



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



**MAR 16 2015**

The Honorable Ron Bishop  
House of Representatives  
Washington, D.C. 20515

Dear Representative Bishop:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

Our intent in proposing the 4(d) rule was to tailor ESA requirements to cover only those categories of activities where regulation is necessary and advisable for conservation of the bat. In the proposed rule we specifically asked for comments regarding "Whether it may be appropriate to except incidental take as a result of other categories of activities beyond those covered in this proposed rule and, if so, under what conditions and with what conservation measures." We are receiving many comments in response and expect to receive many more.

In your letter, you indicated frustration that the proposed 4(d) rule would subject most communities within the bat's range "to full ESA constraints, with no exceptions from the 'take' prohibition." This may be a misunderstanding about the proposed 4(d) rule. In areas of the bat's range where white-nose syndrome is present, the proposed 4(d) rule exempts take incidental to certain activities from the ESA's take prohibition, including forest management practices, maintenance and limited expansion of transportation rights-of-way, removal of trees and brush to maintain prairie habitat, removal of hazardous trees, removal of the bat from human dwellings, and limited tree removal projects, provided these activities protect known maternity roosts and hibernacula. In areas of the country not affected by white-nose syndrome, the proposed 4(d) rule exempts *all* incidental take of the bat from ESA prohibitions (as long as the incidental take is the result of otherwise lawful activity).

Due to the complexity of this issue, the significant input received from the public to date, and the limited time until the final listing rule must be published, if we decide to list the northern long-eared bat as a threatened species I intend to concurrently put in place an interim final 4(d) rule. We would then open another public comment period, engage with stakeholders and the public, gather and analyze new data, and discuss whether exemptions for additional categories of activities should be included in a final 4(d) rule. If we choose this option, the interim 4(d) rule would closely resemble our current proposed 4(d) rule and provide relief from the more comprehensive take prohibitions that would otherwise fall in place while we complete the final 4(d) rule.

Your letter requested: 1) a copy of our responses to the March 3, 2015, letter on the northern long-eared bat sent by members of the United States Senate, and 2) data, population models, and other analytical tools used in our proposed listing determination and proposed 4(d) rule. A copy of our responses to the March 3 letter is enclosed. The majority of the information you requested and our scientific analysis are provided in our proposal to list the northern long-eared bat as endangered and our proposed 4(d) rule. These proposals were published in the Federal Register on October 2, 2013, and January 15, 2015, respectively. The proposal to list and the proposed 4(d) rule are available at [www.fws.gov/midwest/nleeb](http://www.fws.gov/midwest/nleeb). Once we have completed our deliberative process and made a final listing determination, we would be happy to meet with you or your staff to brief or provide additional information you may request.

We have and are using a deliberative process to obtain, evaluate and assess data on the status of the northern long-eared bat, the spread and impact of white-nose syndrome and the impact of other sources of mortality. Our process includes close communication and cooperation with state natural resource agencies, Native American tribes, other federal agencies, and research institutions. We are working diligently to provide a thorough listing analysis for the decision that must publish by the statutory deadline of April 2 and to have a 4(d) rule in place if the bat is listed as threatened. If we list the bat as threatened, as stated previously, I intend to simultaneously publish an interim final 4(d) rule and open a new 90 day public comment period on the 4(d) rule.

We use all of our authorities under the ESA to reduce conflicts between listed species conservation and economic activities. We have a strong record of working with others to use the flexibility available under the ESA to minimize or avoid economic impacts while meeting our responsibility to conserve listed species and will continue do so if the northern long-eared bat is listed.

If you would like additional information or have any other questions, please feel free to contact me personally or have your staff contact the Service's Midwest Regional Director, Mr. Tom Melius, at (612) 713-5301.

Sincerely,



DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240

MAR 16 2015



The Honorable Tom McClintock  
House of Representatives  
Washington, D.C. 20515

Dear Representative McClintock:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

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# United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

MAR 16 2015



The Honorable Steve Womack  
House of Representatives  
Washington, D.C. 20515

Dear Representative Womack:

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# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240

MAR 16 2015



The Honorable French Hill  
House of Representatives  
Washington, D.C. 20515

Dear Representative Hill:

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DIRECTOR

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# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240

MAR 16 2015



The Honorable John Fleming  
House of Representatives  
Washington, D.C. 20515

Dear Representative Fleming:

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Sincerely,



DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Dan Benishek  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Benishek:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

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# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Paul Gosar  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Gosar:

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The Honorable Alex Mooney  
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In your letter, you indicated frustration that the proposed 4(d) rule would subject most communities within the bat's range "to full ESA constraints, with no exceptions from the 'take' prohibition." This may be a misunderstanding about the proposed 4(d) rule. In areas of the bat's range where white-nose syndrome is present, the proposed 4(d) rule exempts take incidental to certain activities from the ESA's take prohibition, including forest management practices, maintenance and limited expansion of transportation rights-of-way, removal of trees and brush to maintain prairie habitat, removal of hazardous trees, removal of the bat from human dwellings, and limited tree removal projects, provided these activities protect known maternity roosts and hibernacula. In areas of the country not affected by white-nose syndrome, the proposed 4(d) rule exempts *all* incidental take of the bat from ESA prohibitions (as long as the incidental take is the result of otherwise lawful activity).

Due to the complexity of this issue, the significant input received from the public to date, and the limited time until the final listing rule must be published, if we decide to list the northern long-eared bat as a threatened species I intend to concurrently put in place an interim final 4(d) rule. We would then open another public comment period, engage with stakeholders and the public, gather and analyze new data, and discuss whether exemptions for additional categories of activities should be included in a final 4(d) rule. If we choose this option, the interim 4(d) rule would closely resemble our current proposed 4(d) rule and provide relief from the more comprehensive take prohibitions that would otherwise fall in place while we complete the final 4(d) rule.

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We use all of our authorities under the ESA to reduce conflicts between listed species conservation and economic activities. We have a strong record of working with others to use the flexibility available under the ESA to minimize or avoid economic impacts while meeting our responsibility to conserve listed species and will continue do so if the northern long-eared bat is listed.

If you would like additional information or have any other questions, please feel free to contact me personally or have your staff contact the Service's Midwest Regional Director, Mr. Tom Melius, at (612) 713-5301.

Sincerely,



DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Bruce Westerman  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Westerman:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

Our intent in proposing the 4(d) rule was to tailor ESA requirements to cover only those categories of activities where regulation is necessary and advisable for conservation of the bat. In the proposed rule we specifically asked for comments regarding "Whether it may be appropriate to except incidental take as a result of other categories of activities beyond those covered in this proposed rule and, if so, under what conditions and with what conservation measures." We are receiving many comments in response and expect to receive many more.

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If you would like additional information or have any other questions, please feel free to contact me personally or have your staff contact the Service's Midwest Regional Director, Mr. Tom Melius, at (612) 713-5301.

Sincerely,



DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Louie Gohmert  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Gohmert:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

Our intent in proposing the 4(d) rule was to tailor ESA requirements to cover only those categories of activities where regulation is necessary and advisable for conservation of the bat. In the proposed rule we specifically asked for comments regarding "Whether it may be appropriate to except incidental take as a result of other categories of activities beyond those covered in this proposed rule and, if so, under what conditions and with what conservation measures." We are receiving many comments in response and expect to receive many more.

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If you would like additional information or have any other questions, please feel free to contact me personally or have your staff contact the Service's Midwest Regional Director, Mr. Tom Melius, at (612) 713-5301.

Sincerely,



DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Cynthia Lummis  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Lummis:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

Our intent in proposing the 4(d) rule was to tailor ESA requirements to cover only those categories of activities where regulation is necessary and advisable for conservation of the bat. In the proposed rule we specifically asked for comments regarding "Whether it may be appropriate to except incidental take as a result of other categories of activities beyond those covered in this proposed rule and, if so, under what conditions and with what conservation measures." We are receiving many comments in response and expect to receive many more.

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If you would like additional information or have any other questions, please feel free to contact me personally or have your staff contact the Service's Midwest Regional Director, Mr. Tom Melius, at (612) 713-5301.

Sincerely,



DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Bradley Byrne  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Byrne:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

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If you would like additional information or have any other questions, please feel free to contact me personally or have your staff contact the Service's Midwest Regional Director, Mr. Tom Melius, at (612) 713-5301.

Sincerely,



DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Doug Lamborn  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Lamborn:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

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If you would like additional information or have any other questions, please feel free to contact me personally or have your staff contact the Service's Midwest Regional Director, Mr. Tom Melius, at (612) 713-5301.

Sincerely,

A handwritten signature in blue ink that reads "Tom Melius". The signature is written in a cursive style with a large initial "T" and "M".

DIRECTOR

Enclosure



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



The Honorable Jeff Duncan  
House of Representatives  
Washington, D.C. 20515

MAR 16 2015

Dear Representative Duncan:

Thank you for your letter of March 4, 2015, also co-signed by several of your colleagues, regarding the U.S. Fish and Wildlife Service's (Service) proposed 4(d) rule, which will accompany our final listing decision if we decide to list the northern long-eared bat as "threatened" under the Endangered Species Act (ESA).

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Sincerely,



DIRECTOR

Enclosure