

**Testimony before PA House Game and Fisheries Committee
HB 1576 Endangered Species Coordination Act
August 26, 2013**

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My name is William J. Parulis, I am a registered Professional Engineer and Land Surveyor in PA and President of WJP Engineers, Pottsville PA. I have been involved as an engineer in the Anthracite Coal industry for almost 40 years.

I am testifying today on behalf of the members of the PA Anthracite Council (PAC). The Pennsylvania Anthracite Council (PAC) is a trade organization representing surface mine and preparation plant operators, as well as the suppliers that produce Anthracite Coal mined in the Commonwealth. Our organization serves about a dozen mining and coal preparation companies representing 90% of all anthracite coal production. In addition, my consulting engineering firm provides engineering services to several dozen small mining companies and also represents their interests in this testimony.

Currently the Anthracite Coal industry produces about 2 million prepared tons of coal annually and directly employs about 1000 workers who contribute direct payroll of \$45 million to the PA Economy.

The Anthracite Industry is greatly concerned about the impact of the Endangered Species Act on mining properties throughout the Anthracite Region, in particular in the designation of habitat areas which adversely affect the mining of coal on those properties.

Having had the opportunity to review the bill as presented, we agree with the intent of the bill to add more structure and transparency to the designation and reporting of endangered species and also the designation of wild trout streams.

Of special interest to the Anthracite Industry is Section 6 of the Bill, concerning permits and approvals, and is the main focus of my testimony today. The specific issues being faced on a regular basis today are mostly centered on the Pennsylvania Game Commission protocols which

require significant effort in research, field studies, analysis and interpretation to confirm the presence or absence of endangered species and their habitat or Potential Habitat.

The implementation of the protocols is time consuming and expensive and are cost prohibitive to small coal operations and place a significant burden on larger operations. Several studies potentially required are time restricted to certain periods of the year, which also places a further burden both on the applicant and the permit process. These requirements are being initiated on new permit applications and are also being related to revisions to existing permits which are required for the Industry's compliance with State and Federal Law and the PA DEP regulations.

The impact of the studies themselves is significant, but the overall impact on the mining properties throughout the region can be monumental. The studies are not limited to areas now being used by endangered species but are targeted toward areas which have the "Potential" to be habitat for endangered species.

As examples of the problem, my engineering firm is currently working on two specific anthracite coal operations - one existing permit outside of Mount Carmel PA and a new permit for operations at a site near Eckley in Luzerne County. Both illustrate specific concerns of the industry. Both permits were subject to the current PA Natural Diversity Index (PNDI) Review and received comments from the PA Game Commission concerning potential habitat for protected bat species.

Most mining properties in the anthracite region have been previously mined with abandoned stripping pits, spoil piles, culm and refuse piles prevalent features throughout the area. Large areas of second growth trees are also present on these properties, some areas of which would be considered as potential habitat. The area at Eckley is a prime example as portions of the area have been identified to potentially have "summer roosting habitat" such as various types of trees, rock piles, abandoned strip mining pits, etc. The problem is that these features are not truly unique to this area. They are indicative of almost any mining property or potential mining property throughout the anthracite coal region. While we are working through the details of an approval on this site with the Game Commission, the major concern here is that the same type of habitat likely exists and could adversely affect any mining property.

Any areas identified as habitat which are disturbed must be Mitigated by constructing replacement Habitat. The Game Commission by policy requires that any potential habitat disturbed must have restrictions placed on it or be mitigated (replaced) at a 2:1 ratio. Further, after the habitat is mitigated, the new habitat is restricted from being affected in the future and studies to the effectiveness of this mitigated habitat are required.

The other significant potential problem is habitat for winter hibernation, which is relevant on the second permit we are working with. Mines have always been habitat for hibernating bats, but without the restriction of being "protected areas".

A specific problem with this type habitat is abandoned mine openings and "Crop Falls" which are mine subsidence areas where the surface has collapsed into shallow mine workings and in the most severe cases are open to abandoned mine workings below. These openings are also prevalent throughout the anthracite region with many mining properties potentially containing multiple openings. The PGC protocol considers these openings as potential hibernating habitat areas. The designation of these areas as habitat will restrict them from being disturbed. That protection will restrict the coal operator's ability to strip mine these areas, backfill, and restore the areas. The Crop falls also are hazardous areas with documented cases of injuries or deaths. There can be multiple openings on a property and PGC protocol is requiring that all must be investigated. This is time consuming and expensive. A further complication is that if studies are needed to trap bats to determine if they are using the openings for hibernating, the PGC protocol limits these studies to one month out of the year - September 15 to October 15. This can cause serious delays to the property owner and coal operator.

The designation of these areas as protected habitat can have significant effects on mining properties and also on abandoned mining properties, making effective abandoned mine reclamation projects more difficult. Our concerns are for the procedures to be implemented in defining habit and overall effect of the determination for restricting activities in the designated areas.

We agree with the proposal in the bill which would limit the consideration of impact only to those areas which have been identified as critical habits of listed species. It would further limit the requirement for the testing and analysis for potential areas.

We request that the Legislature give consideration of this testimony in that potential habitat areas being identified and restricted from disturbance unfairly limits planned activity with the potential result of loss of significant economic and environmental benefits on these areas.

Thank you for the opportunity to present this testimony today and we welcome the opportunity to discuss any questions either today or as the legislative process proceeds.