



May 1, 2024

U.S Fish and Wildlife Service
Midwest Region Headquarters
5600 American Blvd. West Suite 990
Bloomington, MN 55437-1458

Re: **U.S. Fish and Wildlife Service Draft Tools and Guidance Documents for the Northern Long-eared and Tricolored Bats.** Submitted via email: bat_tools@fws.gov

To whom it may concern,

The Marcellus Shale Coalition (MSC), a regional trade association with a national membership, appreciates the opportunity to submit comments regarding the above-referenced Draft Tools and Guidance Documents for the Northern Long-eared and Tricolored Bats. The MSC was formed in 2008 and is currently comprised of approximately 140 producing, midstream, transmission 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, processing, transmission and utilization in the country, as well as the supply chain companies, contractors, professional service firms, and trade unions who work with the industry.

The MSC appreciates the opportunity to offer the following comments on the above-referenced U.S. Fish and Wildlife Service (USFWS or Service) Draft Tools and Guidance Documents for Northern Long-eared and Tricolored bats. The member companies of the MSC are proud of their cumulative efforts to date to strengthen domestic energy production, meet the needs of America's citizens and businesses, enhance our nation's national security, all the while doing so in a manner that protects and enhances our shared environment and threatened and endangered species. Our members are also extremely proud of their commitment and performance in producing the natural gas supplies our nation depends upon in the most environmentally conscious manner found anywhere in the world. Please find below comments on the draft tools and guidance.

Comments

1. The Service has yet to publish the "Standing Analysis" underlying the new northern long-eared and tri-colored bat DKey. Because that "Standing Analysis" will contain the analytical basis for automated consultation outcomes, USFWS should allow comment on this document when it becomes available. (Footnote 12 on page 6 of the draft Consultation Guidance Document.) The draft guidance states that the DKey will "kick out" certain actions in certain states, without identifying those states, heightening concerns. (Appendix 1 of the Draft Consultation Guidance Document).

2. The MSC is troubled that the draft guidance has made the determination that most oil and gas industry development is ineligible for predetermined “no effect” or “not likely to adversely affect” outcomes under the northern long-eared and tri-colored bat DKey (Pages 10-13 draft Consultation Guidance Document). Industry earth disturbance in Pennsylvania is typically authorized under a general permit process with minimal adverse effects to the environment, and, in some cases, there is very little earth disturbance as most of the activity occurs deep underground. As the Service has been conserving the northern long-eared bat (and tricolored bat) under its current practices, the MSC strongly recommends that USFWS refrain from expanding the exclusions from automated “no effect” or “not likely to adversely affect” consultation outcomes beyond those already provided under USFWS’s current guidance. Needlessly tying-up natural gas projects harms our nation’s economic development and national security without a conservation benefit.

3. The draft guidance establishes recommended “Minimum Conservation Measures” for projects likely to adversely affect the northern long-eared and tri-colored bats or projects for which incidental take is reasonably certain to occur. The Service indicates that, in many cases, it does not anticipate needing to specify additional reasonable and prudent measures in formal consultation beyond these Minimum Conservation Measures.

These Minimum Conservation Measures also recommend that project proponents must offset any remaining impacts of incidental take that are not avoided, including by restoring/protecting known habitat, locating/protecting new colonies, and white-nose syndrome treatments, if available. The MSC questions if the USFWS has the authority to require this mitigation under Section 7 of the Endangered Species Act and recommends this be deleted.

Conclusion

The MSC and its member companies take great pride in their efforts to conduct operations safely, efficiently, and in a manner that protects our shared environment and sensitive species, while at the same time meeting the critical energy needs of our citizens. We welcome the opportunity to discuss in greater detail any questions or need for clarification that you may have regarding our comments.

Sincerely,



David E. Callahan
President

