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U.S. House of Representatives  
Committee on Natural Resources  
Washington, DC 20515

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March 30, 2015

The Honorable Dan Ashe  
Director  
U.S. Fish and Wildlife Service  
1849 C Street NW  
Washington, DC 20240

Dear Director Ashe:

On March 4, 2015, I sent you a letter requesting certain information regarding the proposed listing of the Northern Long-Eared Bat ("NLEB"). Specifically, the letter requested that you provide, among other things, "data, population models, or any other analytical tools used which demonstrate (1) the effect of the disease on the NLEB population; (2) the effect of all the other factors on the NLEB population; and (3) the effect of the controls imposed by the 4(d) rule on the NLEB population."<sup>1</sup> In response, you provided a link to the proposed rule for the NLEB and stated that it contained the "majority of the information you requested and our scientific analysis." This is clearly not responsive to the original request.

In order for the Committee to engage fully in its duty to oversee the activities of the Fish and Wildlife Service ("Service"), the full cooperation of the Service is required. The March 4, 2015 letter specifically requested *all* information that the Service used in developing the proposed rule. To contrast, you acknowledge in your response that the proposed rule *only contains a majority of the information we requested*, suggesting that there is in fact information used in the development of the proposed rule that you do not intend to provide.

This letter reiterates the March 4, 2015 request for any and all data, population models, or any other analytical tool which demonstrate (1) the effect of the disease on the NLEB population; (2) the effect of all the other factors on the NLEB population; and (3) the effect of the controls imposed by the 4(d) rule on the NLEB population omitted in your

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<sup>1</sup> Letter to Director Ashe (March 4, 2015), *available at* [http://naturalresources.house.gov/uploadedfiles/letter\\_to\\_ashe\\_nleb\\_03.04.05.pdf](http://naturalresources.house.gov/uploadedfiles/letter_to_ashe_nleb_03.04.05.pdf)

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original response. In addition, I would also reiterate the request for any information of any kind considered or used in the development of the proposed rule that was not included in the proposed rule. Please respond to these requests by delivering the requested information to the House Natural Resources Committee, 1324 Longworth Office Building, by close of business on Monday, April 13, 2015.

Enclosed with this letter are instructions and definitions for responding to this request. Please have your staff contact Michael Freeman, Counsel, House Natural Resources Committee at 202-225-2761 with any questions.

Your prompt and full cooperation is expected in this important matter.

Sincerely,



Rob Bishop  
Chairman  
Committee on Natural Resources

## Responding to Committee Document Requests

### A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

### B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employers, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.
9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

12. Production materials should be delivered to:

Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington D.C. 20515