



Pennsylvania Federation of Sportsmen's Clubs

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Providing leadership and advocacy for the enhancement of our fish and wildlife resources for the benefit of all hunters, trappers, anglers and conservationists. Protecting our 2nd Amendment Rights.

HOUSE GAME & FISHERIES and ENVIRONMENTAL RESOURCES COMMITTEES Hearing on HB 1576 – Endangered Species Designation September 17, 2013

Good morning Chairman Causer, Chairman Miller, Chairman Haluska, Chairman Vitali and Members of the Committees. Thank you for the opportunity to provide testimony regarding HB 1576, relative to Endangered Species designation, IRRC and regulatory oversight.

The Pennsylvania Federation of Sportsmen's Clubs (PFSC) has a strong and proud history representing the best interests of our grass-roots members on conservation, hunting, fishing, 2nd Amendment and environmental issues since 1932. Our mission has always been to provide a statewide, united voice for the concerns of all sportsmen and conservationists; to insure their rights and interests are protected, and to protect and enhance the environment and our natural resources. Our membership is comprised of individuals, clubs (221), and statewide organizations (5), representing more than 70,000 sportsmen and sportswomen.

Acquiring unanimous consensus on any issue with such a broad membership base could be compared to efforts of "herding cats." An almost impossible task. However any mention of removing the Game Commission's or the Fish and Boat Commission's limited independence by submitting them to the IRRC process, or merging them under the DCNR umbrella, **always** results in a resounding "NO!" So even though our next board meeting isn't until September 20th, based on past experience, specifically related to any and all attempts related to placing the commissions under the IRRC process, and the feedback we are receiving from our membership and board members since introduction of this bill, we can say with utmost confidence, that this particular bill will also be opposed by an overwhelming majority of our membership base.

The current limited "independent" structure of our wildlife and fisheries resource agencies was set up by the legislature over a hundred years ago for a reason: To allow the agencies the ability to effectively manage our wildlife and fisheries resources using scientific data combined with input from the views of sportsmen, industry and other citizens, for the best long-term good of our resources. Being separate from IRRC and legislative control (not oversight) is a source of pride to sportsmen and conservationists, because it means our wildlife and fisheries management is recognized with the importance it deserves and it is understood it needs to be treated differently.

Following the 1973 enactment of the federal Endangered Species Act (ESA), your predecessors empowered the agencies to "*promulgate rules and regulations governing the taking, catching, killing, and possession of endangered species.*" They understood that protecting species at the state level is the most proactive way to prevent their extinction. Some comments have been made trying to allude it was an oversight that the Commissions were kept separate from the IRRC process. However, because of their great foresight, your predecessors set the process up this way specifically to protect not just T & E species, but our sporting heritage and our rich wildlife and fisheries resources from the threats of control by anti-hunters, ill-advised politicians, overzealous industry and others based solely on political whims, personal agendas or emotional public opinion polls.

Just as our founding fathers had the foresight to include our right to keep and bear arms in the constitution to prevent overbearing restrictions on gun ownership, your predecessors had the foresight to give the agencies this limited independence on wildlife management decisions to prevent exactly what some are currently now trying to do....politicize it.

The Game and Fish and Boat Commission's regulatory process is already open and transparent. An independent Board of Commissioners, appointed by the Governor and confirmed by the Senate, receives recommendations from the experts, listens to public input, then weighs the information and makes decisions based on both the expert recommendations and the public input. Members of IRRC (a purely political group, appointed by legislators, with absolutely no expertise or experience in wildlife management, habitat management or sportsmen's issues, and who may or may not be anti-hunters) and the legislature will get final say on proposed T&E listings. Just by failing to act in a timely manner by IRRC or the legislature, they could literally cripple our agencies' ability to effectively protect imperiled species or protect wild trout streams.

Whether or not the process is put through an additional layer of bureaucracy by adding the purview of IRRC, the legislature still retains final oversight over both agencies and every move they make. We see this happening all the time when members introduce legislation trying to mandate a specific wildlife management regulatory action based on comments and complaints by their constituents or their personal views when they don't agree with a specific regulation or proposal.

The PFSC attends Commission meetings and comments on proposed regulations all the time. We do not always agree with every proposal or regulation. We have seen first-hand, the commissioners pushing agency staff, questioning the science and data behind their recommendations. The Boards are much more than the rubber stamp that some claim. They perform oversight and try to strike the right balance between the science and social concerns. The Commissions are not as they were unfairly characterized as "Judge, Jury and Executioner," but they could be characterized as "the Jury and Defender of our most imperiled species."

Attached to our testimony is a copy of a letter from John Organ, US Fish and Wildlife Service (USFWS) Division of Wildlife and Sport Fish Restoration Chief, pointing out three specific concerns with the legislation that could lead to a loss of \$27 million annually in federal funding for Pennsylvania. Comments have been made that this is nothing more than a scare tactic, perhaps even fabricated and can easily be addressed in the legislative process. A simple phone call to Mr. Organ would verify the letter was not fabricated.

To be eligible for federal Pittman-Robertson and Dingell Johnson grants, states have to have fish and wildlife agencies that have sole discretion over how revenue for fishing and hunting licenses are used. The agencies also have to have the authority to ensure "the conservation of fish and wildlife." Section 6 of the Endangered Species Act provides for cooperation with States, and allows States to assume a degree of authority and control over endangered species matters. The state signed a cooperative agreement with the USFWS confirming this authority.

In order for States to be given this power, and the federal funding that comes with it, they must demonstrate they have the institutional capacity and legal authority to identify, list, and manage endangered species. If this infrastructure is dismantled, control will revert to the federal government. Changing the current procedures by adding IRRC to the process will be viewed by the USFWS as dismantling the current infrastructure and will thus void the cooperative agreement and open Pennsylvania up to more federal control and oversight regarding T&E species, and cause the potential loss in federal funding. The threat of lost funding alone is cause for serious concern and opposition to the bill, but there are other reasons as well.

Some have mistakenly claimed that no other state has separate, "independent" fish and wildlife agencies, so why should Pennsylvania? The misconception here is thinking that just because Pennsylvania has two separate agencies and the other states happen to have their fish and game agencies combined, sometimes within their sister resource agency like our DCNR, that this automatically makes them less "independent" when it comes to setting regulations for wildlife, aquatics and/or T & E species. Even though they are not "separate" agencies, most still have their own commissioner type systems that review and approve regulations; legislative oversight is no different than Pennsylvania's.

We often hear anecdotal reports of how the agencies are impediments to business or economic growth, however critics are hard-pressed to come up with specific examples, and when they do provide examples, the problems are almost always the result of a federal regulatory issue or a DEP permitting issue. The same is true for the reasons being given for why this legislation is needed. When looking into the details of the examples given, one finds those problems were related to federal issues as well, and nothing in this so-called corrective legislation would change that. Just because it may be agency staff providing the "boots on the ground" for the reviews, studies, etc., the guidelines were and will remain, federally mandated.

Other recurring complaints being expressed in comments in support of the legislation are about the "permitting process." The permitting process is controlled by DEP. A recent update of DEP's *Policy for Pennsylvania Natural Diversity Inventory (PNDI) Coordination During Permit Review and Evaluation (PNDI Policy)*, specifically pointed out that the role of the Game and Fish Commissions was "strictly review and advisory only." Putting the commissions under IRRC will not change the DEP permitting process or change federally mandated regulations and compliance mandates.

Some have asked, "What's wrong with having one more set of eyes review it?" The short answer is, it depends on whose eyes you are referring to and how much extra red tape and time it will add to the process. There's nothing wrong with asking for a second opinion, if the opinion is coming from other professionals in that field. You wouldn't seek a second opinion from an architect about a recommendation for surgery from your doctor. And it depends on what's really behind the reason for wanting the oversight in the first place. Because we all know...the issue is never the issue. For a party whose platform is supposed to be for smaller and less government, this legislation seems more like a push for more bureaucracy and government control instead of less.

In addition to putting the commissions under the scrutiny of the regulatory review process, the bill calls for the commissions and DCNR to create a centralized database to replace the decades-old computerized system of endangered flora and fauna. The commissions argue that the database would jeopardize wildlife because it would pinpoint their locations to poachers for the black market. We have heard from industry that a centralized database is not a problem in other states. If this is true, then provide us with specific details from those other states, and we will help work to implement a plan that would be acceptable to all parties. Mr. Arway has stated that the agencies were already working on a more efficient review process, but they are severely hindered by a lack of funds, so without a way to pay for these upgrades, this legislation is just one more unfunded mandate.

The bill would also require the agencies to remove species from the endangered or threatened lists within two years if the agencies cannot produce "acceptable data" that the species' numbers remain weak. The agencies also could not define new endangered or threatened species if their numbers are acceptable outside of Pennsylvania, or if they are not already covered under the federal Endangered Species Act. According to Mr. Organ's letter, those changes could also make the state ineligible for federal funds. We understand there has been some discussion regarding clarification on the intent of this particular section, and we look forward to the continued relative dialogue, but we are also concerned about the additional financial burdens this could place on the agencies.

In summary, the PFSC opposes putting the Game Commission and the Fish and Boat Commission under IRRC for any aspect of their regulatory authority. The commissions were purposely set up to be separate from IRRC to keep the politics out of wildlife and aquatic resource management, not just for game species but for all species. Requiring IRRC for T&E species is nothing more than the start of the chipping away at the already limited independence of the Commissions and is not supported by the sporting community.

Passing this bill would diminish scientific expert recommendations and replace them with bureaucratic and political control, thus further politicizing and limiting the ability of our agencies to effectively and efficiently manage and protect our wildlife and aquatic resources, T & E species and wild trout stream designations; and it would be a step in the wrong direction. Any changes to the current statute should not undercut the purpose of the law – which is to protect and restore the species so that protections can eventually be removed¹ – not to turn an area into a wildlife museum where the last few numbers can live out their final days. This legislation appears to be nothing more than an attempt to undercut the authority of the two commissions, perhaps only because the very independence of those commissions may be what bothers politicians the most.

PFSC's opposition to this legislation is not an attack on industry or an attempt to stifle jobs. The majority of our membership is comprised of blue collar workers struggling to make ends meet; but we still care about our resources and we want to find a balance that protects our environment, our resources, jobs and development. We recognize the need for responsible development and resource extraction, and the economic benefits they provide. We also recognize that development and resource extraction will leave a footprint on our environment. In light of these facts, we must continue to work together to minimize the impact to Penn's Woods, whether it's from extracting valuable resources, development, designating wild trout streams or hunting and fishing. We cherish the land and our resources, and we support and promote best management practices to ensure the continued protection of our land and natural resources. Sportsmen and women are stewards of our resources and our environment, and as your constituents, we ask that you do your duty to protect the interests of sportsmen, our resources and the environment, and oppose this legislation.

Again, thank you for allowing PFSC the time to present their position on this legislation.

¹ The proposed legislation defines critical habitat as only that area currently occupied by the species. The Federal ESA defines critical habitat in terms of the species' historic range, which recognizes the vital role of conserving habitat in order to facilitate recovery of the species. The purpose of the ESA, is to assist in recovery and not just protect what is remaining. "Critical habitat." The specific areas within the geographic area occupied by a listed species designated in accordance with the Endangered Species Act of 1973 (Public Law 93-205, 16 U.S.C. § 1531 et seq.).