

March 11, 2015

Public Comments Processing  
Attn: FWS–R5–ES–2011–0024  
Division of Policy and Directives Management  
U.S. Fish and Wildlife Service  
MS: BPHC  
5275 Leesburg Pike  
Falls Church, VA 22041-3803

RE: Docket No. FWS–R5–ES–2011–0024 4500030113 – Listing the Northern Long-Eared Bat with a Rule Under Section 4(d) of the Act

To Whom It May Concern:

Rare Element Resources (RER) appreciates the opportunity to comment on your proposal to create a species-specific rule under Section 4(d) of the Endangered Species Act (ESA) should the Northern Long-Eared Bat (NLEB) be listed as threatened. We understand that the proposed rule outlines the prohibitions, and exceptions to those prohibitions, considered in the conservation of the NLEB.

In response to the October 2, 2013 proposal to list the NLEB as an endangered species, we submitted a letter of comment dated December 16, 2014 and expressed strong objections to listing the bat as either threatened or endangered. Instead, RER urged the Fish and Wildlife Service to focus its efforts and resources on finding ways to effectively treat and prevent further spread of white nose syndrome (WNS) in areas where it is known to occur. According to the data, this disease is not known to occur in the Bear Lodge Mountains or the Black Hills. The Fish and Wildlife Service has stated WNS is the primary factor for the listing decision. We reiterate that the proposed listing is not the correct approach to controlling the incidence of WNS in the NLEB.

A species-specific rule under section 4(d) of the ESA *must* be included in the designation to protect vital management, as well as important economic activities should the Fish and Wildlife Service decide that a threatened designation is warranted. Inside the areas affected by WNS, the proposed 4(d) rule would exempt activities such as forest management, prairie management, and hazardous tree removal. The proposed 4(d) rule needs to be expanded to exempt those activities associated with “mineral and energy exploration and development,” when carried out in accordance with the conservation measures identified. Therefore, the definitions of “forest management” and “prairie management” should be expanded to include “mineral and energy exploration and development”.

The following quote from Fish and Wildlife Service’s Midwest Regional Director, Tom Melius (<http://www.fws.gov/midwest/news/765.html>) is noteworthy: “We need to do what we can to make sure we are putting commonsense protections in place that support vulnerable bat species but are targeted to minimize impact on human activities. Through this proposed 4(d) rule, we are seeking public comment on how we can use the flexibilities inherent in the ESA to protect the bat and economic activity.”

Our recommendation to include mineral and energy exploration and development along with forest and prairie management in the 4(d) rule correlates with the Regional Director's statement and will help to protect significant economic activities, while ensuring that appropriate conservation measures are being implemented on behalf of the NLEB.

Sincerely,



Paul D. Bergstrom, CEP  
Director  
Environmental, Health and Safety

cc:      Congressman Cynthia Lummis (WY)  
          Senator Mike Enzi (WY)  
          Senator John Barrasso (WY)  
          Congressman Kristi Noem (SD)  
          Senator John Thune (SD)  
          Senator Mike Rounds (SD)  
          Senator Lisa Murkowski (AK)  
          Congressman Rob Bishop (UT-01)  
          Scott Talbott, Director, Wyoming Game and Fish Department  
          Crook County Commissioners  
          Weston County Commissioners