



# Northern Long-eared Bats

## A Federally Threatened Species

Wende Mahaney

USFWS Ecological Services – Maine Field Office

March 14, 2016



# Northern Long-eared Bat

- Proposed Rule – October 2, 2013
- Proposed as an endangered species
- Critical habitat – not determinable
- Threats:
  - White-nose syndrome (WNS) is primary threat
  - Compounding threats may include:
    - Impacts to hibernacula
    - Disturbance to hibernating bats
    - Mortality from wind projects
    - Forest conversion/loss



# Northern Long-eared Bat

- Rule published - April 2, 2015
  - Final rule listing NLEB as **threatened** species
  - **Interim** 4(d) rule with take prohibitions
  - Critical Habitat still “prudent” but not “determinable”
- Both effective May 4, 2015
- Public comment period open on interim 4(d) rule until July 1, 2015

# Northern Long-eared Bat

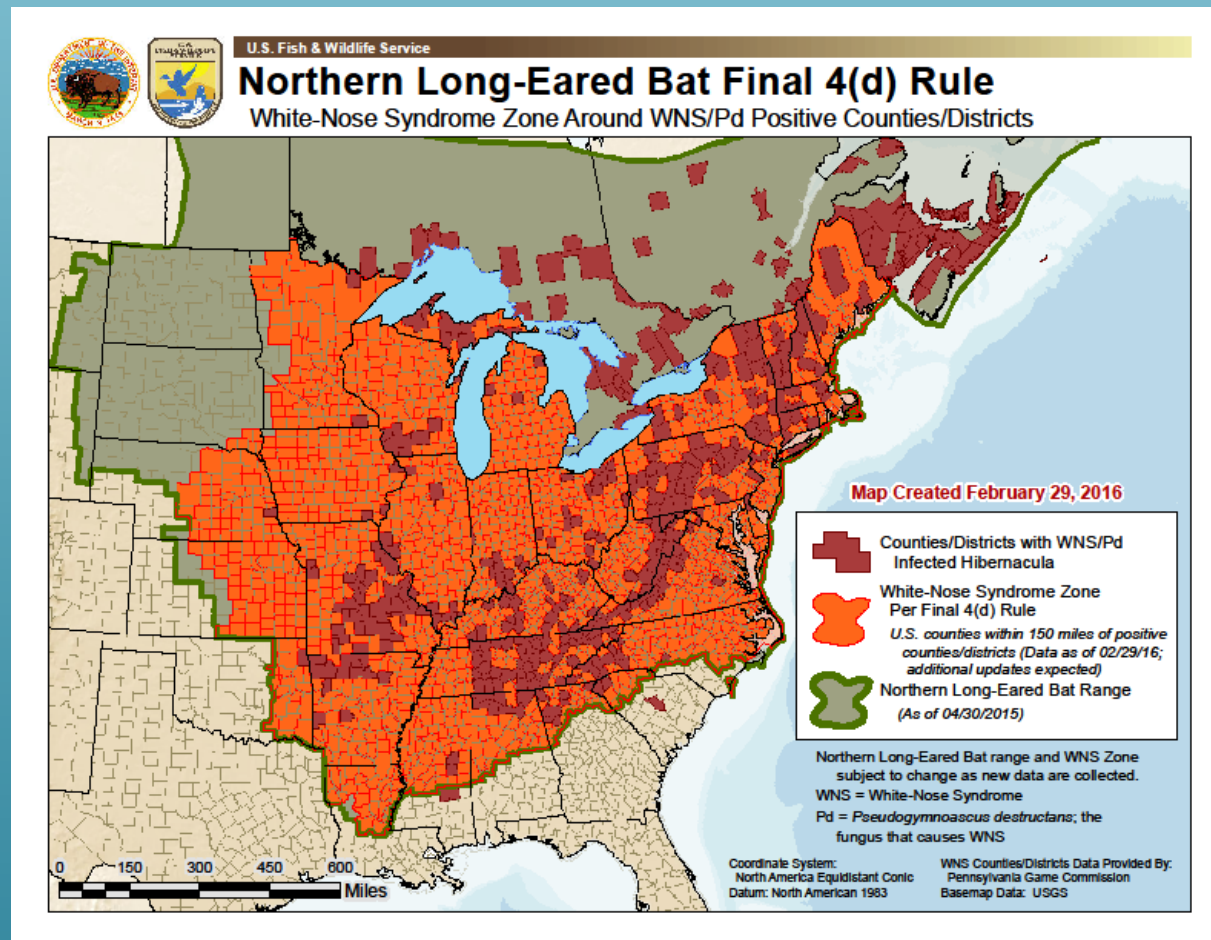
- After consideration of many public comments, the USFWS issued a **Final 4(d) rule**
  - published in Federal Register January 14, 2016
  - became effective February 16, 2016
  - no additional public comment periods

# What is a 4(d) Rule?

- Tailors otherwise blanket “take” prohibitions under the ESA
- Option only for **threatened** species
- Allows USFWS to issue regulations deemed “necessary and advisable to provide for the conservation of threatened species”
- Allows flexibility to focus take prohibitions on activities that are the greatest threat(s) to a threatened species

# What is in Final NLEB 4(d) Rule?

- Different prohibitions in WNS vs. non-WNS



# What is in Final NLEB 4(d) Rule?

- **Outside WNS Zone**
  - Prohibitions
    - no **purposeful take allowed** (without normal permitting processes) **EXCEPT**:
      - Removal from human structures (must comply with an applicable state regulations)
      - Defense of human life (e.g., testing for rabies)
    - purposeful take of NLEB related to research (e.g., capturing bats) **requires appropriate permits**
  - NOTE: there are no **“incidental take”** prohibitions
  - Similar to Interim Rule

# What is in Final NLEB 4(d) Rule?

- **Inside WNS Zone** (most of the species range)
  - Prohibitions
    - no purposeful take (without normal permitting) - **see EXCEPTIONS, same as previous slide outside WNS Zone**
    - **NOTE: there are no “incidental take” prohibitions except those specifically addressed in the final rule**
    - These exceptions where incidental take is still prohibited are:
      - if take occurs within a known hibernacula
      - If take results from tree removal activities **and**
        - » The activity occurs within 0.25 mile of a known, occupied hibernacula
        - » The activity cuts or destroys a known, occupied maternity roost tree or other trees within a 150 foot radius from the maternity roost tree during the pup season from June 1 through July 31.
  - **Different and “simplified” from the Interim Rule**



# Some Additional Thoughts

- Does not say that “take” is always likely with tree removal
- “Take” not addressed in Final 4(d) would need to be authorized through normal section 7/section 10 processes
- Does not remove the need for federal agencies to consult on **ALL** activities that “may affect” NLEB
- Can proactively do more than what is in 4(d) rule
  - Consider conservation measures that avoid or minimize take of bats (i.e., non-active season tree clearing)

# Activities that Involve Federal Agencies

- Federal agencies are required to “consult” with the USFWS to ensure that any action they authorize, fund, or carry out does not jeopardize the existence of a listed species
- This “consultation” requirement under section 7 of the ESA does not change when a 4(d) rule is implemented
- However, the final 4(d) rule for the NLEB includes an optional streamlined section 7 consultation process that federal agencies may use

# Activities that Involve Federal Agencies

- The optional streamlined section 7 consultation process:
  - Relies on an “intra-service” consultation that USFWS completed on our action of finalizing the 4(d) rule
  - USFWS produced a non-jeopardy Biological Opinion covering all activities that “may affect” NLEB but **will not cause prohibited take**
  - The findings of the Biological Opinion can be relied on by all federal agencies to meet their project-specific section 7 consultation obligations, provided the project does not result in prohibited take
  - USFWS has provided a streamlined consultation form that agencies can use to initiate consultation with the USFWS
  - Consultation is complete 30 days after submission of the form to the USFWS; no response is required from the USFWS
  - **Regular section 7 consultation may still be required for other listed species**

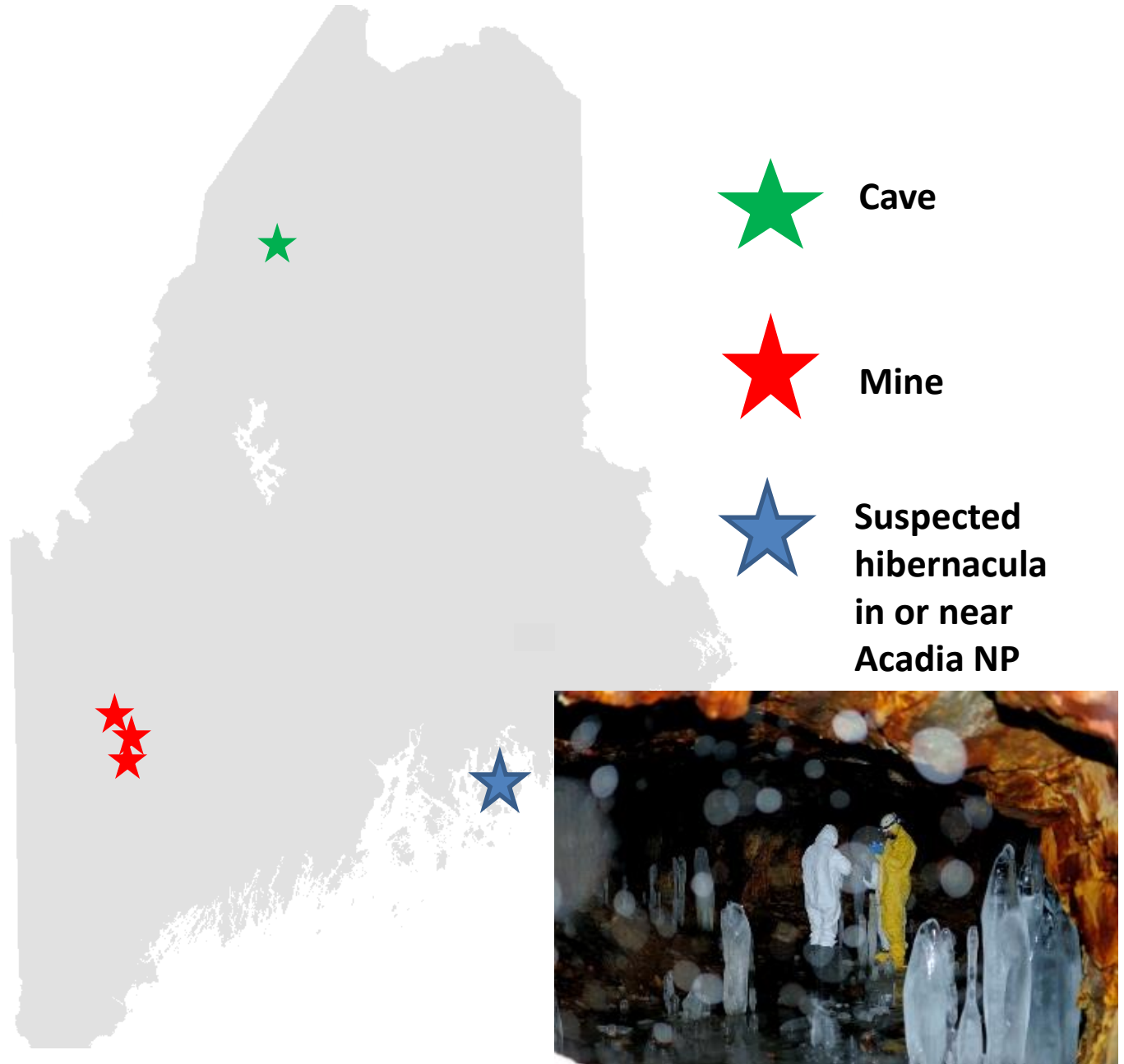
# Non-Federal Activities

- Non-federal activities only need to be concerned about the potential to cause prohibited take of NLEB according to the final 4(d) rule
  - Is your activity inside or outside the WNS zone?
  - Would your activity cause prohibited **purposeful take** of NLEB under the final 4(d) rule? If so, contact the appropriate USFWS Field Office to discuss ESA permitting needs.
  - Would your activity cause prohibited **incidental take** of NLEB under the final 4(d) rule? If so, contact the appropriate USFWS Field Office to discuss ESA permitting needs.

# How do you know if you might have NLEB hibernacula or roost trees on your property or project site?

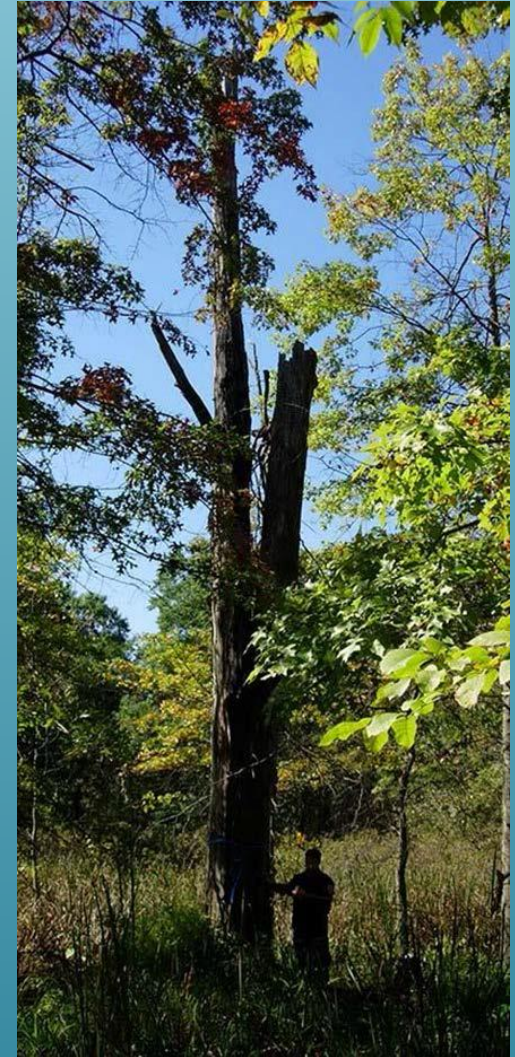
- The USFWS NLEB Web site points people to the appropriate agency to find this information. In many cases this is a state natural resource agency or natural heritage program.
- In Maine contact the USFWS Maine Field Office.
  - Information is NOT currently available on our Web site
  - Currently, we have no known roost trees in Maine (but periodically check with USFWS)
  - Currently, we know of three NLEB hibernacula (but periodically check with USFWS)
- **Surveys are never required (but are still encouraged)**

# Known Bat Hibernacula in Maine



# Northern Long-Eared Bat Conservation

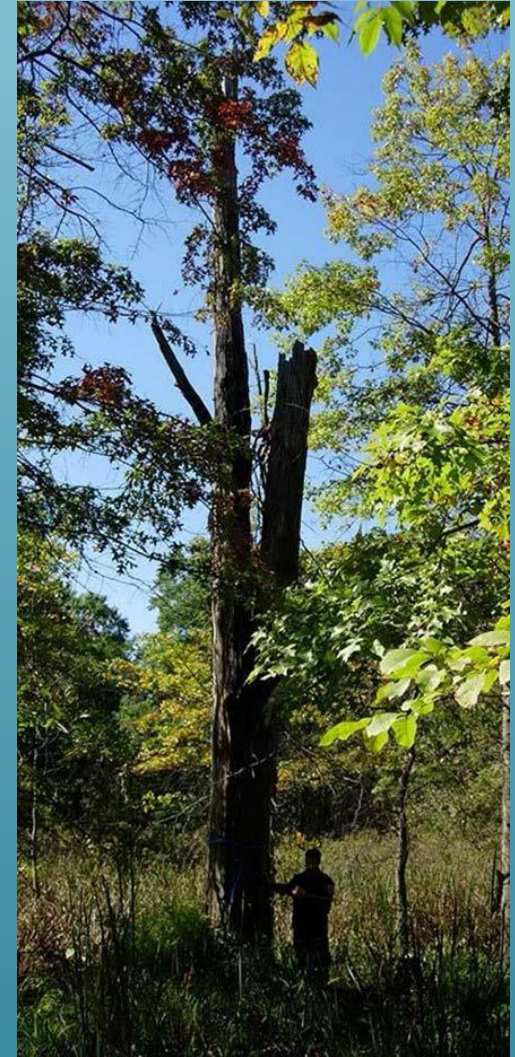
- Contribute to the ongoing effort to address white nose syndrome  
[www.whitenosesyndrome.org](http://www.whitenosesyndrome.org)
- Conduct surveys, particularly in areas where tree removal projects are planned
- Support or conduct research on aspects of the NLEB's life history that are not well understood in Maine and elsewhere in New England
  - Spring emergence radio tracking from hibernacula to summer habitat
  - Fall radio tracking





# Northern Long-Eared Bat Conservation

- Participate in ongoing or new bat monitoring efforts, like NABat
- Help protect known bat hibernacula from disturbance
- Join the Maine Bat Working Group  
(affiliated with the Maine Chapter of The Wildlife Society)
  - Help us identify and prioritize bat research and conservation needs in Maine





# Thank you!



More information can be found at:  
<http://midwest.fws.gov/nleb>