

BAT STUDIES AND PRACTICAL IMPLEMENTATIONS

ERIC HAM
AND
SARAH BOYDEN

Interim 4d Rule - 2015

- MaineDOT - Federal Action Agency
- Avoid and minimize potential effects to NLEB
- Following: **2015 RANGE-WIDE INDIANA BAT SUMMER SURVEY GUIDELINES - April 2015**



PHASE 1 – INITIAL PROJECT SCREENING

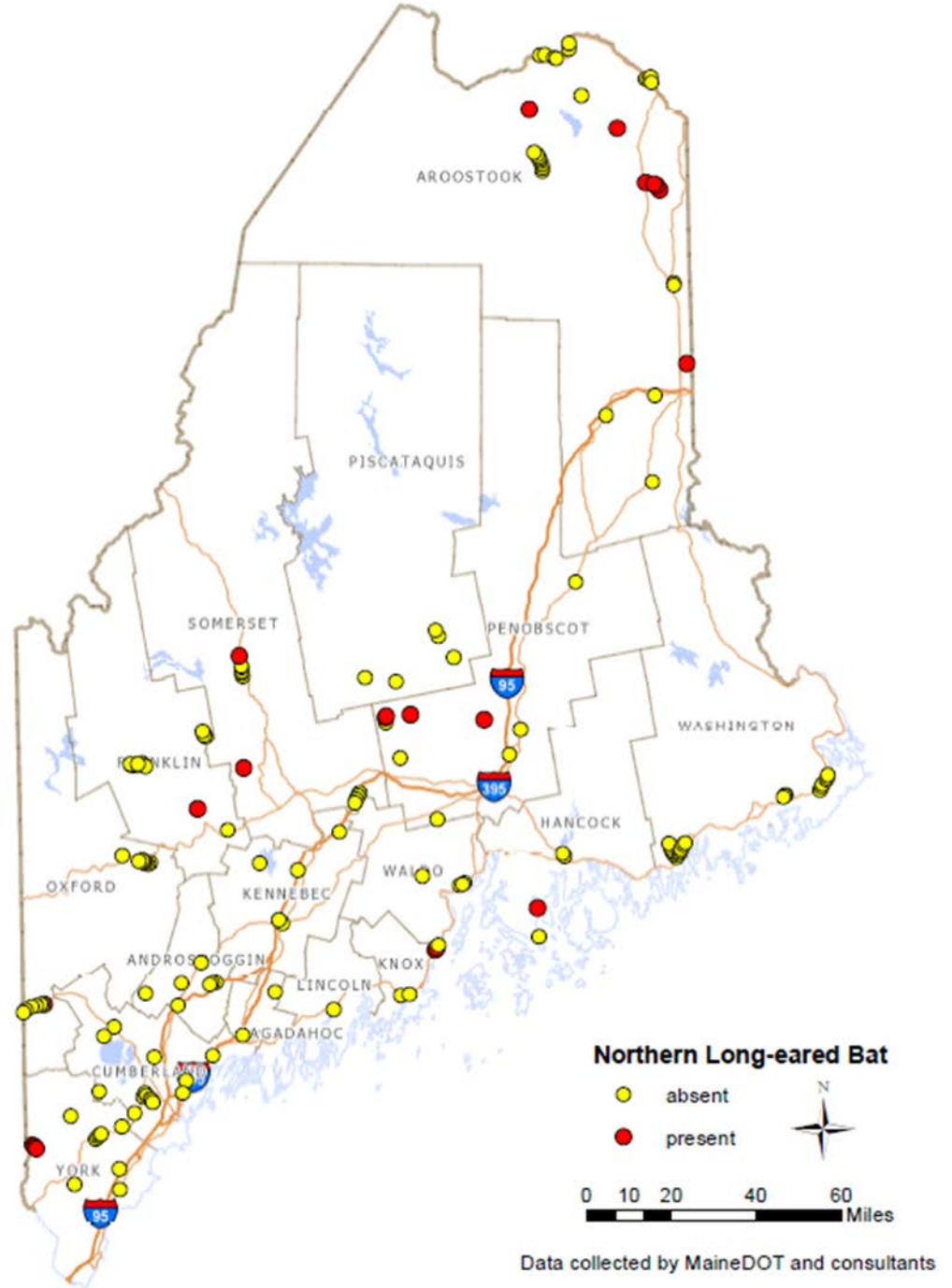
- MaineDOT screens potential projects with existing bat occurrence data
- We are not required to complete a typical Phase 1 habitat assessment
- If construction plans include clearing potential habitat during the active season, we complete presence/absence surveys (Phase 2)

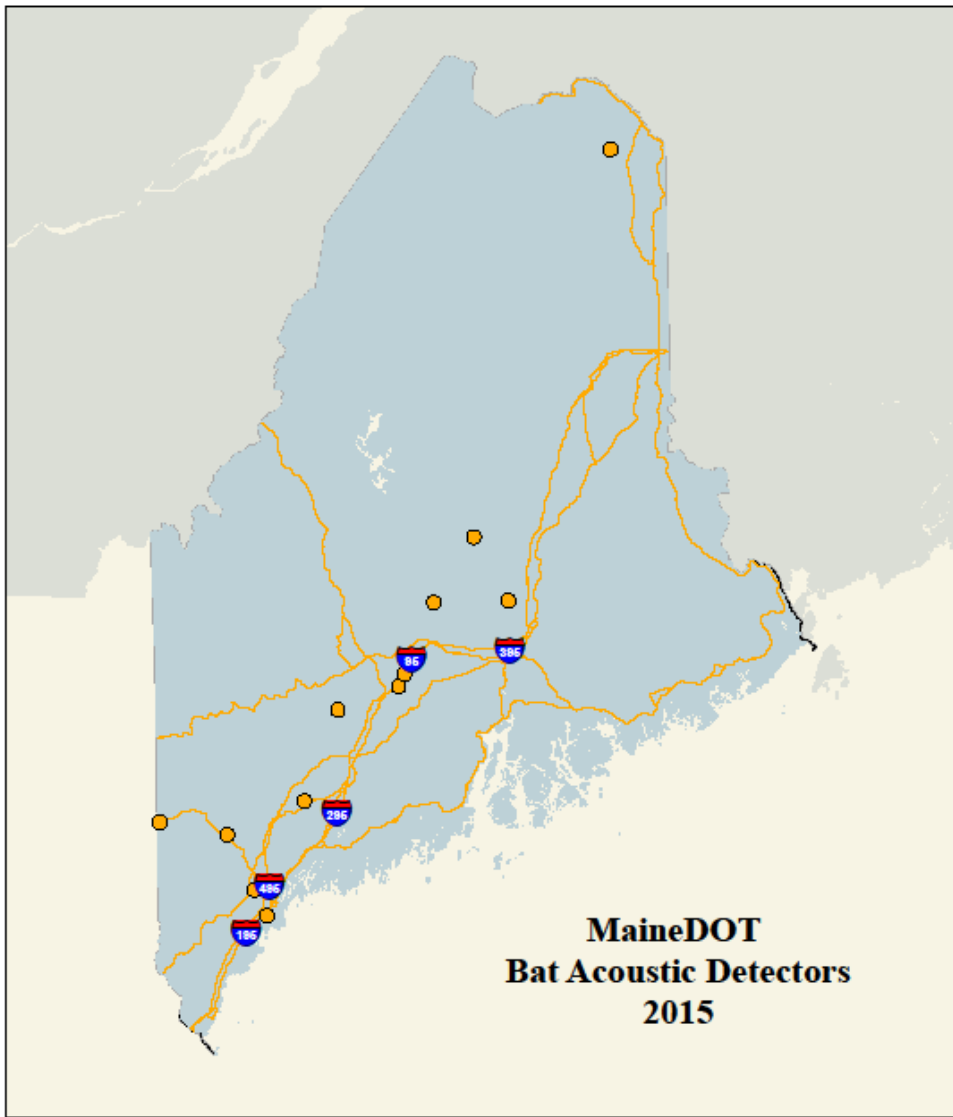
Interim 4d Rule - 2015

- MaineDOT conducted presence/absence surveys on projects with potential NLEB habitat
- ~ 180 detector locations throughout the state
 - ▣ potential habitat – any tree over 3” dbh
 - ▣ presence/absence surveys on any site with tree clearing



2015 Results





● *tri-colored bats*



0 12.5 25 50 75 100
Miles

Northern Long Eared Bats

- Proposed for listing on October 2, 2013
- Listed as Threatened May 4, 2015

Pre listing

- MaineDOT submitted 3 batch consultation request with ~40 projects.
- One batch with 4 projects received a LOC.
- What about the other 36 projects?
- What about the other ~100 projects we had for the rest of 2015?

Programmatic Biological Assessment

- Range-wide Consultation and Conservation Strategy under Section 7 of the Endangered Species Act *for the* Federal Highway Administration, Federal Railroad Administration and Federal Transit Administration
- Letter of concurrence issued April 17, 2015
- Covers projects that are not likely to adversely affect NLEB and IBAT

FHWA Programmatic Agreement

- Great idea but.....
- Stated that any clearing, bridge work, and some other activities in the active window potentially has adverse effects
- Clearing 1 tree in early September likely to adversely affect NLEB?

Surveys!

- Complete P/A surveys and consultation/restrictions not required when NLEB were not found
- Inspection of bridges for bat use

Workload

- Due to weather, survey's essentially started on June 1.
- Between June 1 and August 15, 1328 hours were spent on acoustic detections
- Equivalent to a little more than 3 people full time



DETECTION WORK COST

- ~166 total detector sites
 - ~100 MaineDOT projects= \$50,000
 - ~66 Consultant projects= \$132,000



MaineDOT

- Control of schedule + predictability = invaluable



Permit by Rule and Natural Resources Protection Act

- The FHWA programmatic process essentially mirrored that
 - 14 day timeframe on approvals
 - Did not require USFWS response
 - ESA consultation is usually not that efficient

MaineDOT/FHWAs Partnership

- Conducted (MaineDOT or agents) P/A surveys on ~180 sites in random locations on the transportation system in 2015
- Collected historical bat information and joining to help create a database for locations
- Sharing data for analysis (185 sites in the BO, data to IF+W for research, also sharing with UMO)

Partnership

- MaineDOT created a great relationship with USFWS that resulted in
 - Trusted survey results
 - Timely turnaround on request
 - Flexibility in use of the FHWA PBA

The Interim (4) D Rule

- First issued in 2015, the interim rule offered little value to MaineDOT
- Most of MaineDOT's projects have a federal nexus (FHWA funds or an ACOE permit needed)
 - ▣ The only difference in consultation is that USFWS did not have to write an incidental take statement

The Final 4 (d) Rule

- Issued on January 14, 2016
- Expanded the take exemptions as well as issued a BO and a streamlined consultation process
- Highly beneficial

Standardized Reporting Form!

- Posted online on March 1, 2016
- Better late than never

Conservation Measures

- How do you enforce voluntary conservation measures that cost time/money when the issued rule exempts that take?
 - Avoid pup rearing?
 - Continue to complete surveys?
 - Are timing restrictions valuable without surveys?

ESA Section 7 (a) 1

- Everyone must help conserve listed species.
 - No opt outs

MaineDOT/FHWA Partnership

- Working to create a program that best suits the need of the species.
 - ▣ Restricting the cutting of a couple of trees to the winter vs. helping with research
 - ▣ Research is needed to help decide when restrictions are needed

How MaineDOT Operates

- No federal nexus (federal funds or ACOE permit)
- Not within 1/4 mile of a hibernacula or 150 feet of a known occupied maternity tree
- Nothing needed

Known?

- Known maternity tree vs. potential
- Potential do not need to be treated as known for determining eligibility for the 4 (d) rule

Operation Continued...

- Federal Nexus
- Not within 1/4 mile of a hibernacula or 150 feet of a known occupied maternity tree
- Estimate clearing amount
- Submit standard reporting form to USFWS
 - MaineDOT will act for FHWA
 - MaineDOT will pass from to ACOE for submission
- Wait 30 days

Contracts

- All MaineDOT contracts will have a statement saying if a bat is found, it must be reported to the environmental office.
- We will in turn notify USFWS and collect the bat to ID and deliver where USFWS/IFW specify.

To be continued....

- State bat listings?
- Potential future fed listings?
- Upgrading NLEB to endangered?

Bad business decision to ignore bats