

VERSION 2: JUNE 2016

# Revised Conservation Strategy for Forest- Dwelling Bats

---

In the Commonwealth of Kentucky

**U.S. Fish and Wildlife Service, Kentucky Field Office**

## Contents

Introduction .....	2
Explanation of Terms .....	4
Background .....	6
Hibernacula .....	6
White-nose Syndrome .....	7
Indiana Bat Maternity Colonies .....	7
Northern Long-eared Bat Maternity Colonies .....	7
Purpose and Need.....	8
Area Where the Strategy Applies.....	9
ESA Compliance Options .....	10
Avoidance.....	10
Surveys .....	10
Technical Assistance/Informal Consultation.....	11
Final 4(d) Rule for the Northern Long-eared Bat .....	11
Formal Consultation .....	12
Conservation Memorandum of Understanding.....	12
Habitat Conservation Plan.....	13
Conservation Goals for Forest-Dwelling Bats in Kentucky.....	14
Forest-Dwelling Bat Recovery and Mitigation Focus Areas .....	16
Mitigation Implementation for the Forest-Dwelling Bat Conservation Strategy.....	18
Avoidance and Minimization of Adverse Effects .....	18
Compensatory Mitigation Measures .....	19
Acceptability of Compensatory Mitigation Measures .....	20
Determination of Compensatory Mitigation .....	21
Inter-State Mitigation .....	23
Tangible Conservation Benefits .....	24
Summary .....	25
Strategy Modification.....	25
APPENDIX A: Physiographic Diagram of Kentucky .....	27
APPENDIX B: Mitigation Multipliers by Habitat Type and Season.....	28
APPENDIX C: Map of Indiana Bat Habitat .....	29
APPENDIX D: Map of Northern Long-eared Bat Habitat .....	30
APPENDIX E: Example Impacts with IBCF Contribution Worksheet.....	31

## Introduction<sup>1</sup>

The U.S. Fish and Wildlife Service (Service), Kentucky Field Office (KFO) has developed this Conservation Strategy (Strategy) to formalize our goals and priorities regarding the conservation and recovery of forest-dwelling bats in Kentucky. At this time, the Strategy addresses Indiana bats (*Myotis sodalis*, federally endangered) and northern long-eared bats (*Myotis septentrionalis*, federally threatened). This Strategy is a refinement of the KFO's April 2015 Conservation Strategy for Forest-Dwelling Bats in the Commonwealth of Kentucky. Although providing mitigation guidance for impacts to bats and their habitat resources continues to be an important purpose of this document, calling it a "Conservation Strategy" better communicates its primary focus on outcomes instead of processes. The mitigation associated with this Strategy is consistent with the Strategy for Improving the Mitigation Policies and Practices of The Department of the Interior,<sup>2</sup> which we discuss in greater detail later and the November 6, 2015 Presidential Memorandum on Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment<sup>3</sup>.

The KFO relied heavily on the Indiana Bat Draft Recovery Plan: First Revision (Recovery Plan)<sup>4</sup> and the Northern Long-eared Bat Interim Conference and Planning Guidance (Interim Guidance)<sup>5</sup> while developing this Strategy. However, it has been tailored to reflect the assessed needs of and threats to forest-dwelling bats in Kentucky. The Recovery Plan lists dozens of recovery actions needed to conserve and recover the Indiana bat. Most are either habitat-related activities (conservation, management and restoration) or research-related activities. The KFO reviewed these recovery actions and included in this Strategy those that best reflect the specific opportunities and needs of forest-dwelling bats in Kentucky. The KFO will continue to adjust and adapt the Strategy as new information relevant to the conservation and recovery of forest-dwelling bats becomes available.

Many of Kentucky's forest-dwelling bats are dependent upon caves and cave-like structures for winter hibernation and primarily use trees for summer roosts (e.g., Indiana bat, northern long-eared bat, little brown bat, tri-colored bat). Although the species share these general life history characteristics, their specific niches vary. The Indiana bat has been listed under the ESA since 1967, the northern long-eared bat was listed in April 2015, with a final 4(d) rule issued in January 2016. Additionally the Service is preparing a status assessment for the little brown bat. The Indiana bat is the only one of these species for which the Service has prepared a recovery plan, though recovery planning is underway for the northern long-eared bat. Recovery plans for other forest-dwelling bat species will be developed when and if those species are listed under the ESA. The recovery actions identified in the executive summary of the Recovery Plan that are applicable to these forest-dwelling bat species include:

1. Conserve and manage hibernacula and their winter populations
2. Conserve and manage summer habitat to maximize survival and fecundity
3. Plan and conduct research essential for recovery
4. Develop and implement public information and outreach programs

---

<sup>1</sup> Significant changes are marked in blue, and are largely dealing with shift to CMOUs, northern long-eared bat Final 4(d) Rule, updated species information and specific allowance of a limited amount of tree removal in June and July.

<sup>2</sup> Clement, J.P. et al. 2014.

<sup>3</sup> 80 FR 68743

<sup>4</sup> USFWS 2007.

<sup>5</sup> USFWS 2014.

These actions, along with other aspects of the Indiana bat recovery program, were used in the development of this Strategy and are the primary components of the Strategy. Public information and outreach may be incorporated into the activities completed under these recovery actions, but not as a stand-alone program. The KFO has determined that this type of broad recovery and conservation approach is acceptable, in the absence of recovery or conservation plans for other forest-dwelling bat species, due to the similarities and overlap in life history characteristics among these species. Biological information on each of the other species will also be used, when available and as appropriate, in the KFO's decision-making process regarding appropriate conservation goals and actions for other forest-dwelling bats that may be listed in the future.

The mitigation component of this Strategy provides options to project proponents for complying with the Endangered Species Act (ESA) that are aligned with the conservation needs of forest-dwelling bats in Kentucky. The KFO implements this Strategy where its authorities allow as a means of enhancing the conservation and recovery of Indiana and northern long-eared bats in Kentucky. Authorities for the Strategy include:

- The Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA), Fish and Wildlife Act of 1956 (16 U.S.C. 742a. *et seq.*), and the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). Section 5 of the ESA provides that, “The Secretary...shall establish and implement a program to conserve fish, wildlife, and plants, including those which are listed as endangered species or threatened species...” and “shall utilize land acquisition and other authority under the Fish and Wildlife Act, as amended, and the Migratory Bird Conservation Act, as appropriate”. Section 7(a)(1) of the ESA further directs Federal agencies to “utilize their authorities in furtherance of the purposes of this Act [ESA] by carrying out programs for the conservation of endangered species and threatened species.” Additionally, section 7(a)(2) of the ESA directs Federal agencies to “insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence or any endangered species or threatened species.”
- The Fish and Wildlife Act of 1956 provides that the Secretary shall “...take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources....”
- The Fish and Wildlife Coordination Act states that the Secretary is authorized “to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat...”

## *Explanation of Terms*

Throughout this document, certain terminology is used repeatedly to describe bat habitat. For the purposes of this document, the KFO provides the following definitions for this terminology:

- “Hibernacula” refers to caves, cave-like structures or other features where forest-dwelling bats have been documented to spend some or all of the winter torpor/hibernation period.
- “Known habitat” refers to suitable summer or winter habitat located within a determined distance of an occurrence record for a bat species. Distances will vary based on species and record type (e.g., maternity, swarming, winter, etc.).
- “Maternity habitat” refers to suitable summer habitat used by juveniles and reproductive (pregnant, lactating, or post-lactating) females. For Indiana bats, known maternity habitat occurs within 5 miles of a capture location or 2.5 miles of a documented roost-tree. For northern long-eared bats, maternity records are considered part of known “summer habitat” for this species.
- “Non-maternity habitat” refers to suitable summer habitat used by non-reproductive adult females and/or males. For Indiana bats, the known habitat buffer around a non-maternity record (mist-net or roost tree) is 2.5 miles. Northern long-eared bat non-maternity records are considered part of known “summer habitat” for this species.
- “Occupied” refers to the timeframe in which suitable habitat is expected or assumed to be in use by the bats at the time of impact. This terminology is important when evaluating mitigation options for likely adverse effects. Please see Appendix B for more information on when habitats are considered occupied and how it affects mitigation considerations.
- “Potential habitat” occurs statewide where suitable roosting, foraging and travel/migration habitat for the Indiana bat and/or northern long-eared bats exists, but where use of such habitat by either species has not been documented. Known habitat may also include potential habitat for uses that are currently undocumented (e.g., summer use in known swarming areas, or use by northern long-eared bats in known Indiana bat habitat).
- “Potential hibernacula” refers to suitable caves, cave-like structures or other features where forest-dwelling bats may spend some or all of the winter torpor/hibernation period. Features may be identified as potential hibernacula based on surveys.
- “Suitable habitat” refers to summer, swarming and/or winter habitat that is appropriate for use by Indiana and/or northern long-eared bats.
- “Suitable Indiana bat winter habitat” includes all known and potential hibernacula and is restricted to underground caves and cave-like structures (e.g., abandoned mines, railroad tunnels). These hibernacula typically have a wide range of vertical structures; cool, stable temperatures, preferably between 4°C and 8°C; and humidity levels above 74 percent but below saturation.
- “Suitable northern long-eared bat winter habitat” refers to all known and potential hibernacula and includes underground caves and cave-like structures (e.g., abandoned mines, railroad tunnels). These hibernacula have large passages with significant cracks and crevices for roosting; relatively constant, cool temperatures between 0°C and 9°C; high humidity; and minimal air currents.

- “Suitable summer habitat” for Indiana and/or northern long-eared bats consists of the variety of forested/wooded habitats where they roost, forage and travel. This includes forested blocks as well as linear features such as fencerows, riparian forests and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Isolated trees are considered suitable habitat for Indiana and/or northern long-eared bats when they exhibit the characteristics of a suitable roost tree and are located within 1,000 feet of other suitable habitat. Northern long-eared bats may also roost in man-made structures such as houses and other buildings; however, these types of habitats are not addressed in this Strategy.
- “Suitable Indiana bat primary maternity roost tree” refers to a dead or partially dead tree that is at least 9 inches diameter at breast height (DBH) and has cracks, crevices, and/or loose or exfoliating bark. Trees in excess of 16 inches DBH are considered optimal for maternity colony roosts, but trees in excess of 9 inches DBH appear to provide suitable maternity roosting habitat.
- “Suitable roost tree” refers to a tree (live or dead) that exhibits any of the following characteristics: exfoliating bark, crevices or cracks. Indiana and/or northern long-eared bats typically roost under exfoliating bark, in cavities of dead, dying, and live trees, and in snags (i.e., dead trees or dead portions of live trees). For Indiana bats, suitable roost trees will have a DBH of 5 inches or greater; for northern long-eared bats, the minimum DBH is 3 inches and includes trees with cavities in addition to the above-mentioned characteristics attributable to Indiana bat roosts.
- “Summer habitat” refers to suitable summer habitat used by any Indiana bat or northern long-eared bat, regardless of reproductive condition. For northern long-eared bats, known summer habitat occurs within 3 miles of a capture location or 1.5 miles of a documented roost-tree.
- “Summer 1 habitat” refers to known Indiana bat maternity habitat and/or northern long-eared bat summer habitat.
- “Summer 2 habitat” refers to Indiana bat non-maternity summer habitat.
- “Swarming habitat” refers to suitable roosting, foraging and travel habitat for Indiana bats or northern long-eared bats that is within a determined distance of a known hibernaculum. For Indiana bats this distance is 10 miles from a Priority 1 or Priority 2 hibernaculum and 5 miles from a Priority 3 or Priority 4 hibernaculum. For northern long-eared bats, this distance is 5 miles from a known hibernaculum.
- “Swarming 1 habitat” refers to Indiana bat Priority 1 and Priority 2 swarming habitats.
- “Swarming 2 habitat” refers to Indiana bat Priority 3 and Priority 4 swarming habitats and/or northern long-eared bat swarming habitats.
- “Timeframe” refers to the range of dates when Indiana and northern long-eared bats are expected to be going through certain phases of their annual life cycle such as hibernating, swarming, giving birth and raising young. These “timeframes” are used to determine if a particular habitat type is expected to be “occupied.”
- “Unoccupied” refers to the timeframe in which suitable habitat is not expected to be in use by Indiana and/or northern long-eared bats at the time of impact. This terminology is important when evaluating mitigation options for likely adverse effects. Please see Appendix B for more information on when habitats are considered occupied and how it affects mitigation considerations.

## *Background*

### **Hibernacula**

Kentucky lies near the center of the Indiana bat's range and within the southeastern portion of the northern long-eared bat's range. Kentucky contains numerous caves and forestlands known to provide habitat for both species. The expansive karst within much of Kentucky's limestone geology results in numerous caves that historically and currently provide winter habitat for Indiana and/or northern long-eared bats. Over 100 caves in Kentucky, including 5 Priority 1 and 16 Priority 2 hibernacula, have historic Indiana bat records, and 96 of these caves have extant winter populations. Currently, there are over 100 caves and cave-like structures that serve as known hibernacula for the northern long-eared bat. Most of these are caves where federally-listed bats are currently monitored by the Kentucky Department of Fish and Wildlife Resources (KDFWR), the KFO, and their partners. It is likely that other, undocumented northern long-eared bat hibernacula exist in Kentucky, especially at caves and other cave-like structures that are not subject to routine monitoring for federally-listed bats. We expect the number of known hibernacula to increase as a result of increased monitoring and survey efforts for the northern long-eared bat that will occur now that the species is listed.

Many of the caves for both species occur within existing conservation ownerships, both private and public. Of particular note are the Daniel Boone National Forest, managed by the U.S. Forest Service; Mammoth Cave National Park, managed by the National Park Service; Carter Cave State Resort Park, managed by the Kentucky Department of Parks; and several parcels along Pine Mountain, managed by multiple federal and state agencies as well as non-governmental organizations (i.e., land trusts).

Out of the 23 Indiana bat Priority 1 hibernacula identified in the Recovery Plan, five lie within Kentucky's borders. Three of these are within the Mammoth Cave System, located in the Pennyriple region of the state. Cave researchers have suggested that the Mammoth Cave System historically may have provided winter roosts for millions of Indiana bats.<sup>6,7</sup> The two other Priority 1 hibernacula are found in Kentucky's Eastern Coalfields,<sup>8</sup> with Bat Cave in the northeast portion of Kentucky and Line Fork Cave in the southeast portion.

No priority hibernacula have been identified for the northern long-eared bat. Unlike the Indiana bat, the northern long-eared bat does not typically hibernate in large groups, which makes it difficult to estimate population size based on hibernacula counts. Barbour and Davis<sup>9</sup> found that the species is never abundant in a single hibernaculum and is rarely recorded in concentrations of over 100 individuals. Northern long-eared bats are also known to move between hibernacula throughout the winter, which further complicates population estimates.<sup>10</sup> Additionally, northern long-eared bats seem to be more flexible than Indiana bats in their selection of hibernacula, which include not only caves, but also cave-like structures such as mines and railroad tunnels.

---

<sup>6</sup> Toomey, et al. 2007

<sup>7</sup> Tuttle 1997

<sup>8</sup> Physiographic Regions of Kentucky. Kentucky Atlas and Gazetteer. 3/5/2007 (see Appendix A)  
[http://www.uky.edu/Kentucky Atlas/kentucky-atlas.html](http://www.uky.edu/Kentucky%20Atlas/kentucky-atlas.html)

<sup>9</sup> Barbour and Davis. 1969.

<sup>10</sup> Griffin 1940; Whitaker and Rissler 1992; Caceres and Barclay 2000.

### **White-nose Syndrome<sup>11</sup>**

White-nose syndrome (WNS) was first documented in New York in the winter of 2006-2007. Since then, WNS has spread rapidly across the eastern United States and Canada, and the fungus (*Pseudogymnoascus destructans*) that causes WNS has been detected as far west as the state of Washington. In Kentucky, WNS was first documented during the spring of 2011 in Trigg County. As of April 2016, WNS has been confirmed or is likely to be present within 94 hibernacula in 24 Kentucky counties. WNS is considered to occur throughout Kentucky and, over time, is expected to expand to and be documented in additional sites.

Indiana bats were listed as endangered in 1967, primarily due to population declines associated with hibernacula disturbances. However, WNS has emerged as a significant threat to the existence of the species. White-nose syndrome is the most significant threat to the northern long-eared bat<sup>12</sup>, and it is unlikely that the species would be listed under the ESA without the population declines that this species has experienced due to WNS. To date, the most extreme population declines have been in the northeastern U.S., but both species are expected to be impacted by WNS across their ranges.

### **Indiana Bat Maternity Colonies**

Like the hibernacula, known Indiana bat maternity colonies are scattered throughout Kentucky. Clusters of maternity colonies occur near the Fort Knox Military Reservation, Mammoth Cave National Park, Daniel Boone National Forest, Pine Mountain, the Eastern Coalfields, and along the Ohio River floodplain in the Pennyryle (Mississippian Plateaus) and Jackson Purchase (Mississippi Embayment) regions of the state. Many of these maternity colonies occur in proximity to both large blocks of forested habitats and large streams/ivers. Otherwise, very little is known about the attributes of maternity colonies in Kentucky, as most are documented only by mist-net captures or individual roost tree records.

As of March 2014, the KFO has identified more than 50 maternity areas in Kentucky based on capture records. Whether each of these records represents an individual maternity colony is not known. Many of the 2.5- and 5-mile-radius circles drawn around these records (i.e., “maternity buffers”) are in close proximity to each other, and some overlap. Although we cannot specify the number of maternity colonies that are known to occur in Kentucky, the KFO believes that the documented maternity areas represent a small fraction of the habitat being used statewide by maternity colonies. This assessment is based primarily on data extrapolated from the rangewide population estimates, an assumed 50:50 (male: female) sex ratio, and an average maternity colony size of 60-80 adult females, and reveals that fewer than ten percent of maternity colonies have been documented range-wide.<sup>13</sup> Additionally, the KFO has observed that during years of high survey effort, we receive an increased number of reports identifying new maternity areas, suggesting that survey effort strongly influences the cumulative number of known colonies. For example, six new maternity records were reported in 2013, as the result of a large number of surveys conducted for a proposed interstate pipeline project. A typical survey season would generally yield two or fewer new maternity areas.

### **Northern Long-eared Bat Maternity Colonies**

Northern long-eared bat maternity colonies also occur throughout the state. There is a dense cluster of maternity records in the eastern coalfields physiographic region (see Appendices A and D), likely

---

<sup>11</sup> This information was taken from an internal memo on WNS in Kentucky, dated July 2013 and on file at the KFO.

<sup>12</sup> USFWS 2013

<sup>13</sup> USFWS 2007



due to the large amount of forested land and the high level of survey effort for Indiana bats in this area associated with the permitting process for surface coal mining. Historically, the northern long-eared bat has been one of the most commonly-captured species during summer mist-net surveys in Kentucky. As a common species, little attention was given to these captures. A large number were simply reported to the KDFWR (a condition of the state collecting permit) as species records, with no information regarding the individual's age, gender, or reproductive condition. Nearly all the northern long-eared bat summer records in Kentucky are mist-net captures, which do not provide information regarding roost tree selection. Consequently, the species was seldom targeted in roost tree emergence counts, which would give some idea of summer population levels at particular locations.

Data compiled by the KFO shows that of the 1,825 non-maternity summer captures of northern long-eared bats in Kentucky (adult males and non-reproductive females), 94% (1,712) occurred within three miles of a northern long-eared bat maternity capture record. Similar associations have been observed at the Catoosa Wildlife Management Area in Tennessee<sup>14</sup> and in Ohio.<sup>15</sup> It is unknown how non-reproductive adult northern long-eared bats interact with maternity colonies, but the strong correlation between maternity and non-maternity capture records indicates concurrent usage of many summer habitat areas. Based on this strong correlation between maternity and non-maternity captures, the KFO concludes it is appropriate to treat all summer (May 15–August 15) northern long-eared bat captures as indicative of maternity usage. We will re-evaluate this conclusion as new information becomes available (particularly radio-telemetry and roost-tree data), but until data indicates otherwise, the KFO considers all summer captures of northern long-eared bats as Summer 1 habitat.

### *Purpose and Need*

Kentucky, like many states, is experiencing significant growth. Projects associated with growth can cause the loss, degradation, and fragmentation of natural habitats, such as forests, which may adversely affect forest-dwelling bats. Project proponents must often determine whether adverse effects to these bats are likely to occur and, if so, how to avoid, minimize, and/or compensate for such impacts. When impacts are unavoidable, project proponents should work with the Service to ensure compliance with the ESA.

Historically, ensuring ESA compliance for projects in Kentucky that affected Indiana bats outside of their hibernation period was handled very simply with surveys to demonstrate presence or probable absence, and if present or assumed present, avoiding any direct effects (injury, mortality) by cutting trees during the winter hibernation period. The timeframe for surveys was May 15<sup>th</sup> to August 15<sup>th</sup> (currently June 1<sup>st</sup> to August 15<sup>th</sup>), and the timeframe for cutting trees was October 15<sup>th</sup> to March 31<sup>st</sup> (for a project not within a known swarming area) and November 15<sup>th</sup> to March 31<sup>st</sup> (for a project within a known swarming area). This approach was inadequate in several respects:

- It provided no flexibility to the KFO or project proponents for complying with the ESA. If bats were present or assumed present: cutting trees during the winter was the only option other than formal consultation.

---

<sup>14</sup> Lereculeur, A.E. 2013.

<sup>15</sup> Keith Lott. 2014. Personal communication. Email dated 19 May 2014.

- It addressed only direct effects to bats (injury or mortality resulting from tree clearing when bats were present), ignoring the indirect effects of reducing, degrading, or fragmenting their summer habitat.
- It did not accommodate legitimate needs unrelated to bats for clearing trees outside of the winter, such as the difficulty of mobilizing equipment and completing projects during winter weather conditions and the opportunity to reduce soil erosion by conducting tree removals during drier, growing season weather conditions.
- Most importantly, seasonal tree clearing without compensation contributed to the trend<sup>16</sup> of forested habitat loss and fragmentation, which is one of several threats facing forest-dwelling bats.

Because Indiana and northern long-eared bat records occur broadly across the Commonwealth, nearly any project with suitable forest habitat has the potential to adversely affect these forest-dwelling bats. The KFO reviews between 800 and 1,000 projects annually for impacts to listed species. The majority of these projects involve the loss of forest cover that is suitable summer and/or swarming habitat for Indiana and northern long-eared bats. Projects affecting known and potential summer and swarming habitats vary in size and configuration, including those that remove blocks of habitat (e.g., surface mining and development projects), install linear infrastructure (e.g., roads and utility lines), and manage forest resources (e.g., timber harvest/thinning, burning).

Conversely, projects that could impact known or potential hibernacula have historically been rare, largely due to the protections afforded to caves by the Kentucky Cave Protection Act and the difficulties of building in karst areas. While known Indiana bat hibernacula within Kentucky are limited to natural caves, the northern long-eared bat appears more flexible in its hibernation requirements. Known hibernacula within Kentucky for the northern long-eared bat include a railroad tunnel and, potentially, abandoned mine portals. This flexibility to hibernate in non-cave habitats could lead to an increase in proposed impacts to known and/or potential hibernacula for the northern long-eared bat.

### *Area Where the Strategy Applies*

This Strategy applies to the Commonwealth of Kentucky. However, the KFO also applies the ESA compliance options in this Strategy to certain interstate projects that occur within 20 miles of Kentucky's state boundary, where the KFO is the lead field office and using the Strategy's mitigation approach is acceptable to Service field office(s) in the adjacent state(s).

---

<sup>16</sup> KDF 2010.

## *ESA Compliance Options*

Endangered Species Act compliance options available to project proponents under this Strategy include:

- Avoidance
- Survey for presence / probable absence
- Technical assistance and/or informal consultation
- [Final 4\(d\) rule for the northern long-eared bat](#)
- Conservation memorandum of [understanding](#)
- Formal consultation (only available to federal action agencies / partners)
- Habitat conservation plan (HCP) (only available to non-federal entities / partners)

This Strategy is intended to: (1) provide guidance to project proponents whose actions have the potential to adversely affect forest-dwelling bats; and (2) outline appropriate mitigation for adverse effects to forest-dwelling bats and their habitats. When appropriate, compensatory mitigation measures included in the Strategy are designed to more than offset unavoidable adverse effects and, thereby, enhance the conservation and recovery of forest-dwelling bat populations in Kentucky. General information on each ESA compliance option is summarized below:

### **Avoidance**

Project proponents are encouraged to avoid impacts to forest-dwelling bats and their habitats as a part of all ESA compliance options. Avoiding impacts means that take of federally listed species is not expected to occur. If adverse effects are likely to occur and it is not possible to avoid all of these potential impacts, the use of one or more of the other ESA compliance options is necessary.

### **Surveys**

Project proponents wishing to demonstrate probable absence of Indiana and/or northern long-eared bats in potential habitat should follow the appropriate presence/probable absence survey protocols for the project area. Kentucky's presence/probable absence survey guidance is available under the heading "Surveying for the Indiana bat in Kentucky," at [http://www.fws.gov/frankfort/indiana\\_bat\\_procedures.html](http://www.fws.gov/frankfort/indiana_bat_procedures.html). Project proponents may not survey known habitat to demonstrate probable absence of the known species, but may survey known habitat to provide additional information on how and when a species is using the habitat (e.g., it is known swarming habitat, but a survey may demonstrate probable absence of summer usage; or usage by northern long-eared bats, but not Indiana bats). However, surveys in known habitat should be coordinated with the KFO to ensure that the survey plan is adequate for the intended purpose.

If an approved survey does not result in the capture of Indiana and/or northern long-eared bats, the project proponent(s) may assume that the project is not likely to adversely affect the Indiana and/or northern long-eared bat and request concurrence from the Service under section 7 of the ESA (if a federal agency or with a federal nexus) or proceed without further work/coordination under section 10(a)(1)(B) of the ESA (if a non-federal entity or if there is no federal nexus). If Indiana or northern long-eared bats are captured during the survey and the project is likely to adversely affect the Indiana and/or northern long-eared bat, then additional work/coordination with the Service is needed to ensure compliance with the ESA.

### **Technical Assistance/Informal Consultation**

The ESA directs all Federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the Act. Section 7 of the ESA is the mechanism by which Federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the existence of any listed species. Federal agencies and project proponents are encouraged to coordinate with the Service early during project planning to identify listed species that may occur in the affected area and measures that would avoid or minimize adverse effects. To identify endangered, threatened, proposed, and candidate species and designated critical habitat that are known to occur or may potentially occur at a proposed project site, please visit the Service's Information for Planning and Conservation (IPaC) website (<https://ecos.fws.gov/ipac/>), which is a project planning tool to streamline the USFWS environmental review process.

If a listed species is known or assumed to be present, the Federal agency must determine whether the project may affect it. If the action agency determines that the project is not likely to adversely affect a listed species or designated critical habitat, and the Service concurs with that determination in writing, then the consultation (informal to this point) is concluded. Additional information on technical assistance and informal consultations under section 7 of the ESA can be found on the Service's website at: <http://www.fws.gov/endangered/what-we-do/consultations-overview.html>, and in the Service's Endangered Species Consultation Handbook, which is available at: [http://www.fws.gov/endangered/esa-library/pdf/esa\\_section7\\_handbook.pdf](http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf)

Consultation is not required for proposed species; however, if a proposed action is likely to adversely affect a proposed species or proposed critical habitat, the action agency may request a conference with the Service to ensure that the proposed action will not result in jeopardy to the species or the destruction or adverse modification of designated critical habitat. The results of this conference are documented in a conference report.

### **Final 4(d) Rule for the Northern Long-eared Bat**

The Service published a final 4(d) rule for the northern long-eared bat on January 14, 2016. This 4(d) rule identifies certain types of take that are prohibited and establishes specific conservation measures for tree removal activities that, if adhered to, would not result in prohibited incidental take of the northern long-eared bat. Additional information on the final 4(d) rule is available at: <http://www.fws.gov/midwest/endangered/mammals/nleb/>.

Although the final 4(d) rule excepts (does not prohibit) most incidental take of the northern long-eared bat in Kentucky, it does not eliminate the requirement for federal action agencies to consult with the Service under section 7 of the ESA. To streamline this consultation process 2016, the Service issued an intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule on January 5, 2016. For projects that are consistent with the final 4(d) rule and the Service's January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule, a project proponent may choose to address potential impacts to the northern long-eared bat by utilizing the 4(d) rule. If a project proponent chooses this option they should follow the streamlined consultation framework form. This form can be found at: <http://www.fws.gov/midwest/endangered/mammals/nleb/S7.html>. Additionally, project proponents should not include the northern long-eared bat in formal consultations or conservation memoranda of understanding if this option is selected.

### **Formal Consultation**

If the Federal agency determines that a project is likely to adversely affect a listed species or designated critical habitat, the agency initiates formal consultation by providing information about the anticipated effects. The ESA requires that consultation be completed within 90 days, and the consultation regulations (50 CFR §402.14) allow an additional 45 days for the Service to prepare a biological opinion, which determines whether the proposed action is likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of designated critical habitat. If a jeopardy or adverse modification determination is made, the biological opinion must identify any reasonable and prudent alternatives that could allow the project to move forward.

If the Federal agency determines, or agrees with the Service's determination, that a proposed action is likely to jeopardize a proposed species and/or adversely modify proposed critical habitat then conferencing is required. A Federal agency may request a conference that follows the procedures for formal consultation, which concludes with the Service issuing a conference opinion. Additional information on conferencing can be found within the ESA, its implementing regulations at 50 CFR §402.10, and in the Service's Endangered Species Consultation Handbook, which is available at: [http://www.fws.gov/endangered/esa-library/pdf/esa\\_section7\\_handbook.pdf](http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf).

### **Conservation Memorandum of Understanding**

To address the concerns identified in the Purpose and Need section above and to facilitate more effective cooperation between the KFO, its partners, and project proponents, the KFO has developed a conservation memorandum of understanding (CMOU) process that helps implement and support the Strategy. [Previously, these agreements were referred to as Conservation Memoranda of Agreement \(CMOAs\), but, based on current regional guidance, we now refer to them as CMOUs.](#)

CMOUs provide a streamlined option for ESA compliance to federal and non-federal project proponents through voluntary agreements (i.e., CMOUs) between the parties. The CMOU process is supported by a programmatic intra-Service biological opinion, which has evaluated the effects of the CMOU process on the Indiana bat and northern long-eared bat. The biological opinion provides non-jeopardy determinations and exempts incidental take of Indiana and northern long-eared bats. The CMOU and associated biological opinion also ensure that the process is compliant with other applicable law and regulations (e.g., NEPA). Ultimately, the programmatic intra-Service biological opinion allows the KFO to enter into programmatic and project-specific CMOUs with federal and non-federal entities, subject to the provisions of the conservation strategy and the section 7 consultation framework. The CMOUs may cover one or both species at the discretion of the project proponent.

Since the CMOU process was established in 2008, numerous project proponents have entered into Indiana bat CMOUs with the KFO, and most have found that the process is beneficial to their interests while also providing tangible conservation benefits to the Indiana bat. Benefits provided to project proponents entering into a voluntary CMOU with the KFO may include:

- Reducing project costs by providing a simplified and streamlined approach for ESA compliance;
- Providing another option for ESA compliance when the timeframes for mist netting and seasonal tree clearing are impractical;
- Reducing conflicts, improving relationships, and establishing new partnerships; and

- Increasing predictability of project costs and timelines.

Benefits provided to the KFO and its mission include, but are not limited to:

- Providing a uniform ESA compliance process for federal and non-federal project proponents;
- Providing more consistent evaluations of adverse effects, especially indirect and cumulative effects;
- Increasing funding for recovery opportunities for forest-dwelling bats in Kentucky;
- Streamlining workloads for the KFO; and
- Reducing conflicts, improving relationships, and establishing new partnerships.

### **Habitat Conservation Plan**

Section 10(a)(1)(B) of the ESA establishes a process for permitting the taking of listed species that is incidental to otherwise lawful non-Federal activities (i.e., an incidental take permit or ITP). Habitat Conservation Plans (HCPs) are planning documents required as part of an application for an incidental take permit. They describe the anticipated effects of the proposed taking; how those impacts will be minimized, or mitigated; and how the HCP is to be funded. HCPs can apply to both listed and non-listed species, including those that are candidates or have been proposed for listing. However, the incidental take permit will only cover species listed as endangered or threatened under the ESA. Conserving species before they are in danger of extinction or are likely to become so can also provide early benefits and prevent the need for listing. Additional information about HCPs can be found on the Service's website at: <http://www.fws.gov/endangered/what-we-do/hcp-overview.html>.

## *Conservation Goals for Forest-Dwelling Bats in Kentucky*

Through implementation of this Strategy, the KFO intends to guide the ESA-related project review process beyond a singular focus on compliance (ESA sections 7 and 9) to create a more holistic approach that incorporates the conservation and recovery of the species. The KFO will generally rely on the Recovery Plan, Interim Guidance, and other literature and data available on Indiana and northern long-eared bats to support the conservation and recovery activities for these species. The Recovery Plan focuses primary attention on protection and management of Priority 1 (P1) and Priority 2 (P2) Indiana bat hibernacula. This Strategy expands the focus to additional recovery actions, including, but not limited to:

- (a) Conserve and manage hibernacula and their winter populations (Recovery Action 1.1 in the Recovery Plan);
- (b) Reduce threats by purchasing from willing sellers or leasing at-risk privately owned P1 and P2<sup>17</sup> hibernacula to assure long-term protection (1.1.3);
- (c) Conserve and manage areas surrounding hibernacula (1.1.4);
- (d) Purchase from willing sellers or lease privately owned lands surrounding P1 and P2 hibernacula identified as having inadequate buffers (1.1.4.4)<sup>18</sup>;
- (e) Restoration and creation of hibernacula (1.2);
- (f) Conserve and manage summer habitat to maximize survival and fecundity (2.0);
- (g) Monitor and manage known maternity colonies (2.4); and
- (h) Minimize adverse impacts to the Indiana bat and its habitat during review of Federal, state, county, municipal, and private activities under the ESA, National Environmental Policy Act, Fish and Wildlife Coordination Act, and Section 404 of the Clean Water Act (2.6).

Collectively, these recovery actions address Indiana bat conservation and recovery needs in both winter and summer habitat, providing the foundation that supports this Strategy. Conversely, recovery priorities have not been established for the northern long-eared bat, because the species has only recently been listed under the ESA. Once a recovery plan is developed for the northern long-eared bat, the KFO will modify this Strategy to better incorporate the recovery actions specific to this species. In the interim, the KFO finds, based on the available data, that the recovery actions and priorities for the Indiana bat identified in the Recovery Plan are generally applicable to all forest-dwelling bats that hibernate in caves or cave-like features and will use those actions and priorities to conserve all forest-dwelling bats in Kentucky.

---

<sup>17</sup> The northern long-eared bat is known to hibernate in one of the five P1 Indiana bat sites in KY and in 15 out of the 16 P2 hibernacula.

<sup>18</sup> The Recovery Plan does not identify specific hibernacula as having inadequate buffers, nor does it provide guidance in evaluating the adequacy of existing buffers.

Based on the background information above and the available information on these species, their status, and conservation,<sup>19</sup> the KFO developed a list of general mitigation goals for forest-dwelling bats in Kentucky. If achieved, these goals would (a) support the Strategy as discussed above, (b) significantly contribute to forest-dwelling bat conservation and recovery in Kentucky, and (c) act as a guide for determining the appropriateness of any proposed mitigation measures. The goals are listed below, and Tier 1 goals have priority and are encouraged over Tier 2 goals:

### Tier 1

- Protect and manage known priority hibernacula.<sup>20</sup>
- Protect and manage existing forested habitat:
  - Known swarming habitat; and/or
  - Known summer 1 habitat.
- Protect and manage additional conservation lands for forest-dwelling bats, especially habitat that is contiguous with or within the proclamation/acquisition/preserve boundaries of existing public and private conservation land which contain known bat habitat.
- Restore and/or enhance winter habitat conditions in degraded caves and mines that exhibit the potential for successful restoration such as, but not limited to, those caves identified as having High Potential (HP) in the Recovery Plan.

### Tier 2

- Protect and manage known lower priority hibernacula.<sup>21</sup>
- Protect and manage additional conservation lands that contain potential habitat for forest-dwelling bats.
- Fund priority research and monitoring that support the six strategies above and/or Kentucky's forest-dwelling bat populations.

---

<sup>19</sup> The KFO relied heavily on the draft revised Indiana Bat Recovery Plan, Northern Long-eared Bat Interim Conference and Planning Guidance, state heritage information, and the knowledge of experienced forest-dwelling bat biologists to derive this list, but a number of other sources of information, which are on file in the KFO, were used.

<sup>20</sup> This includes Priority 1 and Priority 2 hibernacula for Indiana bats. Priority hibernacula are yet to be determined for northern long-eared bats.

<sup>21</sup> This includes Priority 3 (P3) and Priority 4 (P4) hibernacula for Indiana bats. Priority hibernacula are yet to be determined for northern long-eared bats; however, based on existing data, we would consider all known northern long-eared bat hibernacula to be equivalent to P3 and P4 Indiana bat hibernacula in terms of the value of these hibernacula to the range-wide northern long-eared bat population. As a result, all northern long-eared bat hibernacula are in the Tier 2 category.



## *Forest-Dwelling Bat Recovery and Mitigation Focus Areas*

The KFO's analyses also resulted in the delineation of Recovery and Mitigation Focus Areas (RMFAs) for forest-dwelling bats within the Commonwealth of Kentucky (Table 1). RMFAs were identified specifically to support the general conservation priorities identified in the previous section and represent areas that:

- Contain one or more public or protected private lands that are known to support forest-dwelling bat populations;
- Currently support populations of forest-dwelling bats that are expected to support long-term recovery and conservation efforts of these species;
- Contain adequate suitable habitat to support recovery and conservation efforts;
- Provide opportunities for future protection, restoration, enhancement, and/or creation of additional summer and/or winter bat habitat; and/or
- In the KFO's estimation, contain conditions that generally are expected to contribute to the persistence of forest-dwelling bat populations and habitat into the future.

The identified RMFAs can be categorized as Summer Habitat RMFAs, Winter Habitat RMFAs, or as both and are shown in Table 1. Collectively, these RMFAs are key landscapes for forest-dwelling bat conservation and recovery in Kentucky. Therefore, RMFAs will be those areas where most forest-dwelling bat compensatory mitigation efforts will be undertaken or attempted. The KFO expects, however, that efforts may also be undertaken or attempted at locations outside of the RMFAs in circumstances where the conservation and/or recovery benefits to forest-dwelling bats can be clearly identified and justified. The merits of mitigation efforts outside of RMFAs will be determined on a case-by-case basis in coordination with the KFO and will depend on a variety of factors including, but not necessarily limited to: (a) location of the site; (b) the type and quality of the conservation opportunities available; and (c) new information that justifies the conservation effort. When possible and appropriate, compensatory mitigation efforts will be directed to RMFAs that are proximate to impact sites or to the RMFA that best mitigates the specific impact(s). New RMFAs may be added if data becomes available (e.g., new location records) that would support their inclusion.

**Table 1. Table of Recovery and Mitigation Focus Areas (RMFAs) & Available Habitat Types**

<b>RMFA Name and Description</b>	<b>Summer Habitat RMFA</b>	<b>Swarming Habitat RMFA</b>
<i>Tygarts Creek-Carter Caves SRP</i> – the assemblage of caves along Tygarts Creek and within Carter Caves SRP, including caves on private lands within 10 miles of Tygarts Creek and/or Carter Caves SRP Primary Conservation Ownership – Carter Caves SRP	IBAT - no NLEB - yes	yes
<i>Daniel Boone National Forest</i> – the area within the DBNF proclamation boundary, including caves and maternity colonies on private lands within 10 miles of the proclamation boundary Primary Conservation Ownership – Daniel Boone National Forest	yes	yes
<i>Pine Mountain</i> – the assemblage of caves along Pine Mountain, including caves and maternity colonies on private lands within 10 miles of the crest of Pine Mountain Primary Conservation Ownership – Kentucky State Parks, KDFWR WMAs, and Kentucky State Nature Preserves Commission SNPs	yes	yes
<i>Mammoth Cave National Park</i> – the assemblage of caves within MCNP, including caves and maternity colonies on private lands within Barren, Edmonson, Hart, and Warren counties Primary Conservation Ownership – Mammoth Cave National Park	yes	yes
<i>Barrens-Fort Knox</i> – the assemblage of caves and maternity colonies in Breckinridge, Bullitt, Hardin, Jefferson, Meade, and Spencer counties Primary Conservation Ownership – Fort Knox, Taylorsville Lake WMA	yes	yes
<i>Big Rivers</i> – the assemblage of caves and maternity colonies in Christian, Livingston, Lyon, Marshall, and Trigg counties Primary Conservation Ownership – Land Between the Lakes NRA, Fort Campbell, and Clarks River National Wildlife Refuge	yes	yes
<i>Lower Ohio River</i> – the assemblage of maternity colonies in Crittenden, Daviess, Henderson, and Union counties Primary Conservation Ownership – Big Rivers WMA, Sloughs WMA, Audubon State Park, Green River State Forest	yes	no
<i>Mississippi River</i> – the assemblage of maternity colonies in Ballard, Carlisle, Hickman, and McCracken counties Primary Conservation Ownership – Ballard, Boatwright, Doug Travis, and West Kentucky WMAs	yes	no

IBAT – Indiana bat; NLEB – Northern long-eared bat

## *Mitigation Implementation for the Forest-Dwelling Bat Conservation Strategy*

In April 2014, The Energy and Climate Change Task Force released a report to The Secretary of the Interior titled: A Strategy for Improving the Mitigation Policies and Practices of The Department of the Interior (Report).<sup>22</sup> This Report recognizes mitigation as an important tool for the U.S. Fish and Wildlife Service (as a DOI bureau) in the management of trust resources. Additionally, on November 6, 2015, President Obama issued a Presidential Memorandum on Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment (Memo)<sup>23</sup>. This Memo directs federal agencies, such as the U.S. Fish and Wildlife Service, to establish high and consistent standards for how to mitigate the impact of development and acknowledges the importance of private sector investment in delivering this high quality-mitigation.

As in the Report and Memo, this document uses the term “mitigation” to represent to the full mitigation hierarchy of avoidance, minimization and compensation. For the sake of clarity, the KFO will refer to the final step as compensatory mitigation.

In this Strategy and the associated implementation of its mitigation components, the KFO has integrated the guiding principles of the Report in a landscape approach that involves the following:

- Identification of key landscape-scale attributes (see Recovery and Mitigation Focus Areas, p. 16-17);
- Development of landscape-scale goals and strategies (see Conservation Goals, p. 14-15);
- Development of an efficient and effective compensatory mitigation program for impacts that cannot be avoided or minimized (see Mitigation Implementation, p. 18-22); and
- Monitoring and evaluation of progress and making adjustments, as necessary to ensure that mitigation is effective despite changing conditions (see Strategy Modification, p. 24).

### **Avoidance and Minimization of Adverse Effects**

Based on the importance of hibernacula to the conservation of the two bat species currently covered by the Strategy, the KFO determined that compensatory mitigation measures are generally not appropriate for adverse effects to hibernacula. Complete avoidance of impacts to caves and other potential hibernacula is preferred, based on the following reasons:

- P1 and P2 hibernacula are critical to Indiana bat recovery and conservation;
- Adverse effects to Indiana bat P1 and P2 hibernacula have the potential to cause significant, (and likely irreversible) negative effects on Indiana bat populations range-wide;
- Sufficient technology and funding does not currently exist to recreate the habitat conditions that exist in most hibernacula, especially Indiana bat P1 and P2 hibernacula; and

---

<sup>22</sup> Clement, J.P. et al. 2014.

<sup>23</sup> 80 FR 68743

- Current Indiana bat P3 and P4 hibernacula may have historically been P1 or P2 hibernacula, so allowing impacts to restorable P3 and P4 hibernacula could limit Indiana bat recovery.
- The importance of hibernacula to the recovery and conservation of northern long-eared bats has not yet been determined.

Compensatory mitigation measures are generally appropriate for most other adverse effects that typically occur in association with land management, agriculture, and development projects in Kentucky. Exceptions that require project-specific evaluation include:

1. Individual projects resulting in the loss of more than 100 acres of forest-dwelling bat habitat.<sup>24</sup>
2. Projects occurring within 1 mile of P1 or P2 Indiana bat hibernacula.<sup>25</sup>
3. Projects occurring within ½ mile of P3 or P4 Indiana bat hibernacula<sup>25</sup> or any northern long-eared bat hibernacula.
4. Projects resulting in impacts to known or potential Summer 1 habitat between June 1 and July 31<sup>26</sup>. All suitable habitats (potential and known) are considered known or potential Summer 1 habitat unless site-specific information demonstrates otherwise.

### **Compensatory Mitigation Measures**

The following compensatory mitigation measures are applicable to the CMOU process and any of the other ESA compliance options for forest-dwelling bats. Their use in the ESA compliance process for actions that may adversely affect forest-dwelling bats requires close coordination with the KFO.

- Protect known and previously unprotected Indiana and/or northern long-eared bat habitat with a demonstrated significance to either or both species.
  - Purchase or otherwise acquire fee title interest in one or more land parcels that meet the intents and priorities of this Strategy.
  - Secure perpetual conservation easements and associated land management agreements on one or more land parcels that meet the intents and priorities of this Strategy.

---

<sup>24</sup> 100 acres represents approximately 2% of the area within the 1.5 mile radius circle used to define the known habitat area around a northern long-eared bat summer roost. Limiting impacts to this scale minimizes the negative impact of a given project to the species. Historically, the Indiana bat Mitigation Guidance restricted projects to 250 acres, which represented approximately 2% of the area within the 2.5 mile habitat radius around known Indiana bat roosts, but the KFO has chosen to use the more-restrictive acreage associated with northern long-eared bat habitat to further minimize impacts to forest-dwelling bats.

<sup>25</sup> Separate analyses for projects within ½ or 1 mile of hibernacula will: (a) ensure that impacts to occupied swarming habitat are not underestimated (i.e., most bat activity occurs close to a hibernaculum entrance, so adverse effects are most likely to occur there); and (b) will help the Service better determine if direct impacts to known hibernacula are likely.

<sup>26</sup> June 1 – July 31 is the timeframe when non-volant pups are expected to be in roost trees. A limited amount of impact may be allowable based on site specific conditions and with a higher compensatory mitigation multiplier.

Property acquired or protected in these ways must adjoin or be within the preserve design or acquisition boundary of an existing conservation ownership. Easement or fee simple lands shall include all surface and mineral rights to the property and clear and unencumbered ownership of these rights. The applicant or project proponent shall pay for all fees and/or other costs associated with title work, recording, transferring, surveying, and/or acquiring of the easement or property. Compensatory mitigation measures that involve land acquisition or easement require the donation of the property (or easement) to a conservation organization approved by the Service. A financial endowment must accompany the donation that is sufficient to provide perpetual management of the preserved lands, and must include any other funds identified by the receiving conservation organization that may be necessary for that entity to accept title or easement (e.g., contaminants surveys, fencing, trash removal, etc.) to the property.

- Contribute funding to the Imperiled Bat Conservation Fund (IBCF) sufficient to achieve identified mitigation needs.
- Other activities that will provide a tangible conservation benefit to forest-dwelling bats may be proposed to the KFO for a case-by-case evaluation.

#### **Acceptability of Compensatory Mitigation Measures**

The KFO defined the terms used in the following table in the Explanation of Terms section (see page 4-5). Table 2 provides guidance on the applicability of compensatory mitigation measures to specific types of actions or impacts. Mitigating impacts to summer habitat with the protection of winter habitat is sometimes appropriate, but requires a project-specific determination in coordination with the KFO.

**Table 2. Table of Project Actions/Impact Types & Types of Appropriate Habitat Mitigation Measures**

ACTION / IMPACT TYPE	HABITAT COMPENSATION MEASURE		
	Conserve Hibernacula	Conserve Summer and/or Swarming Habitat	IBCF Contribution
<i>Summer Habitat Loss</i>	Contact the KFO for review of the appropriateness of these measures.	These are appropriate mitigation measures for the impacts listed and any overlapping habitats.	
Known Summer 1			
Known Summer 2			
Potential habitat			
<i>Swarming Habitat Loss</i>			
Known Swarming 1			
Known Swarming 2			

Summer 1 = Indiana bat maternity and northern long-eared bat summer habitat

Summer 2 = Indiana bat non-maternity summer habitat

Swarming 1 = Indiana bat Priority 1 & 2 hibernacula swarming areas

Swarming 2 = Indiana bat Priority 3 & 4 and/or northern long-eared bat hibernacula swarming areas

**Determination of Compensatory Mitigation**

Table 3 below assists project proponents in determining the amount of compensatory mitigation needed to offset the specific impacts of a given project. The project’s impact(s) should be divided into the action or impact types (by habitat type) and then quantified to yield the acreage of impact for each action. Information regarding known habitat types has been provided in Appendices C and D. Appendix C reflects the individual known habitat uses for Indiana bats and Appendix D provides that same for northern long-eared bats.

**Table 3. Table for Calculation of Impact Acres & Mitigation Acres<sup>27</sup>**

ACTION / IMPACT TYPE	IMPACT ACRES	MULTIPLIER	MITIGATION ACRES
<i>Habitat Loss</i>			
Select Action/Impact Type based on location and current maps of bat habitat in KY (see Appendices C, D, and E)		Please see Appendix B to select appropriate multiplier based on location and timing of impact.	
<i>Mitigation Measures</i>			
Purchase, protect or conserve hibernacula	Value determined on a case by case basis. Factors considered in value determination made include, but are not limited to: habitat type, habitat quality, landscape position.		
Purchase, protect, or conserve summer or swarming habitat			
Contribute to IBCF	\$3250/mitigation acre <sup>28</sup> (please contact the KFO to confirm current cost per acre)		

Project proponents may choose to mitigate for one or both species, as appropriate. Project proponents choosing to mitigate for impacts to both species should apply the higher of the two mitigation multipliers to determine the appropriate compensatory mitigation multiplier if the project occurs in the same habitat type (e.g. potential, summer and/or swarming) for each species, or if the project is in known habitat for one species and potential habitat for the other. For example, impacts to suitable habitat in known Indiana bat Swarming 1 habitat and known northern long-eared bat Swarming 2 habitat will use the known Swarming 1 habitat multiplier, since it is the higher-value multiplier and would better address the impacts to swarming habitat for both species of forest-dwelling bats.

If the project occurs in different known habitat types for each species (e.g. one in swarming, one in summer), then the appropriate overlapping habitat types should be used. For example, impacts to suitable habitat in known Indiana bat Swarming 1 habitat that is also known northern long-eared bat Summer 1 habitat is considered Swarming 1 + Summer 1 habitat. Projects with impacts to suitable habitat with the same habitat type for multiple species apply the highest known use multiplier. Additional examples are provided in Appendix E.

For impacts where suitable habitat is sparse, each suitable roost tree should be counted, and the number of suitable roost trees should be multiplied by 0.09 acres/tree to determine the acreage of suitable habitat loss (i.e., the single tree method). For impacts involving the loss or alteration of

<sup>27</sup> The Service determined that impacts to potential habitat during the occupied season require direct replacement of impacted acres due to the risk of take through injury or death. From that point, mitigation ratios were assigned based on the importance of the habitat type to the recovery of forest-dwelling bats and likelihood for direct versus indirect impacts. Direct impacts (occupied) require more mitigation than indirect impacts for each habitat type.

<sup>28</sup> This dollar amount is subject to change based on Kentucky’s average value of farm real estate as published annually by the U.S. Department of Agriculture in the Land Values and Cash Rents document. The current value is based on the Land Values and Cash Rents, 2015 Summary released by the USDA in August 2015. (ISSN 1949-1867)

Available at: <http://usda.mannlib.cornell.edu/usda/current/AgriLandVa/AgriLandVa-08-05-2015.pdf>

blocks of forested habitat, the acreage of the impact is determined by identifying the perimeter and area of the impact with Global Positioning System or Geographic Information System technology (i.e., the habitat block method).

Once the acreage of habitat loss has been determined for each action using the single tree and/or habitat block method(s), the impact information should then be inserted into Table 3 and multiplied by the appropriate multiplier to yield the amount of mitigation required for each action or impact type. The KFO will assist project proponents in determining how the single tree and habitat block methods for calculating impact acreages should be applied on their project(s) so that an accurate mitigation estimate can be determined.

The value of a particular hibernaculum or maternity or swarming habitat proposed for protection depends on the circumstances applicable to that particular site; therefore, standard multipliers are not provided and must be determined on a case-by-case basis by the KFO. Factors that influence the value of a particular protection site include, but are not limited to: (1) the relative significance of the site to the conservation and recovery of forest-dwelling bats; (2) the quality of the habitat; (3) the level of protection afforded; (4) the degree of risk to the site without the proposed mitigation measure; and (4) the site's position within the landscape and proximity to RMFAs.

### **Inter-State Mitigation**

Projects involving impacts to forest-dwelling bats in more than one state will need to work with the USFWS Field Offices (FOs) for each state to determine the appropriate mitigation measures. If a project proponent chooses to mitigate with a voluntary contribution to the IBCF, the above-listed cost per acre is only applicable to Kentucky. The average value of farm real estate in that state (see footnote 28 above) or another appropriate land price established by that state's FO will need to be determined and used for impacts in the adjacent state. The mitigation ratios set forth in Appendix B were established for use in Kentucky. Impacts in adjacent states may follow this table or have higher ratios as determined appropriate by that FO. Alternatively, the project proponent could choose the IBCF contribution for impacts in one state and use the land conservation option in the other state.



### *Tangible Conservation Benefits*

The compensatory mitigation measures set forth in this Strategy are intended to go above and beyond one-to-one replacement. The net conservation benefits realized programmatically by this process are expected to aid in the recovery of the covered species. The process was established so that conservation benefits can be attained in several ways, including the following:

- A portion of the projects providing compensatory mitigation through the process are not likely to actually result in adverse effects to forest-dwelling bats. This is because project proponent participation in the process is often based on assumed, rather than known, presence, and the discontinuous distribution of bats within Kentucky means that not all suitable habitats will contain the species. As a result, mitigation that contributes to conservation of the species is provided when no actual impacts have or will occur.
- The mitigation multipliers used in the process were established so that adverse effects to known habitat are mitigated at a minimum of 1:1, and are most often mitigated at a ratio greater than 1:1, going as high as 4.5:1. This helps ensure that known habitats used by the species are conserved at a rate that exceeds the rate at which it is lost or otherwise affected.
- When adverse effects occur, they are typically to marginal or potential habitats because the process is structured to eliminate or discourage impacts to the most important habitats or to large amounts of habitat. Conversely, the compensation that is provided for these impacts is directed toward the protection and/or conservation of high quality bat habitat, especially occupied habitat and existing forests that contain the requisite habitat needs of species and contribute to landscape conservation and forest connectivity.
- Research, monitoring, and other activities that would support the conservation and recovery of the species are only funded after all habitat compensation requirements are met.

Overall, the process the KFO used that was associated with this Strategy's predecessor, the Revised Indiana Bat Mitigation Guidance for the Commonwealth of Kentucky, has yielded net conservation benefits to the Indiana bat during the duration of its implementation. This is illustrated by both the scale and placement of the compensation, which was realized primarily through the Indiana Bat Conservation Fund (IBCF). The IBCF has assisted conservation partners in Kentucky with the purchase of over 3000 acres outright and helped those partners acquire more than 9000 additional acres by providing partial funding for those acquisitions. Based on data compiled in summer 2014 by the KFO, more than 80 percent of the habitat acquired using funding from the IBCF has been known habitat, even though only 45 percent of the habitat impacted through the process was known habitat. Since the approach the KFO will use under this Strategy will be the same as was used previously, we expect that the compensation from this Strategy will result in similar benefits to Indiana and northern long-eared bats, and promote the recovery and conservation of both species.

## *Summary*

This Strategy has been developed by the KFO to provide direction to project proponents whose actions have the potential to adversely affect imperiled and/or federally-listed forest-dwelling bats and to enhance the conservation and recovery of imperiled forest-dwelling bat populations in Kentucky. This will be accomplished by the implementation of the processes and mitigation measures set forth in this document.

These measures were developed to support the recovery actions identified in the draft, revised recovery plan for the Indiana bat and address both summer and winter habitat. The KFO has identified those impacts to forest-dwelling bats where avoidance is most appropriate as well as impacts that will need individual evaluations to determine whether other mitigation measures are appropriate (e.g., impacts to hibernacula). The mitigation measures prescribed in this conservation strategy vary by the type of habitat impacted, its relative importance to the conservation and recovery of forest-dwelling bats, and the likelihood of take. Recovery and Mitigation Focus Areas (RMFAs) have been identified for application of the mitigation measures that ensure an appropriate distribution relative to both where impacts occur and where the measures are most likely to benefit forest-dwelling bat species.

The protection of hibernacula, swarming and summer/maternity areas is critical to ensuring the conservation and recovery of forest-dwelling bats. This conservation strategy establishes a process by which impacts that may directly or indirectly result in adverse effects to forest-dwelling bats are offset to help ensure the long-term survival of the species. The implementation of this Strategy and its mitigation measures can help achieve the conservation and recovery of forest-dwelling bats.

## *Strategy Modification*

This Strategy is subject to modification as new information relative to forest-dwelling bats, their conservation statuses, and their conservation and recovery becomes available. Modifications may be needed if additional bat species, such as the little brown bat (*Myotis lucifugus*), become proposed and/or listed under the ESA. This strategy is closely linked to the April 15, 2015 Final Biological Opinion on the Service's Approval Of and Participation in Conservation Memoranda of Agreement for Indiana bats (*Myotis sodalis*) and/or Northern Long-eared Bats (*Myotis septentrionalis*).

Additionally, as part of the terms and conditions of the associated biological opinion, the KFO will monitor and evaluate the compensatory mitigation achieved through CMOUs implementing this Strategy to ensure that the intended outcomes are achieved. Should the results of these monitoring and evaluation efforts reveal that the mitigation objectives are not being achieved or that the outcome of the mitigation fail to produce the intended benefits to forest-dwelling bats, then the KFO will modify the Strategy to address the identified shortcomings and/or failures.

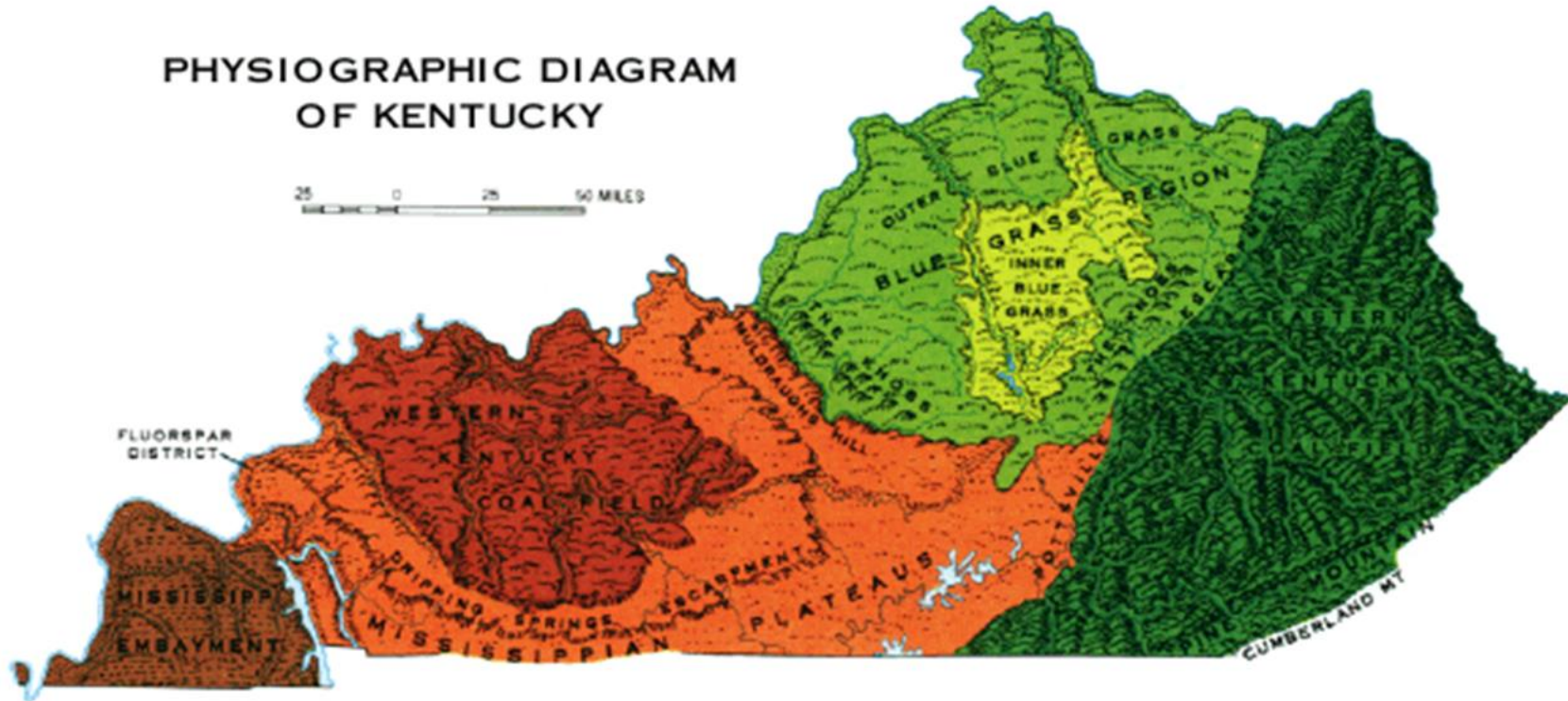
This Strategy replaces the April 2015, Forest-Dwelling Bat Conservation Strategy for the Commonwealth of Kentucky.

## Literature Cited

- Barbour, R. W. and W. H. Davis. 1969. Bats of America. University Press, Lexington, Kentucky.
- Caceres, M.C., and R.M.R. Barclay. 2000. *Myotis septentrionalis*. Mammalian Species 634. American Society of Mammalogists. 4 pp.
- Clement, J.P. et al. 2014. A strategy for improving the mitigation policies and practices of the Department of the Interior. A report to the Secretary of the Interior from the Energy and Climate Change Task Force, Washington, D.C., 25 pp.
- Griffin, D. R. 1940. Notes on the life-histories of New England cave bats. Journal of Mammology 21: 181-187.
- KY Division of Forestry. 2010. Kentucky Statewide Assessment of Forest Resources, Part 1: Issue 3: Forest Loss and Fragmentation. Available at:  
<http://forestry.ky.gov/landownerservices/pages/forestlandassessment.aspx>
- Lereculeur, A.E. 2013. Summer Roosting Ecology of the Northern Long-eared Bat (*Myotis septentrionalis*) at Catoosa Wildlife Management Area. M.S. Thesis. Tennessee Technological University. 74 pp.
- Lott, Keith. 2014. Personal communication. Email dated 19 May 2014.
- Toomey, R.S., III, M.L. Colburn, and R.A. Olson. 2002. Paleontological evaluation of use of caves: a tool for restoration of roosts. Pp. 79-85 in A. Kurta and J. Kennedy (eds.), The Indiana bat: biology and management of an endangered species. Bat Conservation International, Austin, TX.
- Tuttle, M.D. 1997. A mammoth discovery. Bats 15:3-5.
- U.S. Fish and Wildlife Service. 2007. Indiana Bat (*Myotis sodalis*) Draft Recovery Plan: First Revision. U.S. Fish and Wildlife Service, Fort Snelling, MN. 258 pp.
- U.S. Fish and Wildlife Service. 2013. 12-Month Finding on a Petition to List the Eastern Small-Footed Bat and the Northern Long-Eared Bat as Endangered or Threatened Species, Listing the Northern Long-Eared Bat as an Endangered Species; Proposed Rule. October 2, 2013, Federal Register 78(191):61046-61080.
- U.S. Fish and Wildlife Service. 2014. Northern Long-eared Bat Interim Conference and Planning Guidance. U.S. Fish and Wildlife Service, 67 pp.
- Whitaker, J. O., Jr. and L.J. Rissler. 1992. Seasonal activity of bats at Copperhead Cave. Proceedings of the Indiana Academy of Science 101:127-135.

APPENDIX A: Physiographic Diagram of Kentucky

Kentucky Atlas & Gazetteer



<http://www.uky.edu/KentuckyAtlas/kentucky-physiographic.map?568,243>

Internet

**APPENDIX B: Mitigation Multipliers by Habitat Type and Season**

	<b>Nov. 15 – Mar. 31 (all habitats unoccupied)</b>	<b>Apr. 1 – Aug. 15 (swarming unoccupied*; potential, summer occupied)</b>	<b>Jun. 1 – Jul 31** (non-volant period: swarming unoccupied; potential, summer occupied)</b>	<b>Aug.16 – Oct. 14 (swarming &amp; potential occupied; summer unoccupied)</b>	<b>Oct. 15 – Nov. 14 (swarming occupied; potential, summer unoccupied)</b>
<b>Summer 1 + Swarming 1</b>	2.5	3.0 (4.0)*	4.0	3.5	3.5
<b>Summer 1 + Swarming 2</b>	2.0	2.5 (3.5)*	3.5	3.0	3.0
<b>Summer 2 + Swarming 1</b>	2.0	2.5 (3.5)*	3.5	3.0	3.0
<b>Summer 2 + Swarming 2</b>	1.5	2.0 (3.0)*	3.0	2.5	2.5
<b>Swarming 1</b>	1.5	2.0 (3.0)*	3.0	2.5	2.5
<b>Swarming 2</b>	1.0	1.5 (2.5)*	2.5	2.0	2.0
<b>Summer 1</b>	1.5	2.0	3.0	1.5	1.5
<b>Summer 2</b>	1.0	1.5	2.5	1.0	1.0
<b>Potential</b>	0.5	1.0	2.0	1.0	0.5

Summer 1 = Indiana bat maternity and northern long-eared bat summer habitat

Summer 2 = Indiana bat non-maternity summer habitat

Swarming 1 = Indiana bat priority 1 & 2 hibernacula swarming areas

Swarming 2 = Indiana bat priority 3 & 4 and northern long-eared bat hibernacula swarming areas

\*Spring emergence occurs close to the hibernacula entrances in the early spring with females emerging in early to mid-April and males emerging in late April – early May. Swarming habitat within 1 mile of P1 and P2 hibernacula entrances and within ½ mile of P3 and P4 hibernacula entrances will be considered occupied between April 1 and May 14. Projects within these areas require project-specific evaluation by the Service and may require additional mitigation, please see page 19 for more information.

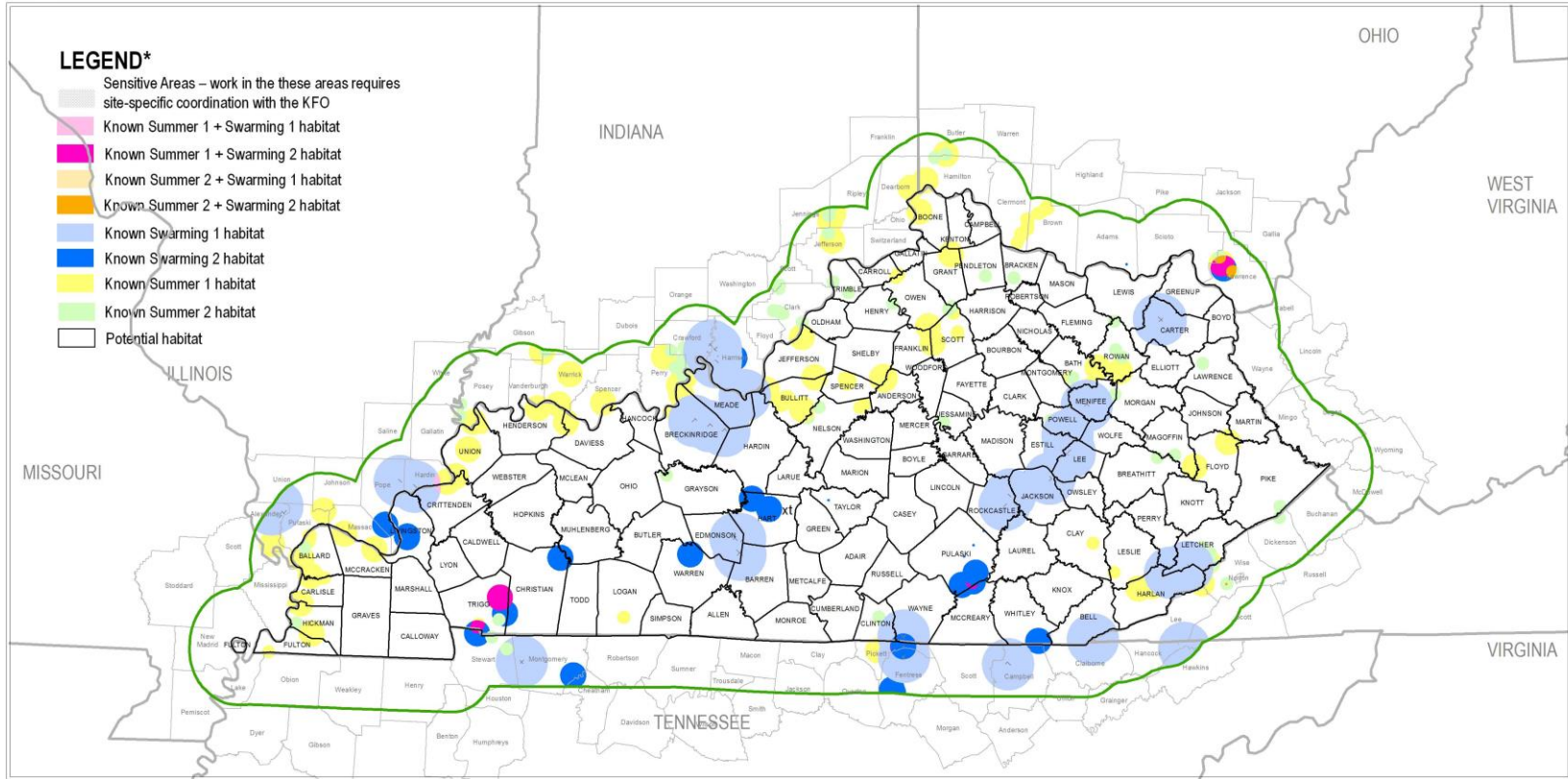
\*\* Projects impacting known or potential Summer 1 habitat and that occur June 1 - July 31 require project-specific evaluation by the Service, please see page 19 for more information. A limited amount of impact under the CMOU process is available for impacts during the non-volant season, however additional mitigation is required to compensate for the increased severity of the impacts. June – July impacts per project may not exceed 20 acres.

## APPENDIX C: Map of Indiana Bat Habitat



**U.S. Fish & Wildlife Service**

### Known Indiana bat habitat in Kentucky and within 20 miles (May 2016)



**LEGEND\***

- Sensitive Areas – work in these areas requires site-specific coordination with the KFO
- Known Summer 1 + Swarming 1 habitat
- Known Summer 1 + Swarming 2 habitat
- Known Summer 2 + Swarming 1 habitat
- Known Summer 2 + Swarming 2 habitat
- Known Swarming 1 habitat
- Known Swarming 2 habitat
- Known Summer 1 habitat
- Known Summer 2 habitat
- Potential habitat

NOTE: This map is based on species occurrence information and is subject to change as new data become available. Please contact our office at 502/695-0468 to ensure you are working with the most current version.  
 \*For an explanation of terms, please see the Conservation Strategy for Forest-Dwelling Bats in the Commonwealth of Kentucky.



The USFWS makes no warranty for use of this map and cannot be held liable for actions or decisions based on map content. This map was produced as an appendix to the Conservation Strategy for Forest-Dwelling Bats in the Commonwealth of Kentucky and should only be used in the context of this Strategy.

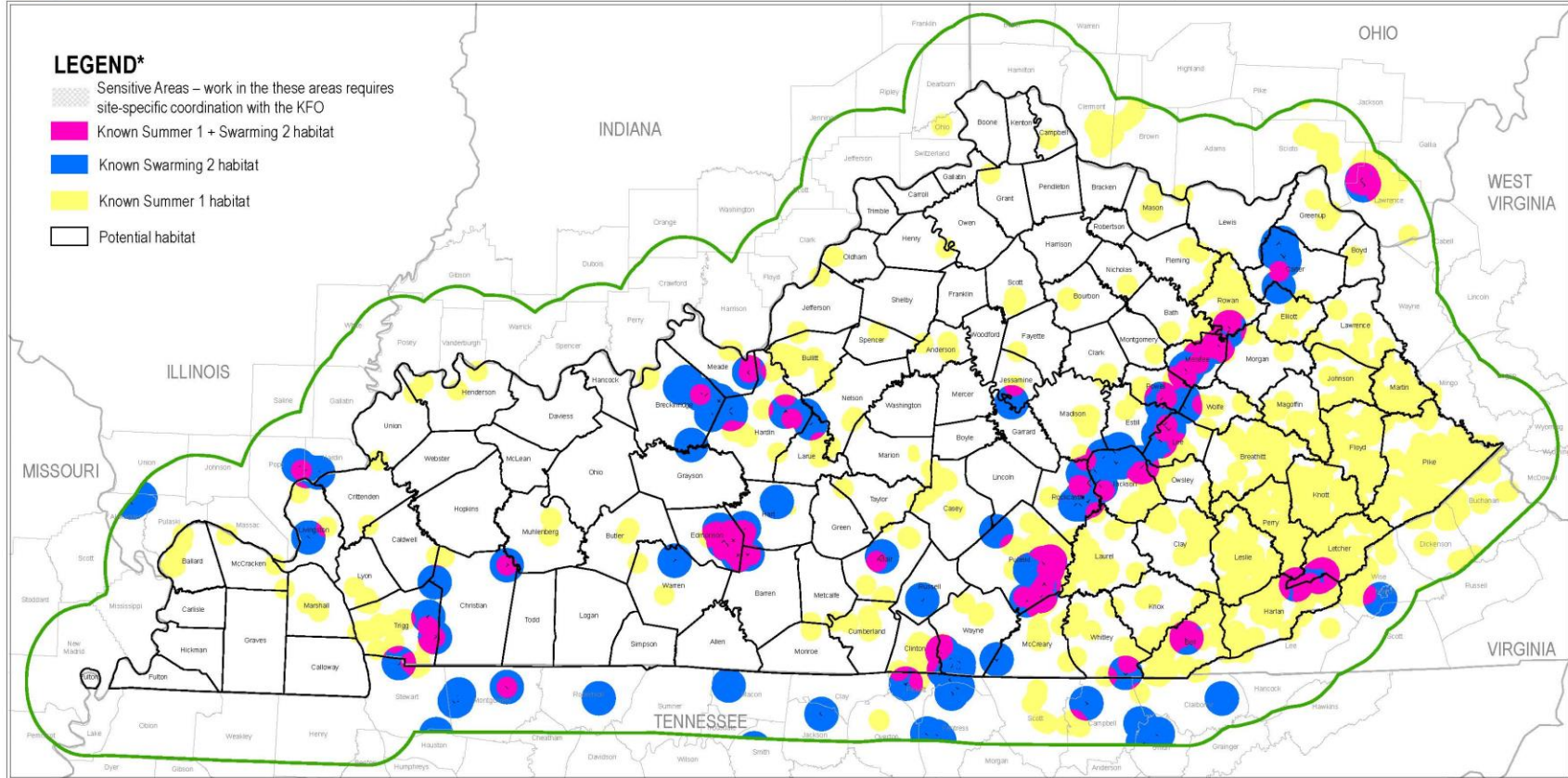


## APPENDIX D: Map of Northern Long-eared Bat Habitat

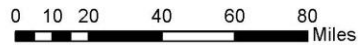


U.S. Fish & Wildlife Service

### Known northern long-eared bat habitat in Kentucky and within 20 miles (January 2016)



NOTE: This map is based on species occurrence information and is subject to change as new data become available. Please contact our office at 502/695-0468 to ensure you are working with the most current version.  
 \*For an explanation of terms, please see the Conservation Strategy for Forest-Dwelling Bats in the Commonwealth of Kentucky.



The USFWS makes no warranty for use of this map and cannot be held liable for actions or decisions based on map content. This map was produced as an appendix to the Conservation Strategy for Forest-Dwelling Bats in the Commonwealth of Kentucky and should only be used in the context of this Strategy.



## ***APPENDIX E: Example Impacts with IBCF Contribution Worksheet***

These examples are intended to provide insight and clarity on the evaluation of habitat types, timing and the calculation of compensatory mitigation ratios (found in Appendix B) for projects where the proposed mitigation is a voluntary contribution to the Imperiled Bat Conservation Fund (IBCF). These examples are not intended to cover every possible scenario, and project proponents are encouraged to contact the KFO at any time to discuss the specifics of their project.

### *Example A*

Project Proponent A has a project that will result in the loss of 1 acre of suitable habitat. This acre occurs within Indiana bat Summer 1 habitat and northern long-eared Summer 1 habitat. The impact to forest-dwelling bat habitat would be 1 acre of impact to Summer 1 habitat. Habitat removal would occur between November 15<sup>th</sup> and March 31<sup>st</sup>.

	<b>Impact (acres)</b>	<b>Mitigation Ratio</b>	<b>Current Rate / Acre</b>	<b>IBCF Contribution Amount</b>
<b>Forest-Dwelling Bat Habitat Type</b>				
Summer 1	1	1.5	\$3,250	\$4,875
<b>TOTAL</b>				<b>\$4,875</b>

### *Example B*

Project Proponent B has a project that will result in the loss of 5 acres of suitable habitat. This project occurs within Indiana bat Swarming 1 habitat and northern long-eared bat Swarming 2 habitat. Because Swarming 1 is the higher-value multiplier, the impact to forest-dwelling bat habitat would be 5 acres of impact to Swarming 1 habitat. Habitat removal would occur between April 1<sup>st</sup> and August 15<sup>th</sup>.

	<b>Impact (acres)</b>	<b>Mitigation Ratio</b>	<b>Current Rate / Acre</b>	<b>IBCF Contribution Amount</b>
<b>Forest-Dwelling Bat Habitat Type</b>				
Swarming 1	5	2.0	\$3,250	\$32,500
<b>TOTAL</b>				<b>\$32,500</b>



*Example C*

Project proponent C has a project that will result in the loss of 20 acres of suitable habitat. All 20 acres occur within northern long-eared bat summer 1 habitat. Ten of these acres are also within Indiana bat Swarming 1 habitat. To calculate the IBCF mitigation amount, the impacts to forest-dwelling bats would include 10 acres of Summer 1 habitat loss and 10 acres of overlapping Summer 1 + Swarming 1 habitat. Habitat removal would occur between August 16<sup>th</sup> and October 14<sup>th</sup>.

	<b>Impact (acres)</b>	<b>Mitigation Ratio</b>	<b>Current Rate / Acre</b>	<b>IBCF Contribution Amount</b>
<b>Forest-Dwelling Bat Habitat Type</b>				
Summer 1	10	1.5	\$3,250	\$48,765
Summer 1 + Swarming 1	10	3.5	\$3,250	\$113,750
<b>TOTAL</b>				<b>\$162,515</b>

*Example D*

Project proponent D has a project that will result in the loss of 20 acres of suitable habitat. All 20 acres occur within northern long-eared bat Summer 1 habitat. Ten of these acres are also within Indiana bat Swarming 1 habitat. The project is consistent with the final 4(d) rule and programmatic biological opinion for northern long-eared bat and the project proponent has elected to use the Service’s January 5, 2016, programmatic biological opinion to ensure ESA compliance for the northern long-eared bat, so no mitigation for this species is necessary. To calculate the IBCF mitigation amount, the impacts to Indiana bats would include 10 acres of potential habitat loss and 10 acres of Swarming 1 habitat. Habitat removal would occur between August 16<sup>th</sup> and October 14<sup>th</sup>.

	<b>Impact (acres)</b>	<b>Mitigation Ratio</b>	<b>Current Rate / Acre</b>	<b>IBCF Contribution Amount</b>
<b>Indiana Bat Habitat Type</b>				
Swarming 1	10	2.5	\$3,250	\$81,250
Potential	10	1.0	\$3,250	\$32,500
<b>TOTAL</b>				<b>\$113,750</b>

*Example E*

Project Proponent E has a project that will result in the loss of 10 acres of suitable habitat. This project occurs within Indiana bat Swarming 1 habitat and northern long-eared bat Swarming 2 habitat. So the impact to forest-dwelling bat habitat would be 10 acres of impact to Swarming 1 habitat. Five acres of habitat removal would occur between April 1<sup>st</sup> and August 15<sup>th</sup>, and five acres would occur between August 16<sup>th</sup> and October 14<sup>th</sup>.

	<b>Impact (acres)</b>	<b>Mitigation Ratio</b>	<b>Current Rate / Acre</b>	<b>IBCF Contribution Amount</b>
<b>Forest-Dwelling Bat Habitat Type</b>				
Swarming 1 (April 1 – Aug 15)	5	2.0	\$3,250	\$32,500
Swarming 1 (Aug 16 – Oct 14)	5	2.5	\$3,250	\$40,625
<b>TOTAL</b>				<b>\$73,125</b>