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

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DEMOCRATIC STAFF DIRECTOR

March 4, 2015

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

Dear Director Ashe:

We write to express our concerns regarding the potential listing of the northern long-eared bat (NLEB), as well as the proposed 4(d) rule that would accompany such a listing. We also write to ensure that any efforts to protect the NLEB do not cause undue harm to, or impose unnecessary regulatory burdens on economic development, forestry, wind power generation, energy development, agriculture, and conservation projects – activities that, according to the preamble to the proposed rule “have not independently caused significant, population-level effects on the [NLEB]” and that are unrelated to the primary threat to this species – white nose syndrome (WNS).

We understand that the U.S. Fish and Wildlife Service (Service) Midwest Region Director recently stated that “white-nose syndrome is having a devastating effect on the nation’s bat populations, which play a vital role in sustaining a healthy environment and save billions of dollars by controlling forest and agricultural pests.”¹ He also stated that, the Service should continue “seeking public comment on how we can use the flexibilities inherent in the ESA to protect the bat and economic activity.”²

Unfortunately, the proposed 4(d) rule does not adequately “protect... economic activit[ies]” that impose no significant risk to the NLEB, and it misdirects the Service’s efforts toward those activities and away from addressing WNS. Moreover, the proposed 4(d) rule provides a major distinction between areas affected by WNS and areas unaffected by WNS, but it appears to be a distinction without any real effect. The proposed 4(d) provisions barring “take” of the NLEB by vitally important human activity would apply throughout the vast majority of the NLEB’s range,

¹ U.S. Fish and Wildlife Service Proposes Special Rule to Focus Protections for Northern Long-Eared Bat, available at: <http://www.fws.gov/midwest/news/765.html>

² *Id.*

The Honorable Dan Ashe

March 4, 2015

Page 2

because most of the NLEB range is within 150 miles of a county where either WNS or the fungus *Pseudogymnoascus destructans* has been detected. As a result, under the proposed 4(d) rule, most communities within the NLEB range will be subject to full ESA constraints, with no exceptions from the “take” prohibition. Significant adverse economic impacts would be caused by the proposed 4(d) rule throughout the entire territory of at least 21 states³ and major portions of the NLEB range in 12 additional states.⁴

We request that you provide the following:

1. A copy of your responses to the March 3, 2015 letter on the NLEB sent by members of the United States Senate.
2. 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.

Because listing is to be based solely on data, we expect the information and analyses provided by the Service in response to the second request will include the data, assumptions, and a description of any data adjustment, refinement or other manipulation, as well as all pertinent algorithms or statistical tools considered in making any listing determination and the proposed 4(d) rule.

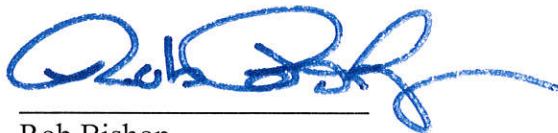
Due to the time-sensitive nature of this potential listing, we request your complete and thorough responses by March 13, 2015. Further, in responding to the second request, please follow the attached instructions. Please direct all responses to Michael Freeman, Counsel, the House Committee on Natural Resource

In sum, we believe the proposed 4(d) rule provides inadequate protections to both long-standing and new activities that are vital to communities throughout the NLEB’s extensive range. We believe the impacts of these activities are “not expected to adversely affect conservation and recovery for the species,” just as the Service stated in the proposed rule’s preamble for the few activities on which it focused. These additional activities, along with the conservation measures contained in the proposed rule, should also be excepted from the burdensome “take” prohibition. We urge you to protect the NLEB from population loss associated with WNS, without unduly burdening impacted communities and citizens, by driving up costs for farmers, foresters, and families who ultimately will have to bear the burden of any unnecessarily onerous rules.

³ Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

⁴ Alabama, Arkansas, Georgia, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, North Carolina, Oklahoma, and South Carolina.

Sincerely,



Rob Bishop
Member of Congress



Cynthia Lummis
Member of Congress



Jeff Duncan
Member of Congress



Tom McClintock
Member of Congress



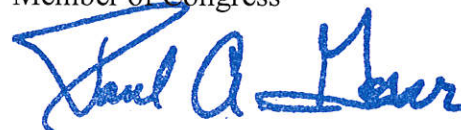
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Member of Congress



Doug Lamborn
Member of Congress



Louie Gohmert
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Paul Gosar
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Bruce Westerman
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French Hill
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Steve Womack
Member of Congress



Dan Benishek
Member of Congress

The Honorable Dan Ashe

March 4, 2015

Page 4

A handwritten signature in blue ink, appearing to read "Rick Crawford". The signature is stylized and cursive, with a horizontal line drawn underneath the name.

Rick Crawford

Member of Congress