



## PENNSYLVANIA BIOLOGICAL SURVEY

### Testimony – House Bill 1576

13 September 2013

The Pennsylvania Biological Survey (PABS) welcomes the opportunity to provide written testimony to the House Game and Fisheries Committee and the House Environmental Resources and Energy Committee regarding House Bill 1576, and requests that this testimony be included in the official record of the public hearing scheduled for 17 September 2013 at the Indiana University of Pennsylvania, Northpointe Campus.

PABS is a nonprofit organization whose purpose is *"to increase the knowledge of and foster the perpetuation of the natural biological diversity of the Commonwealth of Pennsylvania."* Our membership includes scientists from throughout the state, representatives of state and federal agencies concerned with natural resource management, and representatives of Pennsylvania's major natural history museums and scientific institutions. PABS is made up of distinct technical committees for birds, mammals, fishes, amphibians and reptiles, invertebrates, vascular plants, bryophytes and lichens, protists and fungi, and museums and systematics. Members of each group include experts in their respective fields and collectively represent an enormous amount of experience. The membership numbers and total years of experience for technical committees dedicated to the flora and fauna affected by this bill include: ornithological – 16 members with 586 combined years of experience; mammal – 23 members, 656 years; fishes – 7 members, 205 years; amphibians and reptiles – 17 members, 409 years. In addition, the vascular plant technical committee that supports DCNR includes 26 members with a combined 767 years of experience.

PABS, through its technical committees, serves in an independent, advisory capacity to the agencies responsible for managing our Commonwealth's native plants and animals – primarily the Dept. of Conservation and Natural Resources regarding plants, the PA Game Commission regarding birds and mammals, and the PA Fish & Boat Commission relating to fishes, reptiles, amphibians, and aquatic invertebrates. In addition, we maintain formal memoranda of understanding with the latter two agencies. Our most important function in our relationship with these agencies is assisting them with their listing and delisting processes. This assistance

includes the review of the status of individual species and presentation of recommendations to change the legal status of species that may have declined or, conversely, where the status of particular species has improved to the point where listing is no longer warranted. We also review listing proposals initiated by the agency or other entities and make management recommendations when appropriate.

Frankly, we have serious concerns regarding the language and content of HB 1576, particularly as it relates to the process whereby the Game Commission and Fish and Boat Commission list species under their jurisdiction as threatened or endangered. This bill appears to question the ability of the Game Commission and Fish and Boat Commission to make decisions based on scientific evidence and implies there are no checks and balances. Nothing could be further from the truth.

Generally, these agencies consider listings and delistings upon receiving recommendations from PABS. This occurs after the appropriate technical committee does an extensive analysis of a species' status. PABS species reviews include a rigorous assessment of available information applied to objective criteria and ranking systems, an analysis of threats – real and potential, and consideration of other factors that may affect the listing or delisting decision. Any status change recommendation must then be ratified by a majority of members of the appropriate technical committee. Then, and only then, does a recommendation move to the agency with jurisdiction.

Once a recommendation reaches fish or game, agency experts then conduct their own review before deciding whether or not to proceed. If they wish to proceed, they must then present the recommendation to their full board of commissioners. These boards consist of citizens nominated by the governor for their interest and experience in natural resource management and recreation and approved by the state senate, and who represent specific geographic regions of the state, not unlike the legislature.

Often listing or delisting proposals are announced in advance via a media notification. They are also announced in advance of commission meetings through the posting of the meeting agenda on the agency website. The board must vote to approve any status change in a public meeting, publish the proposed rulemaking for public comment, and vote to approve again before a status change occurs. Thus, there are three levels of consideration and oversight AND public scrutiny included in this process. This process has served the citizens of Pennsylvania effectively for decades. How can yet another review panel composed of individuals without scientific expertise benefit this process? And why has this time-tested process suddenly become unacceptable?

It is noteworthy that, according to a 2011 Harris poll, 84% of Americans support the federal Endangered Species Act (ESA). In addition, the majority of our citizens believes the ESA is a safety net providing balanced solutions to save wildlife, plants and fish that are at risk of extinction, and that decisions about whether to remove the ESA's protections should be based on science, not politics.

The apparent intent of this bill appears to be to eliminate the listing of all or most state-level concern species either directly or by requiring processes for relisting that would impose a time- and cost- prohibitive burden on our state agencies.

Conserving rare and declining species and efforts directed toward their recovery at the state level are proactive steps to stabilize species numbers before they require federal listing. Where concerns at the state level are ignored, declines are more likely and the likelihood that a species may become federally listed increases.

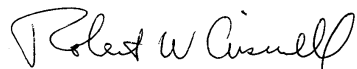
Nearly all of the complaints aired thus far in support of this legislation relate to species listed under federal (not state) authority via the Endangered Species Act, and most prominently the Indiana bat. State agencies have little say in permit restrictions and/or requirements that are applied to federally protected species. In fact, the goal of their programs is to keep common species common, and those species that are rare at the state level OFF the federal list, thereby averting the sometimes more significant restrictions and ramifications regarding project impacts. In addition, the protection afforded to declining species by state-level listing is considered in the evaluation of federal listing. States with weak programs cause greater concern that the status of a declining species may become dire more quickly, or that the protection is insufficient to sustain recovering species when delisting is under consideration.

The Chesapeake logperch is an example. Its limited distribution includes the Susquehanna and Potomac rivers and a few direct tributaries to the Chesapeake Bay. It is now extinct in the Potomac, where it occurred in the District of Columbia, Maryland, and Virginia, and occurs in only a few waterways in Maryland and Pennsylvania. It has been petitioned for protection under the federal ESA. It is listed as endangered in Maryland and threatened in Pennsylvania. These listings provide added scrutiny and justification for the expenditure of conservation dollars directed toward this species' recovery at the state level. A weakening of the state programs will increase its vulnerability. Conversely, state recovery efforts, if successful, may serve to keep it off the federal list. So the effects of HB 1576, which seems to seek relief from restrictions and requirements for federally listed species, are more likely to hasten the listing of species at the federal level. It is also more likely to retard the delisting of those species already listed that appear to have recovered. The likely result is more conflicts of a more serious nature – not less.

We also have serious concerns about provisions in this bill that would make sensitive location information available to nearly anyone who asks for it. There can be little doubt that rare species with commercial value in black markets will be negatively, and in some cases, seriously impacted by poachers and vandals.

In summary, we oppose this bill because HB 1576 is redundant to the current process of listing threatened and endangered species and reduces the credibility of the listing process; puts threatened and endangered species at unnecessary risk by exposing specific locations; is unfunded legislation that will put additional financial burdens on the Fish and Boat Commission, Game Commission, and DCNR; and ultimately will greatly limit the ability of our state agencies to carry out their mission of protecting the Commonwealth's natural resources, including the conservation of our most vulnerable species in order to safeguard them from the threats of extirpation at the state level and extinction globally.

Respectfully;

A handwritten signature in black ink, appearing to read "Robert W. Criswell". The signature is fluid and cursive, with a large initial "R" and "C".

Robert W. Criswell, President  
Pennsylvania Biological Survey