



ET-16157
United States Department of the Interior

FISH AND WILDLIFE SERVICE



West Virginia Field Office
694 Beverly Pike
Elkins, West Virginia 26241

September 24, 2008

FD 35131

Ms. Jo Carole Dawkins
Dawkins Environmental Consulting
Post Office Box 845
Springville, Alabama 35146

Re: Vaughan Railroad Company, Monongalia County, West Virginia.

Dear Ms. Dawkins:

This is in response to the correspondence from the Surface Transportation Board dated August 22, 2008, requesting threatened and endangered species information in regard to the proposal by the Vaughan Railroad Company to construct a proposed 5.6 mile rail line to provide service to the Wolfpen Knob Development Company coal mine located in Monongalia County, West Virginia. These comments are provided pursuant to the Endangered Species Act (87 Stat. 884, as amended; 16 U. S. C. 1531 *et seq.*) (ESA).

The proposed project site may provide summer foraging and roosting habitat as well as winter habitat for the endangered Indiana bat (*Myotis sodalis*). The Indiana bat may use the proposed project site for foraging and roosting between April 1 and November 14.

Indiana bat foraging habitat is generally defined as riparian, bottomland, or upland forest, as well as old fields or pastures with scattered trees. Roosting and maternity habitat consists primarily of live or dead hardwood tree species which have exfoliating bark that provides space for bats to roost between the bark and the bole of the tree. Tree cavities, crevices, splits, or hollow portions of tree boles and limbs also provide roost sites. Forest habitat containing trees ≥ 5 inches in diameter at breast height (dbh) is suitable summer roosting habitat for the Indiana bat.

Seventeen (17) acres is presently used as the threshold between projects which will have discountable effects on Indiana bats, and projects which may affect Indiana bats. The letter does not state the amount of forested habitat to be removed in association with the proposed project. However, if more than 17 acres of Indiana bat summer roosting habitat will be disturbed as a result of the proposed project, we recommend that mist nest surveys should be conducted in the area to be impacted by the proposed rail line.

Mist net surveys are conducted to determine if the summer foraging and roosting habitat within the proposed project site is occupied by the Indiana bat. The mist net survey protocol from the Revised Draft Indiana Bat Recovery Plan must be followed. In order to avoid insufficient or inadequate surveys, a survey plan for the proposed project site should be submitted to us for concurrence prior to conducting the work. The survey must be conducted between May 15 and August 15 by a qualified mammalogist with experience in identifying Indiana bats and who holds a collection permit from the West Virginia Division of Natural Resources (WVDNR). The WVDNR's contact is Mr. Roger Anderson at the Elkins Operation Center, Ward Road, Elkins, West Virginia, 26241; phone (304)637-0245. A list of qualified mammalogists is enclosed.

The survey results should be provided to our office for review and concurrence. If no endangered bats are captured and we agree with the findings, timber harvest can proceed at any time of year. If endangered bats are captured the Service should be notified the next business day, and we will work with the applicant to minimize the possibility of impacts on Indiana bats.

Mist net surveys are considered current for five years; the summer they are done and the following four summer seasons. Mist net surveys should be repeated for any timber removal occurring after this five year period.

Mine Portals

Indiana bats hibernate in caves between November 15 and March 31, use caves for fall-swarming activity, and male Indiana bats have been known to use caves as summer roosts. The Indiana bat will also roost in abandoned mines. Therefore, the following step-wise process should be followed in order to determine if any abandoned mine portals in the project area are used by endangered bats.

The proposed project site should be surveyed for mine portals. Any portals found should be evaluated for characteristics that may indicate potential use by bats. Based on current information, we believe the enclosed Draft Protocol for Assessing Abandoned Mines/Cave for Bat Use will help in the initial portal evaluation. These criteria are a working draft and as we obtain new information on bats and mines in West Virginia, we may revise the assessment methods.

If portals on the proposed project site appear to have suitable bat habitat characteristics, a Phase I Portal Survey (enclosed) should be prepared for each portal by a qualified mammalogist. Based on current information about bats and old mine portals in West Virginia, we believe that

the Phase I Portal Survey will provide the necessary information to determine if bat surveys should be conducted at the mine portals. This survey form is a working draft and as new information on bats and mines in West Virginia is obtained, we may make revisions to these assessment methods. The data obtained from the survey should be provided to us for review.

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If the portals may provide suitable habitat for endangered bats, mist net surveys or trapping should be conducted for both endangered bat species. Please contact us for mist net survey or trapping protocols. The results of any surveys should be provided to our office for review and concurrence prior to proceeding with portal closure. If endangered bats are found using these portals, further consultation will be necessary.

If you have any questions regarding these comments, please contact Ms. Christy Johnson-Hughes at (304)636-6586 or at the letterhead address.

Sincerely,



for Thomas R. Chapman
Field Supervisor

Enclosures: Mist Net Survey Protocol
Mine Portal Protocol

MIST NETTING GUIDELINES

RATIONALE A typical mist net survey is an attempt to determine presence or probable absence of the species; it does not provide sufficient data to determine population size or structure. Following these guidelines will standardize procedures for mist netting. It will help maximize the potential for capture of Indiana bats at a minimum acceptable level of effort. Although the capture of bats confirms their presence, failure to catch bats does not absolutely confirm their absence. Netting effort as extensive as outlined below usually is sufficient to capture Indiana bats. However, there have been instances in which additional effort was necessary to detect the presence of the species.

NETTING SEASON

May 15-August 15

These dates define acceptable limits for documenting the presence of summer populations of Indiana bats, especially maternity colonies. Several captures, including adult females and young of the year, indicate that a nursery colony is active in the area. Outside these dates, even when Indiana bats are caught, data should be carefully interpreted: If only a single bat is captured, it may be a transient or migratory individual.

EQUIPMENT

Mist nets - Use the finest, lowest visibility mesh commercially available:

1. In the past, this was 1 ply, 40 denier monofilament-denoted 40/1
2. Currently, monofilament is not available and the finest on the market is 2 ply, 50 denier nylon-denoted 50/2
3. Mesh of approximately $1 \frac{1}{2}$ (1 $\frac{1}{4}$ - 1 $\frac{3}{4}$) in (~38 mm)

Hardware - No specific hardware is required. There are many suitable systems of ropes and/or poles to hold the nets. See **NET PLACEMENT** below for minimum net heights, habitats, and other netting requirements that affect the choice of hardware. The system of Gardner, et al. (1989) has met the test of time.

NET PLACEMENT

Potential travel corridors such as streams or logging trails typically are the most effective places to net. Place the nets approximately perpendicular across the corridor. Nets should fill the corridor from side to side and from stream (or ground) level up to the overhanging canopy. A typical set is seven meters high consisting of three or more nets "stacked" on top one another and up to 20 in wide. (Different width nets may be purchased and used as the situation dictates.) Occasionally it may be desirable to net where there is no good corridor. Take caution to get the nets up into the canopy. The typical equipment described in the section above may be inadequate for these situations, requiring innovation on the part of the observers.

*RECOMMENDED SITE SPACING:

Stream corridors - one net site per km of stream (3281').

Non-corridor land tracts - two net sites per square km of forested habitat (247.1 acres).

MINIMUM LEVEL OF EFFORT

Netting at each site should consist of:

- ** At least four net nights (unless Indiana bats are caught sooner) (one net set up for one night= one net night)
- A minimum of two net locations at each site [at least 30 m apart (100'), especially in linear habitat such as a stream corridor]
- A minimum of two nights of netting

Sample Period: begin at sunset; net for at least 5 hr

Each net should be checked approximately every 20 min

No disturbance near the nets, other than to check nets and remove bats

WEATHER CONDITIONS

Severe weather adversely affects capture of bats. If Indiana bats are caught during weather extremes, it is probably because they are at the site and active despite inclement weather. On the other hand, if bats are not caught, it may be that there are bats at the site but they may be inactive due to the weather. Negative results combined with any of the following weather conditions throughout all or most of a sampling period are likely to require additional netting:

Precipitation

Temperatures below 0°C (50°)

Strong winds (Use good judgment: moving nets are more likely to be detected by bats.)

MOONLIGHT

There is some evidence that small myotis bats avoid brightly lit areas, perhaps as predator avoidance. It is typically best to set nets under the canopy where they are out of the moon light, particularly when the moon is half-full or greater.

*Refers to number of sites; multiple sites do not have to be exactly this distance apart but in large project areas, sites should be spaced to provide coverage of the project area. One site consists of two nets placed at least 30 m apart.

** This reflects the incorporation of one additional net night from the Draft Recovery Plan

Phase I Mine Portal Survey Data Sheet

Mine name (either the one currently proposed for remining or the abandoned mine proposed for AML work):

Location (including county):

Observers:

Latitude, Longitude

Date:

Time:

Outside temperature:

Opening

Shaft or adit

Opening size

(height x width)

of known entrances

(describe each)

Evidence of toxic gases*

Internal dimensions

Slope (up or down)

Stability of entrance

Direction of airflow

Amount of airflow

(slight, moderate, heavy)

Air warmer or cooler than
outside temperature

Inside Mine*

Evidence of collapse

Ceiling condition

Humidity

Amount of standing water

Evidence of past flooding

Greatest length visible through
any entrance

Rooms or chambers, size

Any visible side passages

Are portals suspected or known
to be connected

Guano sign or moth wings

Additional comments: