

Pennsylvania Fish & Boat Commission Report

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No Need to Protect Rare Species and Let's Slow Down Wild Trout Stream Listings!

Over the course of my 33 year, and counting, career with the Fish and Boat Commission, I have seen different attempts to compromise the authority of our agency and the protection of the species and waters that we are responsible to protect, conserve, and enhance.

Those efforts have ranged from agency merger studies (like the one going on right now) to challenges to our long-standing responsibilities for threatened and endangered species and wild trout streams.

Thousands of bills are introduced each session in Harrisburg, and most never end up going anywhere. But sometimes a proposal will emerge from the General Assembly that is so potentially damaging that it requires agencies and our supporters to speak out for what is right.

House Bill 1576 and Senate Bill 1047 are nearly identical and

would create a new law called the Endangered Species Coordination Act. Based on the title, it sounds like a bill that we should all support. Think again.

As I write this, we understand that hearings on at least HB 1576 will be conducted in the late summer. While I look forward to personally testifying in support of the existing systems we have had in place for decades to conserve our trust species, it is important for sportsmen and women across Pennsylvania to also let your voices be heard.

To that end, our agency created the following series of talking points. If there is something you read below that strikes a particular nerve, I encourage you to contact your representative or senator to let them know how you feel.

This attempt to legislate how we protect our threatened and

endangered species and our wild trout streams is an obvious challenge to the very independence of our agencies and is a statement that the legislature knows more about our natural resources than the very agencies that they have created to protect and manage them.

Together we have helped to keep Pennsylvania's fish, reptiles, amphibians, and other aquatic resources among the best in the nation. And together we can keep the **Resource First!**



John crappie fishing on Sayers Lake

Photo by John T. Arway

Endangered Species Coordination Act (HB 1576 and SB 1047) Talking Points

The Pennsylvania Fish and Boat Commission (PFBC) is the state agency charged by the Pennsylvania General Assembly with conserving fish, reptiles, amphibians, and other aquatic organisms. PFBC staff continue to use the best scientifically available data and methods to inform its threatened and endangered (T&E) species listings and wild trout (WT) stream designations.

* The PFBC lists and de-lists T&E species and designates WT streams pursuant to authority included in the Fish and Boat Code at 30 Pa. C.S. §§2102 and 2305. The current definitions of T&E

species in 30 Pa. C.S. §102 and the criteria for designating WT streams in 58 Pa. Code §§ 57.8a and 57.11 have fulfilled the dual purposes of protecting rare species and WT streams while allowing for responsible development and growth.

* The legislation includes a statutory definition of "acceptable data" which is unnecessary, since the PFBC has and will continue to rely on scientifically valid and defensible data and methods when listing T&E species or designating WT streams. When listing T&E species, the PFBC relies on independent, technical peer reviews by

scientists to inform its decisions. These scientists represent various interests including government, academia and industry.

* The PFBC is open and transparent with the information used to inform its decisions.

Protecting species at the state level is the most proactive way to prevent their extinction.

* Because these bills appear to provide protection only to federally listed T&E species, species that are rare within Pennsylvania but not globally rare will not be protected. Effectively conserv-

ing species at the state level prevents regional and range-wide declines that require federal listings. It is important to provide state protection because most state listed species are located on the edges of their respective ranges. Many experts believe that if the states properly protect the rare species within their state borders, there would be no need for the federal Endangered Species Act (ESA).

* The PFBC is committed to determining the appropriate listing level for all species under its jurisdiction and is constantly refining its lists based on sound scientific data. This leads to removing as well as adding species. During the last five years, the PFBC has added 13 species and de-listed 11 species from the state threatened, endangered, and candidate species lists.

* Removing protection from T&E species, unless they are redesignated within two years, will unnecessarily subject them to pressures that may lead to further population declines. Sixty-two species are currently listed by the PFBC as T&E in Pennsylvania. Re-evaluating listing status within two years will be virtually impossible, which means that many species will go unprotected.

* Historically, Pennsylvania has a proud heritage of being a leader in natural resource protection. If the intent of these bills is to afford protection to only those species that have been defined as T&E under the ESA, Pennsylvania will be one of only a few states in the nation that does not protect species that are T&E within its borders.

* By protecting federally listed species only, species such as the Banded Sunfish, Blue-spotted Salamander, Rough Green Snake, Northern Cricket Frog, Redbelly Turtle, Green Salamander, Eastern Pearlshell Mussel, Longear Sunfish, Northern Redbelly Dace, Southern Leopard Frog and many other threatened and endangered species may disappear from Pennsylvania's waters, wetlands and landscape.

Review of T&E species listings and WT stream designations by the Info@pfsc.org

dependent Regulatory Review Committee (IRRC) is unnecessary.

* The PFBC's Board of Commissioners already considers the PFBC staff reports, all public comment and summaries of all acceptable data that are the basis for proposed listings and designations. Additional review by IRRC and the standing committees is therefore unnecessary. Additional reviews will result in the unnecessary delay of listings and stream designations, further endangering species and waters that warrant immediate protection. Both T&E designations and WT stream listings are factually based and driven by available data and objective scientific standards.

* The PFBC adopts T&E species listings and de-listings as regulations and accordingly adheres to the Commonwealth Documents Law, which requires publication in the Pennsylvania Bulletin and affords the public an opportunity to comment or offer additional data for at least 30 days. Proposed regulations are also reviewed for legality and form by the Attorney General's Office as required by the Commonwealth Attorneys Act.

* In the case of WT stream listings, the PFBC posts on its website (www.fishandboat.com) preliminary results from surveys indicating that streams may be eligible for consideration as WT streams. Before a stream designation is formally presented to the PFBC's Board for consideration, the proposed designation is published in the Pennsylvania Bulletin at least 60 days before the Board takes action at a quarterly meeting to provide opportunity for public comment.

* The PFBC is responsive to public comments and has exercised a balanced approach in adjusting and modifying its listings and designations accordingly.

* Subjecting the PFBC's listings and designations to review by outside entities will have the effect of eroding the agency's status as an independent administrative agency and allow others to influence how our Commonwealth's aquatic resources are protected and

managed.

The PFBC should retain the authority to manage data and make recommendations for species under its jurisdiction.

* As the agency with statutory responsibility for fish, reptiles, amphibians and other aquatic organisms, the PFBC has staff specialists with the required levels of expertise to make decisions about the use of data and the steps needed to protect our aquatic resources.

* The bills transfer the PFBC's authority to the Department of Conservation and Natural Resources regarding when to grant access to T&E species location information without input from the PFBC, the agency with jurisdictional responsibility for these species.

* The Commonwealth has expended considerable monetary and staff resources to develop and update the current Pennsylvania Natural Diversity Inventory (PNDI) system. It is considered one of the most advanced, and arguably the best, environmental review systems in the country. In fact, a natural gas company has used this very system as a model for its own internal environmental review system. There is no need to replace it.

* The bills effectively eliminate the exemption under the Right to Know Law that protects T&E species location information from disclosure. This could allow virtually anyone to pinpoint the precise locations where a rare species is found, thereby facilitating exploitation for any number of harmful purposes.

* More importantly, allowing open access to this confidential information will empower others to make critical decisions about protection, avoidance and mitigation techniques without consulting with PFBC staff for an opinion.

* The locations of T&E species are not static, nor are the locations of all species known. Currently, where necessary, permit applicants consult with PFBC specialists to cooperatively evaluate and avoid potential impacts to species and their habitats. This process will be removed under the bills, further endangering the species. *PFBC*