



**Independent Petroleum Association of America**  
1201 15<sup>th</sup> Street NW, Suite 300  
Washington, DC 20005  
Phone: 202.857.4722  
www.ipaa.org

**API**  
1220 L Street NW  
Washington DC, 20005  
Phone: 202.682.8000  
www.api.org

August 29, 2014

Peter Fasbender  
Field Supervisor  
U.S. Fish and Wildlife Service  
Green Bay Ecological Services Office  
2661 Scott Tower Drive  
New Franken, Wisconsin 54229

Re: Docket No. FWS-R5-ES-2011-0024

Dear Mr. Fasbender:

The following comments are provided on behalf of the American Petroleum Institute and the Independent Petroleum Association of America in response to the re-opened comment period for the proposed rule 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 (78 Fed. Reg. 60146).

American Petroleum Institute (API)

The American Petroleum Institute (API) is the only national trade association that represents all aspects of America's oil and natural gas industry. Our more than 600 corporate members, from the largest major oil company to the smallest of independents, come from all segments of the industry. They are producers, refiners, suppliers, pipeline operators and marine transporters, as well as service and supply companies that support all segments of the industry. API's mission is to influence public policy in support of a strong, viable U.S. oil and natural gas industry.

Independent Petroleum Association of America (IPAA)

The Independent Petroleum Association of America (IPAA) is the national association representing the thousands of independent crude oil and natural gas explorer/producers in the United States. It also operates in close cooperation with 44 unaffiliated independent national, state and regional associations, which together represent thousands of royalty owners and the

companies which provide services and supplies to the domestic industry. IPAA is dedicated to ensuring a strong, viable domestic oil and natural gas industry, recognizing that an adequate and secure supply of energy is essential to the national economy.

First, with this letter, API and IPAA incorporate by reference any and all comments that our two organizations have previously submitted to this docket with reference to the proposed listing.

Second, we continue to believe that the information offered in support of the proposal to list the Northern Long-Eared Bat does not meet the standard of the best scientific and commercial data available and the species therefore does not merit listing as threatened or endangered at this time.

Third, the disease known as White Nose Syndrome (“WNS”) has been identified as the primary reason for reductions in the Northern Long Eared Bat population, yet the USFWS is only proposing an endangered listing, which has as its primary tool habitat protection. Habitat protection will not appreciably halt or reverse the species’ decline or WNS. The USFWS recognized just such a scenario in its recently proposed rule implementing changes to the regulations for designating critical habitat. 79 Fed. Reg. 27066 (May 12, 2014). In discussing revisions to 424.12, USFWS explains that there may be situations where a species is threatened primarily by disease but the habitat that it relies upon continues to exist unaltered throughout an appropriate distribution that, absent the impact of the disease, would support conservation of the species. 76 Fed. Reg. at 27071. This is exactly the situation faced by the Northern Long-Eared Bat. API and IPAA reiterate our request to USFWS that consistent with this recognition that habitat protection afforded under a listing will not address the threats to the Northern Long Eared Bat, the agency devote its attention to development of a research strategy for WNS coordinated with interested non-governmental and conservation organizations, educational institutions and private citizens which would pursue feasible methods of managing the disease and the animals in the regions that have the best potential for success.

Finally, although listing the Northern Long-Eared Bat is not warranted, any such listing decision should avoid placing restrictions on human activities that bear no causal relation or offer no demonstrable influence on the incidence, spread or effects of WNS on the species. In particular, no evidence has been put forward that oil and gas exploration and production operations jeopardize the future existence of this species. The development of oil and gas wells, pipelines and processing facilities in the region where the Northern Long-Eared Bat is found has not resulted in changes to habitat, hibernation, migration, roosting or reproduction of the species that cause adverse effects at a population level. Technological advances in directional and horizontal drilling technology minimize the impacts on forests in which the species is found, and reduce habitat disturbance and fragmentation.

In fact, some evidence suggests that openings in the canopy such as those provided by access roads promote beneficial foraging by the species.<sup>1</sup>

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<sup>1</sup> Barbour and Davis (1969).

Therefore, any final rule incorporating a decision to list the species should not restrict activities—such as oil and gas operations-- that neither have a causal connection to WNS nor otherwise threaten the species, and/or such activities should receive the protection of a 4(d) rule.

Thank you for considering this letter in your review of comments to the proposed action. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink that reads "Richard Ranger". The signature is written in a cursive style with a large initial "R".

Richard Ranger  
Senior Policy Advisor  
American Petroleum Institute

A handwritten signature in black ink that reads "Dan Naatz". The signature is written in a cursive style with a large initial "D".

Dan Naatz  
Vice President of Federal Resources  
and Political Affairs  
Independent Petroleum Association of America