

20 September 2013

Hon. Martin T. Causer
41B East Wing
PO Box 202067
Harrisburg, PA 17120-2067



Dear Representative Causer,

The Pennsylvania Chapter of The Wildlife Society (PA-TWS) has a core mission to represent and serve the community of wildlife professionals in the Commonwealth. Our Board serves our devoted network of members who are professionals that work actively to study, manage, and conserve wildlife and habitats in Pennsylvania. **We strongly oppose both the Pennsylvania House and Senate versions of The Endangered Species Coordination Act (HB 1576 and SB 1047) because we feel they are in conflict with the responsible management of Pennsylvania's wildlife and habitats.** The Pennsylvania Game Commission and the Pennsylvania Fish & Boat Commission (hereafter "Commissions") have successfully managed Pennsylvania's fish and wildlife on behalf of its citizens during more than 100 years of concurrent residential, industrial, agricultural, and energy development. Pennsylvania's Legislature led the conservation movement by forming the Commissions; this legislation is a significant step backward.

1. Resulting actions of the Act will remove the ability of the Commissions and the Department of Conservation and Natural Resources (DCNR) to designate wildlife or plant species as endangered or threatened unless already currently designated as such at the Federal level under the Endangered Species Act (ESA). While the ESA is a leading example of landmark legislation at the national level, it was never intended to provide us with the resolution at a state-wide level to protect and conserve resources within our borders. This Act will encumber the Commonwealth's ability to protect sensitive species important at the state level that may not currently require Federal protection. These weakened protections could conceivably prompt Federal listing from the U.S. Fish & Wildlife Service (USFWS), which will create a regulatory and administrative process with little local input. A result of this Act may be tighter and more restrictive avoidance and mitigation measures for developers.
2. The current species status review and designation process is not broken. The listing process currently in place by the Commissions and DCNR is transparent and efficient. It operates in accordance with the Game and Wildlife Code, the Sunshine Act, the Commonwealth Documents Law, the Commonwealth Attorneys Act, and is subject to judicial review. This Act proposes review by the Independent Regulatory Review Commission (IRRC) that, as described in the Act, will create an unnecessary bureaucracy which could result in time-sensitive protection issues going unaddressed, resulting in wildlife population collapse or critical/unique habitat lost. There are no apparent opportunities for public comment identified and the roles of wildlife professionals and experts in relevant fields of study are undefined.
3. The Act would reduce protections for threatened or endangered (T&E) species or critical habitats by changing survey requirements for those species. It would also remove protections for sensitive species that are currently being managed to prevent listing at both the state and Federal level. Identifying and reducing conflicts during the planning phase serves to reduce or prevent more stringent requirements should a species become listed. Removing the requirements to survey for T&E and sensitive species would have negative consequences to populations and could lead to the need for upgraded species status designations and resulting levels of protection.
4. The USFWS provides substantial funding to the Commissions with the condition that they have full authority to issue regulations. This Act will remove or substantially reduce that authority and could lead to a loss of up to 30% of the Commissions' operating budgets. The Commissions receive no General Funds, and a significant funding decrease would negatively impact their abilities to perform duties on

behalf of Pennsylvania's residents and wildlife resources. Case in point; the Act requires that listed species shall be removed from a centralized database after a period of two years in lieu of redesignation by the Commonwealth. Redesignations by the Commissions will require updated surveys at a frequency currently unsustainable even at current funding and staffing levels. Loss of Federal funding will render this impossible, likely resulting in delisting of species in need of protection.

5. The Act also requires creating a new database maintained by DCNR that is redundant. Currently, there is already a centralized database called the Pennsylvania Natural Diversity Inventory (PNDI) where the general public can outline a potential development project and discover if there is a potential conflict with a sensitive species or habitat. The current system provides clear guidance for developers and others to contact the experts at the jurisdictional agency for further guidance regarding next steps. Oftentimes surveys, avoidance measures, or mitigation strategies are easily accommodated for state-listed species. This process and the database have been effective largely because it allows staff experts employed by the Commissions and DCNR to review the proposed project and provide guidance specific to the species and habitats which are under their jurisdiction and for which they have expert knowledge.
6. The current system also provides protection to T&E, sensitive species, and habitats by limiting access to spatial data (i.e., dots on a map) for a species or critical/unique habitat. The Act would authorize DCNR to provide "persons" access to spatial data of listed species, critical habitat areas, and any buffer areas around the resource; however "persons" are not defined. Such access threatens the Commonwealth's ability to protect and conserve species and habitats because it presents a significant risk of exploitation including removal of species for illegal trade or the destruction of sensitive species and critical/unique habitat in future project areas.

As written, this Act would have serious negative consequences to many of the state-listed species and critical/unique habitats we currently protect. Avoidance and mitigation measures for state-listed species infrequently prevent proposed projects from being approved, but increased restrictions due to federal listing will. The Act will result in increased levels of bureaucracy, increased involvement from the USFWS, increased regulatory measures affecting avoidance and mitigation. It sets back both species conservation and the development industry. Most of all, if enacted it will represent a failure of our elected officials to protect and conserve the natural heritage that makes Pennsylvania so great.

Sincerely,

Merlin Benner
President, Pennsylvania Chapter of The Wildlife Society

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