

December 2, 2013

Public Comments Processing
Attn: FWS-R5-ES-2011-0024
U.S. Fish and Wildlife Service
Division of Policy Directives and Management
4401 N. Fairfax Drive, MS 2042-PDM
Arlington, VA 22203

Re: Request for Extension of Comment Period and Preliminary Comments on 12-Month Finding on Petition to list the Northern Long-Eared Bat and the Eastern Small-Footed Bat as Endangered or Threatened Species and Proposed Rule Docket No. FWS-R5-ES-2011-0024

Dear Sir or Madam:

The Hardwood Federation respectfully requests a 60 day extension of the public comment period for the above referenced rulemaking. In conjunction with this request, please accept our preliminary comments on the proposed rule to list the northern long-eared (NLE) bat as endangered throughout its range.

The Hardwood Federation is the industry's united voice in Washington, D.C., representing 26 hardwood focused associations and hundreds of businesses. The Federation focuses on the key Federal economic issues that impact U.S. hardwood companies, employees and communities. The U.S. hardwood industry produces approximately \$200 billion in products annually and employs nearly 900,000 men and women in good paying jobs. The industry meets a payroll of approximately \$50 billion annually and is among the top 10 manufacturing sector employers in 47 states.

The Fish and Wildlife Service's proposed listing and subsequent regulatory activities will have significant impacts on Hardwood Federation members and important forest management activities throughout the Northern Long Eared Bat's expansive 39 state range.

The current public comment period ending on December 2, 2013 is insufficient to allow for meaningful public participation due to the extraordinary circumstances of the federal government funding lapse and resulting shutdown from October 1, 2013 to October 16, 2013. One day into the shutdown, FWS published notice in the Federal Register on this proposed rule-78 Fed. Reg. 61046 (Oct. 2, 2013). Although the notice remained available during the shutdown, the Hardwood Federation staff and its members could not access critical websites and information needed to respond, including FWS's website, the official website dedicated to

information about WNS (www.whitenosesyndrome.org), FWS's NLE bat species profile, the petition for listing, and many other necessary resources.

Recognizing the need to provide the public with a full opportunity for input, other agencies have wisely chosen to extend public comment periods on a number of actions following the shutdown.¹ Although FWS has not issued any comment period extensions, it did extend the application deadline for the North American Wetlands Conservation Act grant.² Given the particularly complex nature of FWS's proposed rule, it is in the public interest and in the interest of FWS to extend the comment period to ensure that the administrative record underlying FWS's decision is complete. Accordingly, we respectfully request that FWS extend the public comment period for at least 60 days or until no earlier than January 13, 2014. Despite the limited timeframe for research and review, the Hardwood Federation would like to offer the following preliminary comments regarding the proposed rule to list the Northern Long Eared bat as endangered throughout its range.

1. The Hardwood Federation is concerned about the precedent set for listing an endangered species when listing will have marginal benefits to the species. FWS proposes to list the NLE bat based predominantly on the threat posed by WNS, which has killed more than 5.7 million bats in eastern North America.³ The disease has spread rapidly throughout the East and is expected to continue spreading across the NLE bat's entire range. An additional 25 bat species in the U.S. are also at risk from WNS and could face similar population decreases in the near future.⁴ While the Endangered Species Act (ESA) permits listing based on disease, its stated goal of protecting and recovering species will not be served in this case. FWS, itself, admits that the significant effects of WNS would still be present even if all habitat-related stressors were eliminated. FWS also states that current regulatory mechanisms are not designed to protect the species against its biggest threat. Accordingly, the Hardwood Federation cautions against promulgating further regulations that cannot and will not address WNS and the ultimate survival of the NLE bat or other at-risk species.
2. The Hardwood Federation supports governmental and non-governmental efforts specifically designed to combat WNS, and believes these already-established plans are in the best position to positively impact all bats at risk from the disease. For example, the National Plan for Assisting States, Federal Agencies, and Tribes in Managing White-

¹ National Park Service, Press Release: *Public Comment Period Extended on Draft Florida Bay Seagrass Habitat Restoration Management Plan* (Oct. 18, 2013); Army Corps of Engineers, Press Release: *Corps extends comment period for Central Everglades Planning Project*, (Oct. 17, 2013).

² U.S. Fish and Wildlife Service, *Division of Bird Habitat Conservation Extension Announcement*. Available online: <http://www.fws.gov/birdhabitat/Grants/NAWCA/Small/index.shtm>

³ <http://whitenosesyndrome.org/about-white-nose-syndrome>

⁴ U.S. Fish and Wildlife Service, *A National Plan for Assisting States, Federal Agencies, and Tribes in Managing White-Nose Syndrome in Bats* (May 2011).

Nose Syndrome in Bats details a coordinated approach to communications, research, and recovery. Many of the benefits FWS identifies for ESA listing—including public awareness and recovery planning—are already being served by this and other existing efforts. Because WNS is the greatest threat to all bats in North America, resources should be focused on strengthening efforts related to WNS research and recovery.

3. The Hardwood Federation is concerned about the widespread effects on forest management activities that could result from this listing and related regulatory activities. FWS proposes to list the NLE bat as endangered throughout its entire 39-state range. With such an expansive range, important forest management activities could be prevented or delayed, causing devastating impacts to forest health and rural economies across the country. These concerns are compounded by the lack of science linking forest management activities to the spread of WNS or any other negative effects on NLE bat populations. The Hardwood Federation is unaware of any evidence that specific cover types or forest structure is a limiting factor to survival of the NLE bat, or that restricting forest management activities will aid the species in recovery.

By extending the comment period, the Hardwood Federation will have time to continue reviewing relevant research and science related to habitat needs and WNS in order to provide FWS with more detailed comments and recommendations. Thank you for your consideration and we look forward to working with you on this critical issue.

Sincerely,

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