

Approved
1-29-14

Endangered and Nongame Species Advisory Committee
Meeting Minutes
November 20, 2013
Central Region Office
Robbinsville, New Jersey

Members in attendance: Barbara Brummer (chair), Jim Applegate, Emile DeVito, Howard Geduldig, Jane Morton-Galetto, Richard Lathrop, Erica Miller, David Mizrahi

Absent: Joanna Burger, James Shissias

Staff in attendance: Dave Chanda (Director), Larry Herrighty (Assistant Director), Dave Jenkins (Bureau Chief), Kathy Clark, Amanda Dey

Guests: W. Walsh, S. Angus

The public notice for this meeting was read by D. Jenkins.

Introductions of those in attendance.

Approval of Minutes

J. Galetto moved for approval of the September 2013 minutes, seconded by E. Miller. Minutes were approved by voice vote with one abstention (R. Lathrop).

Director's report

All bureaus of the Division are operating in the red due to increasing costs, especially in the fringe rate increases in the last several years.

The director reported on his recent AFWA meeting at which there was discussion for new action by Teaming with Wildlife and funding support.

Status of Action Items

With regard to Millville's Holly Farm, non-profit groups have committed to raise approximately half of the \$3.5 million needed for its purchase. However, we do not know the status of the possible sale, development or conservation of the property. There is nothing right now that protects the developer's proposed open space area. Chairperson Brummer reported that DFW staff is advocating purchase and conservation of the entire property.

New Business

Delphi Species Status Review

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K. Clark reviewed the initiation of species status reviews for 2014:

- Reptile and amphibian species review will begin in January, with a list of 69 species. Additional species may be added at the request of any reviewer in the first round. The review panel will include 6 from academia, 2 from NGOs, 2 private consultants, and 4 from state agencies (2 of which from ENSP).
- Sixty-five species in the freshwater fish taxon will be reviewed with the first round beginning by end of November. The review panel will include 2 from academia, 3 from DFW, 3 from other NJ agencies, and 2 from federal agencies.
- The review of Lepidoptera (butterflies) will begin in the next month or so. The review panel will include 2 from academia, 1 from the state, 1 private consultant, and 3 from NGOs.

Next step is rulemaking to update Endangered and Nongame lists. The DEP has a process for rulemaking that requires public process. We need to determine if we can combine an ENSAC meeting with the public notification to meet that public input requirement. Rule 7:25 is set to be readopted in 2014 (sunset rule), under amendments to the Administrative Procedures Act, if we're readopting without change, there are lower requirements. The amendments to the Endangered and Nongame lists will come somewhat after the required readoption in 2014, probably in early 2015.

Planning for 2014 meetings

2014 Meeting Schedule was provided by B. Brummer. (see below for 2014 meeting dates)

The September meeting will probably be joint with the Fish and Game Council, on September 17 (ENSAC regular date) OR September 9 (FGC regular date), TBD. The Committee expressed interest in using the joint meeting to have discussions meaningful to both groups. For example:

- The division and categorization of game and nongame species. How do we treat game species that are becoming rare? (bobwhite, grouse, snapping turtle, diamondback terrapin, some of the mustelids)
- Management of WMAs for game and nongame wildlife?
- Management of young forest.

J. Morton-Galetto repeated the request to have a legislative report provided to ENSAC at each meeting. D. Jenkins will make the request of Assistant Director P. Nelson. There are topics in legislation in which the Committee may need to engage. J. Morton-Galetto suggested the Committee may need to stay involved in "Keep It Green," as an example.

January, 2014 meeting: Members would like to resume discussion on young forest management. Also, D. Jenkins reported that R. Lathrop and Larry Niles have been working on a "no-net-loss" Habitat Conservation Plan (HCP) project that may result in a white paper to DEP. E. DeVito requested perhaps the Committee review this before it becomes public in case they have concerns.

Expiring Terms

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D. Jenkins reported there are three pending appointments (2 reappointments and 1 new), for which we are still awaiting action by the Commissioner's Office.

There are additional expiring terms in April 2014 (Joanna Burger, David Mizrahi -- also Howard Reinert would need to be re-appointed if he is appointed to the remainder Dr. Dale Schweitzer's term). B. Brummer requested the Nominating Committee present recommendations at the March, 2014 meeting for those positions.

Cherie Varra will add H. Reinert to the email list for all ENSAC materials. He may attend meetings without being a voting member until he is officially confirmed as a member.

ENSAC and Conserve Wildlife Foundation of NJ

D. Jenkins reported that the Conserve Wildlife Foundation of NJ (CWF) is proposing to amend their bylaws. Currently the CWF bylaws require that the board includes an ENSAC-appointed board member (traditionally the DFW director) and the ENSP chief as voting members. In addition, the bylaws gives ENSAC oversight with regard to CWF bylaw amendments. The present CWF board would like to first amend the bylaws to clearly make the ENSP Bureau Chief and DFW Director advisory (non-voting) members of the CWF Board. The CWF board would also like to remove the oversight provision so that changes to the composition of the board and other changes can be made in the future without ENSAC approval. D. Jenkins reports that CWF would like to maintain the link with ENSP by including someone in their board someone who also serves on ENSAC.

J. Morton-Galetto made a motion (seconded by B. Brummer) to allow CWF to remove the provision in CWF bylaws that provides ENSAC oversight of CWF's bylaw amendments. The motion passed with one abstention (J. Applegate).

J. Applegate requested a copy of CWF's latest annual report.

Proposal by USFWS to list the Red Knot as Threatened

D. Jenkins introduced the topic by explaining that the USFWS proposal is a statement of their intention to list the species as a result of their evaluation of the available information on the species' status, and includes a summary of all the information considered. The USFWS specifically requested information (in the proposal) on 18 items or areas of information. D. Jenkins indicated that comments should follow the request by the Service for information not considered and/or regarding their interpretation of the information considered. NJDFW comments will center on the data NJDFW have on horseshoe crab population and red knots, which is a small portion of the factors the Service considered.

Wendy Walsh (U.S. Fish and Wildlife Service, Ecological Services, New Jersey Field Office) quickly reviewed the proposal criteria, and that the public comment period ends November 29.

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The USFWS has very specific guidance on making the determination for endangered or threatened status. She indicated that there are wider considerations (including economic impact) when recommending critical habitat for endangered or threatened species.

ENSP is still working on the comments the DFW will make. DFW will update with 2013 data on red knot numbers that DFW collects and place those data in the context of the longer-term trends. We will update the information on the percentage of knots reaching target mass gain. Horseshoe crab egg density data for 2013 (NJ only) also shows a slight improvement in recent years but it's still low. There is correlation in egg density and knot weight, upholding the connection between these two data. With respect to the horseshoe crab populations and harvest in relation to red knot status, it's our position that the ARM model for horseshoe crab management addresses red knot needs with the exception of some weaknesses in the model's assumptions that make it insufficiently risk-averse (e.g., potential illegal harvest; assumptions regarding the boundary of Del Bay-origin crabs; mortality in the lysate industry harvest and likelihood of increasing lysate use/harvest).

Discussion followed focusing primarily on specific concerns about the ARM model, its weaknesses with regard to adequately regulating crab harvest in a manner that provides for the most robust possible red knot recovery, and included suggestions to reflect this concern in DFW comments.

Information to be provided to ENSAC members: McGowan articles.

Other Federal listing proposals

Wendy Walsh reported that via citizen petition many species became candidates for listing in the 1990s. There were still around 250 candidates in 2011 when the Service received another large batch of petitions, one of them for 404 primarily southeast aquatic species. The Service reached a court-approved agreement with the some of the petitioners that the candidate backlog would be eliminated before the Service starts work on the large new multi-species petitions.

Currently, 16 NJ species are scheduled to be evaluated for federally listing over the next 2-6 years, not counting the two proposed species (red knot and NLE bat) or the one remaining candidate (Hirsts' panic grass). More information is available online at:
http://www.fws.gov/northeast/njfieldoffice/pdf/Evaluated_Species.pdf

R. Lathrop made a motion to adjourn (JA seconded). Meeting adjourned.

Summary of Action Items

Repeated the request for a Division legislative report at every ENSAC meeting.
C. Varra sends all ENSAC materials to nominated member, Howard Reinert.
Provide ENSAC members with a copy the latest CWF annual report.