executive Officer

cc Senator Richard Alloway, Chair, Senate Game & Fisheries Committee
Representative Martin Causer, Chair, House Game & Fisheries Committee
Chris Abruzzo, Deputy Chief of Staff, Office of Governor Corbett
Pat Henderson, Energy Executive, Office of Governor Corbett