



## Conservation Issues Briefing

April 2012

---

This is the second briefing on conservation issues of interest to NCEL members. Thanks to a generous grant from the Wood Tiger Fund, NCEL is partnering with Ruth Musgrave, J.D., of Wildlife Policy Consulting Associates to develop a clearinghouse on conservation issues that impact states. The clearinghouse will cover issues pertaining to endangered species, fish and wildlife, public lands, land and water use, urban sprawl, and climate change.

*Each briefing covers a sampling of the many conservation issues that may be of interest. Please let us know what conservation issues are of importance in your state, and what kinds of resources or research you would find useful.*

Ruth Musgrave can be reached at [rmusgrave@comcast.net](mailto:rmusgrave@comcast.net), or 360-705-2178.

### **In this issue:**

Wind Energy Siting

Pollinators

Endangered Species

Climate Change Adaptation

Wildlife Issues



### **Wind Energy Siting**

**Final Wind Energy Guidelines Issued by USFWS** - The U.S. Fish and Wildlife Service issued its final [“Voluntary Land-Based Wind Energy Guidelines”](#) for siting and monitoring wind energy projects on land. The guidelines use a “tiered approach” for assessing potential adverse effects to species of concern and their habitats. The guidelines do not excuse compliance with the Endangered Species Act,

Migratory Bird Treaty Act, or Bald and Golden Eagle Protection Act, but rather provide guidance for working with the Service on siting, data collection and compliance.

**Great Lakes States Reach Agreement With Feds on Wind Power** - Five Great Lakes states have come to an agreement with the Obama Administration to streamline review of siting for wind turbines on the Great Lakes. Illinois, Michigan, Minnesota, New York and Pennsylvania signed the [Memorandum of Understanding](#) with ten federal agencies. The agreement is similar to one among the Eastern states and the federal government. Under the agreement, states and federal agencies would review wind project plans, and the U.S. Army Corps of Engineers would issue the permits. Offshore winds in the Great Lakes area are predicted to generate up to 700 gigawatts of electricity. Opponents argue that the projects will harm bird and fish, ruin views, and lower property values.

**States Adopt Wind Energy Siting Laws** - At least ten states have adopted wind energy project siting laws. California, Delaware, Illinois, Maine, New Hampshire, Ohio, South Dakota, Vermont, Wisconsin, and Wyoming have siting statutes or regulations with specific provisions regarding wind projects. Among the most common issues addressed in these laws are setback standards and maximum allowable noise levels. For an excellent 2011 analysis of the laws of these various states, see <http://www.cga.ct.gov/2011/rpt/2011-R-0023.htm>.

*Wind Energy Development Resources:*

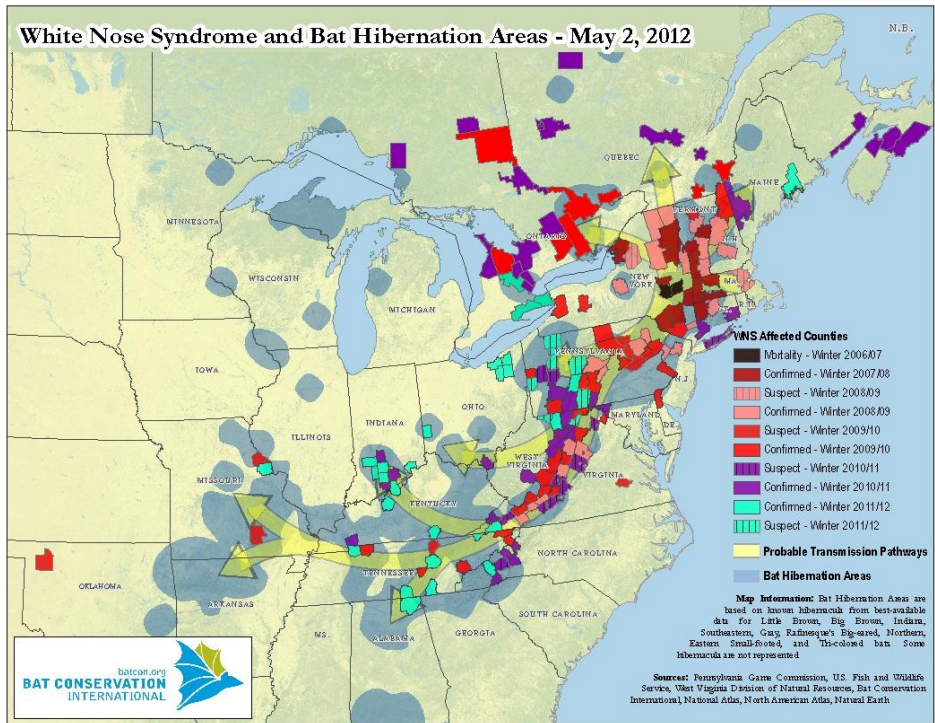
- National Wind Coordinating Collaborative -Wildlife Workgroup: <http://www.nationalwind.org/issues/wildlife.aspx>
- U.S. Fish and Wildlife Service Wind Energy Development Information: <http://www.fws.gov/windenergy/index.html>
- American Wind Energy Association: <http://www.awea.org/>

### **Pollinators**

**White-Nose Syndrome Causing Catastrophic Decline in Bats** - Bats are extremely important pest controllers and pollinators. A female bat can eat its weight in flying bugs every night. Bats provide an estimated \$22 billion in pest control annually. Since its discovery in New York in 2006, “white-nose syndrome” fungus has killed nearly 7 million bats in 20 states and 4 Canadian provinces, and northeastern populations are down by more than 90%. Nine species of bats are infected, including endangered species such as the Indiana bat, Virginia big-eared bat, and gray myotis. The U.S. Fish and Wildlife Service has requested a voluntary moratorium on activities in affected caves. From Bat Conservation International, May 2, 2012; USFW press release.

**Bats May get Help from Congress** - The “Wildlife Disease Emergency Act,” [S357](#), is being considered in the U.S. Senate. The Senate Subcommittee on Water and Wildlife held a hearing on the bill in April. It would allow the Interior Department to declare a wildlife disease emergency when

pathogens and parasites threaten wildlife species, and would create a committee for research and policy oversight, including coordination of state, federal and private entities.



**Studies Show Bees Dying From Common Pesticides** – Two new studies seem to show that bees are still suffering “colony collapse” – and that the reason may be tied to pesticide use. Certain common pesticides, called neonicotinoids, cause confusion in the brains of bees and may cause entire colonies of bees to disappear, leaving their colonies and never finding their way back. Honeybees are subject to colony collapse, though bumblebees are not. But bumblebee colonies exposed to the pesticide produced 85% less queens. Other studies show that pesticides make all bees more vulnerable to disease such as fungi. Neonicotinoid use has exploded in the U.S., and virtually all corn grown in the U.S. is now treated with the pesticide. Some scientists are calling for a ban on the use of neonicotinoids, while others dispute the validity of the studies. From *Science Journal*, March 29, 2012.

**CA Measure Introduced Urging Pollinator Protection** - A California bill, [AJR29](#), was introduced on February 24, 2012 that urges the U.S. Environmental Protection Agency and the California Department of Pesticide Regulation to act expeditiously to protect pollinators, especially honeybees, by prohibiting the use, marketing, or sale of neonicotinoid products deemed hazardous to pollinators.

*Resources on pollinators:*

- U.S. Fish and Wildlife Service National White-Nose Syndrome Communications Leader: [Ann.Froschauer@fws.gov](mailto:Ann.Froschauer@fws.gov); see also [www.fws.gov/whitenosesyndrome](http://www.fws.gov/whitenosesyndrome).

- U.S. Geological Survey National Wildlife Health Center, Madison WI: [http://www.nwhc.usgs.gov/disease\\_information/white-nose\\_syndrome/](http://www.nwhc.usgs.gov/disease_information/white-nose_syndrome/)
- Bat Conservation International: [www.batcon.org](http://www.batcon.org)
- U.S. Department of Agriculture: Agriculture Research Service – Bee Research: Dr. Jeffery Pettis [Jeffery.Pettis@ars.usda.gov](mailto:Jeffery.Pettis@ars.usda.gov)

### **Endangered Species**

**State Endangered Species Acts Still Vital** - State endangered species acts can be critical to the survival of local native species. Over 45 states currently have some form of endangered species act, but provisions and protections vary widely. A few states such as Utah, Wyoming and West Virginia simply rely on the protections of the federal ESA. For a thorough discussion and comparison of all states' endangered species acts, see the [chapter](#) in the American Bar Association 2010 handbook, "Endangered Species Act: Law, Policy, and Perspectives."

**CA Lists Mountain Yellow-Legged Frogs** - On February 2, 2012, the California Fish and Game Commission [listed two species](#) of native mountain yellow-legged frogs under the California Endangered Species Act. The Sierra Nevada yellow-legged frog (*Rana sierrae*) was listed as a threatened species, and the southern mountain yellow-legged frog (*R. muscosa*) as an endangered species. Collectively the two species are commonly known as the mountain yellow-legged frog.

**Water Release for Endangered Fish Properly Accounted For** - In the long-running Central Valley water dispute, the Ninth Circuit Court of Appeals ruled that the Interior Department did not abuse its discretion in how it accounted for water released from the Central Valley Project in June, 2004 for the protection of endangered fish. Plaintiffs had argued that the government should have applied the water release to the amount already required to be released under the Central Valley Improvement Act. [San Luis & Delta-Mendota Water Auth. v. U.S. Department of the Interior, No.09-17594 \(9<sup>th</sup> Cir., 2012\)](#).

**...But San Francisco Bay-Delta Longfin Smelt Listed as Candidate** – Listing of the San Francisco Bay-Delta longfin smelt population was found by the U.S. Fish and Wildlife Service to be warranted, but precluded by higher priority actions. Thus it was listed as a "candidate species" under the ESA. 77 FR 19756 (April 2, 2012).

**Draft Critical Habitat for N. Spotted Owl** - The U.S. Fish and Wildlife Service released a draft designation of critical habitat for the Northern spotted owl (77Fed.Reg.14062 (March 8, 2012)). The new draft decreases in large measure the protections put in place within West coast states by the Northwest Forest Plan, and permits far more logging than was permitted previously. Critical habitat would be reduced by almost 3.5 million acres. The American Bird Conservancy opposes the draft designation and urges contacting the Obama Administration in opposition. Contact Steve Holmer at ABC at [sholmer@abcbirds.org](mailto:sholmer@abcbirds.org); or [submit a formal comment](#).

## Climate Change Adaptation

**TN Passes ALEC Climate Change Denial Model Bill** – In April, Tennessee became the fourth state to pass an [ALEC-drafted model bill](#) that requires that public schools K-12 be allowed to teach both sides of scientific “theories” such as climate change. The bill became law without the Governor’s signature. The state of Louisiana passed a similar bill in 2009; South Dakota and Utah passed climate denial resolutions in 2010; and Texas adopted state education standards following the ALEC model. Oklahoma introduced a bill but let it die in April in the face of public outrage.

**Ocean Acidification is Causing Oyster Declines** – A study published in the journal *Limnology and Oceanography* has linked the collapse of oyster larvae in oyster beds in Oregon with acidification of the oceans caused by increased carbon dioxide in the Earth’s atmosphere. The study shows that acidification prevented oysters from developing shells. A similar acute problem has been reported in oyster hatcheries in the State of Washington. From OPB News, April 12, 2012.

**Climate Change Impacts Must be Considered for Yellowstone Grizzlies** - The Ninth Circuit Court of Appeals ruled that the U.S. Fish and Wildlife Service did not adequately account for impacts of climate change on grizzly bears in the Yellowstone ecosystem, when it delisted Yellowstone grizzlies in 2007. The court affirmed a Montana federal court that required the Service to relist the grizzly population, in part because climate change impacts to whitebark pine, the main food source of the grizzly, were not adequately considered. This case is unique in requiring relisting of a delisted species because of climate change considerations. [Greater Yellowstone Coalition v. Servheen, \(9<sup>th</sup> Cir., Nov. 22, 2011\).](#)

*Resources on Climate Change Adaptation:*

- National Fish, Wildlife and Plant Climate Adaptation Strategy: <http://www.wildlifeadaptationstrategy.gov/>
- NASA time lapse of temperature changes in last century: <http://www.youtube.com/watch?v=EoOrtvYTKeE&noredirect=1>
- NatureServe: [www.natureserve.org/prodServices/climatechange/ClimateChange.jsp](http://www.natureserve.org/prodServices/climatechange/ClimateChange.jsp)
- EcoAdapt: <http://ecoadapt.org/>
- National Phenology Network: [www.usanpn.org/](http://www.usanpn.org/)
- Wildlife Conservation Society: Climate Change and Wildlife: [www.wcs.org/conservation-challenges/climate-change/climate-change-and-wildlife.aspx](http://www.wcs.org/conservation-challenges/climate-change/climate-change-and-wildlife.aspx)
- National Wildlife Federation: [www.nwf.org/en/Global-Warming.aspx](http://www.nwf.org/en/Global-Warming.aspx)

## Wildlife Issues

**States Move to Ban Shark Fins** - A number of states are moving to ban the sale, trade or possession of shark fins because of the inhumane and wasteful method of harvesting the fins. Over 73 million sharks are killed every year, mostly for the shark fin soup trade. On February 8, 2012, New York legislators introduced a [bill](#) to ban the possession, sale or distribution of shark fins. The states of Hawaii,

California, Washington and Oregon have already enacted state-wide bans. An Illinois [bill](#) cleared both houses in May. But in Virginia a [shark fin ban bill](#) introduced in January was tabled in a House subcommittee. Maryland's SB465 died in the House of Delegates in April. And a [bill](#) introduced in Florida, was withdrawn in January.

**Federal Shark Conservation Act** - In January 2011 President Obama signed the [Shark Conservation Act](#), which requires all vessels to bring an entire shark to port with fins attached. The law was passed to close a loophole in the [Shark Finning Prohibition Act](#) of 2000, which still allowed vessels to land with shark fins on board.

**Canadian Shark Fin Trade Bill Introduced** - On April 18 Canadian MP and Green Party Leader Elizabeth May announced legislation to amend the Fish Inspection Act and Consumer Packaging and Labeling Act in the hopes of ending the shark fin trade in Canada. The bill would require shark products to include written documentation of the species and country of origin, as well as a label showing that mercury contamination may make the product unfit for consumption. Shark finning is prohibited by regulation in Canada and the U.S., but laws banning shark finning do not address the issue of the international shark fin trade. Thus fins are being sold to North America from countries with few or even no shark protection in place. The Canadian cities of Toronto, Mississauga, London, Oakville, Pickering, Newmarket and Brantford have all banned shark fin. From [www.wildaid.org](http://www.wildaid.org), April 19, 2012.

**Private Land Habitat Conservation Partnership** - On March 8, the U.S. Departments of Agriculture and Interior [announced](#) a new partnership, "Working Lands for Wildlife," with initial funding of \$33 million. The program will partner with private farmers, ranchers and forest owners to restore and protect wildlife habitat. Federal, state and local wildlife experts will identify at-risk species that will benefit from habitat restoration. Seven species have been initially identified for the program: Greater sage grouse; New England cottontail; bog turtle; golden-winged warbler; gopher tortoise; lesser prairie chicken; and Southwestern willow flycatcher.

**Biodiversity Loss impacts Ecosystems as Much as Climate Change, Pollution** - Ecosystem health is impacted by loss of diversity of life as much as by climate change, pollution and other environmental stresses. A study published in the journal *Nature* indicates that loss of biodiversity through plant and animal extinctions, may rank as one of the top five drivers of global change. Biodiversity loss could reduce plant growth and production as much as climate change, and there may be large impacts on food and clean water. See a synopsis of the study in [Science Daily](#).

**Earth Has Lost 30% of its Biodiversity in 40 Years** - A biennial [report](#) by the World Wildlife Fund, "Living Planet," has announced that the planet has lost a staggering 30 percent of its total biodiversity since 1970. Biodiversity loss is greatest in tropical ecosystems, which have suffered loss of up to 60% of their biodiversity. The report notes that humans are currently using the resources of 1.5 planets.