

Endangered and Nongame Species Advisory Committee
Approved Meeting Minutes
September 19, 2018
Assunpink Central Region Office

Members in attendance: Howard Reinert (Vice-Chair), Jim Applegate, Barbara Brummer, Joanna Burger, Emile DeVito, Jane Morton-Galetto, Erica Miller, David Mizrahi, James Shissias.

Absent: Rick Lathrop (Chair), Howard Geduldig

Staff In Attendance: Kathy Clark, Kris Schantz, Assistant Director Dave Golden, Director Larry Herrighty, Ted Nichols.

Guests: Russ Furnari

Meeting was called to order by Vice-Chair Howard Reinert at 10:03 am. The public notice for this meeting was confirmed by Kathy Clark.

Approval of Minutes

Correction to the minutes from the 7/18/2018 meeting: The motion to support predator management was seconded by J. Shissias.

A motion to approve the corrected minutes of the 7/18/2018 meeting was made by E. Miller and seconded by B. Brummer. Minutes were approved. Abstentions: J. Applegate, D. Mizrahi, J. Morton Galetto.

Action Items Update

- D. Golden sent B. Brummer the extracted data from Stockton WMA report related to Columbia dam.
- R. Lathrop has not yet provided an edited document on synthetic lysate to the Committee for comment.
- M. Dey has not sent the lysate press release to the chair for dissemination.
- J. Heilferty has not yet provided a draft memo stating concerns relating to off-road motor vehicle use on state parks/forests and WMAs; once available, the ad-hoc committee of J. Burger, E. DeVito, H. Geduldig will edit before sending to Committee to finalize.
- J. Heilferty has not yet drafted a memo stating ENSAC's support of predator management.

Director's Report

- *Hiring Freeze* – The freeze has been lifted; the DFW has been conducting interviews and forwarding recommendations to the Governor's office. Delays seem to be happening at the Governor's office level, which has led to losing a few candidates.
- *Committee Staffing* – Appointments are moving slowly.

- *Bear hunt* - First segment of the bear hunt starts Oct. 8, however, no bear hunting will occur on DEP lands, per Governor Murphy. Director Herrighty shared some history of other legal challenges involving bears and their management and explained that if we are not able to hunt on the WMAs, it may have implications for federal aid funding to the Division.
- *Legal Battles (State)* – The Division is being sued by animal rights group seeking information on bear telemetry frequencies. The DFW does not know why the group is interested in obtaining the frequencies but we have concerns about people walking into bear dens and/or hunters obtaining the frequencies and accessing locations where bears are trapped/denned. Overall, this sets a bad precedent; the Division also has endangered and threatened animals that are assigned transmitter frequencies.
- *Dept. of Interior-related Issues* –
 - Attorney General’s office has challenged many rules the President has issued. Congress has proposed amendments to the federal ESA. The DFW and DEP have drafted letters to submit during the public comment period. Of particular concern are the proposed changes to how threatened species are addressed. At the federal level, proposals would limit threatened species from automatically receiving the same protections as endangered species. **Director Herrighty will share draft letters with ENSAC as soon as possible and prior to end of public comment period.**
 - Proposed ESA changes for endangered vs. threatened species: Would require USFWS to make specific protection recommendations for each threatened species yet there’s no staff to conduct such thorough assessments.
 - Changed interpretation of Migratory Bird Treaty Act (MBTA) – Zinke revised the interpretation of MBTA with regard to how it can be applied. It will only apply to the intentional taking of wildlife but not “unintentional” such as windmills (and their construction).

Legislative Update

None.

Public Input

None.

Agenda change

None.

Updates

- *Synthetic Lysate* – D. Mizrahi reported a for-profit company in Georgia that is developing a synthetic lysate product. **Mizrahi will send the information to the Committee.**
- *Fishermen’s Energy Project wind turbines* – D. Mizrahi reported the project is proposed to occur within 3 miles in State waters. While NJ Audubon supports the governor’s plan to develop wind power and alternative energy sources, they are opposing this project due to the potential impacts on migratory species, particularly given the change in the MBTA interpretation and potential changes to the federal Endangered Species Act.
- *Storm Surge Protection Plan* – E. DeVito attended a meeting between the Army Corps and DEP Coastal Engineering regarding their storm surge protection plan (to be released

by December). It seems they will propose massive storm surge protection walls at coastal inlets that would narrow the inlets when open and among other things, sand-starve the salt marshes. There was no mention of buy-outs of vulnerable lands; no mention of nature-based solutions. They will need to consult with USFWS with regard to federal refuge lands.

New Business

Game Bird Species Status Assessment 2017-2018 – K. Clark presented results of the status review of game birds covering 23 waterbirds and three land birds. Thirteen of 23 water birds received “stable” consensus in the review process, including Canada Goose, Hooded Merganser, Wood Duck, Atlantic Brant, Black Scoter, Bufflehead, Common Eider, Greater Scaup, Lesser Scaup, Long-tailed Duck, Northern Pintail, Surf Scoter, and White-winged Scoter. One of the three land birds, American Woodcock, received “stable” consensus. J. Burger moved to accept the 13 waterbird species and woodcock as stable, per Delphi consensus; J. Morton Galetto seconded. The motion was approved unanimously.

For the ten remaining waterbirds and two landbirds for which consensus was not reached or the DFW disagreed with the consensus, K. Clark led discussion with some presentation slides.

1. There was no consensus for King Eider, non-breeding, but there was a significant majority voting for N/A.
2. There was no consensus for Canvasback, non-breeding, but there was a significant majority voting for Stable.

J. Burger motioned to retain the status of these two species as they are, E. Devito seconded. Committee approved unanimously.

Discussion followed on Clapper Rail and Common Gallinule. There was consensus for those two species for SC in the breeding season, but the Division is currently recommending “no action.”

3. Clapper rail: The review resulted in consensus for SC in the breeding season, and no consensus for non-breeding season (but simple majority for stable).
 - DFW biologists do not think it meets the definition of SC for the breeding season. Data from SHARP (Saltmarsh Habitat & Avian Research Program) in 2011 estimated a NJ population of 80,000. NJ has 2nd highest abundance in NE/Mid-Atlantic region (31% of NE region population). Trend data is mostly lacking because standardized Breeding Bird Surveys do not detect secretive marsh birds well.
 - J. Burger has witnessed a decrease where she conducts research and has concerns regarding the impacts of sea-level rise and flooding of habitats. Recommends we give this significant consideration and not wait as we did for Red Knot given the limited periods when such reviews occur.
 - D. Mizrahi agrees with J. Burger; has witnessed declines in the frequency of calling clapper rails.
 - D. Golden explained that the SC status is available only on the list on nongame wildlife, thus would require moving the species to that list. Under current DEP regulations in coastal areas (e.g., CAFRA and Freshwater Wetlands Act), SC species are not considered in land use regulations, so there is no added protection to habitat from listing.

- Clark: we want to make sure we don't dilute the E/T/SC list with species that actually have relatively stable populations.
- T. Nichols: the population estimate is 80,000 birds; trend matters as well, but we also need to look at the population numbers when that data is available.
- L. Herrighty: the concern for Clapper Rail is more of a habitat issue, not a hunting issue. T. Nichols: biologists recognize that hunting isn't driving this population.
- J. Burger recommended that DFW staff should encourage all reviewers conducting the status assessment to support their status decisions with their reasoning. Presently, the reviewers are mainly encouraged to support any status of E, T, or SC.
- J. Burger to D. Golden: someone (from DFW) should do a quick literature search on clapper rail to look for more current data

J. Applegate recommended the Committee hold over this review to the Joint October meeting; the Committee agreed.

4. Common Gallinule: The review resulted in consensus for SC in the breeding season, and no consensus for non-breeding season (but simple majority for SC). The DFW is recommending no action to list at this time.
 - Species has a history of population swings dependent on changing and ephemeral habitats. In particular, freshwater habitats that were manipulated and since changed. NJ is mostly range-edge and species is most common in the southeast US.
 - The USFWS has data on mean annual harvest 1999-2017 showing harvest of 2,200 in Atlantic Flyway (mostly FL), only 22 on average in NJ.
 - K. Clark: a lot of our listed species are freshwater wetland obligates/associates; this species may not be the most representative for NJ as it is mostly peripheral to the species US range.
 - D. Mizrahi: complicated discussion with regard to range edge species; we've never looked at IUCN's assessments and process, they don't list sub-species.
 - E. DeVito: Similar to the Clapper Rail; if it was 13-1 for SC breeding, we should discuss it in the Joint meeting.

Committee agrees the Common Gallinule should be addressed at the Joint meeting in October.

5. For five game species (American Black Duck, American Coot, Ruddy Duck, Sora, and Virginia Rail) the status reviewers did not reach consensus for breeding season status. **J. Burger made a motion to accept the Division's "no action" that would not result in recommending listing** (i.e., these species remain whatever status they currently are). Seconded by E. Miller. The vote passed unanimously.

Members suggested that staff explain the role and actions of the ENSAC at the Joint meeting, and how the Delphi status review results are used by ENSAC.

Some summary points:

- Game species for which Delphi review results would change the current status (breeding and/or non-breeding) should be discussed jointly with the FGC and ENSAC. The Joint meeting should include a brief description of the status review process and how ENSAC assesses the results.

- DFW should conduct a literature search for info on Clapper Rail for more current data to be provided to the October Joint meeting.
- The joint meeting will include discussion about the status review results of Clapper Rail, Common Gallinule, King Rail, Ruffed Grouse, and Northern Bobwhite (the latter three species were not addressed at today's meeting).

Lunch break, 12:30-1:10 pm

Pine Snakes, Collection & ORVs – J. Burger gave a presentation on her long-term research and the main threats to pine snakes. While Burger and Zappalorti have study snakes that have exceeded 20 years of age, most pine snakes live 6-8 yrs (becoming reproductively mature at 4 yrs, on average). The main threats to their populations include:

- Poaching: Burger, Zappalorti and ENSP biologist K. Schantz are working with DFW's Bureau of Law Enforcement to monitor nesting sites and ingress at targeted locations and seasonal periods.
- Habitat suitability for nesting: Burger/Zappalorti are working on managing a few of their sites but ultimately habitat needs to be managed.
- ORVs: The problems – habitat degradation and vehicle strikes – are at nest sites as well as throughout the forests on small trails and forest fire roads. We have enough data that we now know there are specific time periods to avoid to minimize harm to the snakes (not eliminate, but minimize).
 - DEP-permitted enduro timeframe needs to be revised because we know snakes are moving March-April and October through mid-November; times currently permitted for enduro rides/races.
 - Illegal ORV use: There doesn't seem to be much that can be done about this.

While DORs along “regular roads” is a problem, J. Burger felt the threats identified above were manageable with specific actions, knowing that all agencies have limited resources.

Next meeting – possible agenda items

F&G Council – ENSAC Joint Meeting

October 17 will be the joint meeting of ENSAC and FGC. That meeting will be at the Conservation Center at the CRO, Assunpink WMA. Start time: 10:00am.

Next regular ENSAC meeting November 21. The meeting will be held in the Conservation Center at the CRO, Assunpink WMA.

A motion to adjourn was made by H. Reinert, seconded by J. Shissias. Meeting adjourned at 2:00 pm.

SUMMARY LIST OF ALL ACTION ITEMS

- K. Clark to email R. Lathrop regarding the synthetic lysate document to determine if ENSAC or the ENSP can proceed with review.

- R. Lathrop provide edited synthetic lysate document to the Committee for review/comment.
- D. Mizrahi to send ENSAC information regarding the synthetic lysate development by for-profit company in Georgia.
- M. Dey will send lysate press release to chair who will disseminate.
- J. Heilferty will draft a memo stating concerns relating to off-road motor vehicle use on state parks/forests and WMAs and an ad-hoc committee of J. Burger, E. DeVito, H. Geduldig will help edit and then it will be sent to larger group to finalize. It will then be sent to Commissioner.
- J. Heilferty will draft a memo stating ENSAC's support of predator management and send to group for comment. It will then be sent to the Assistant Commissioner.
- Director Herrighty will provide ENSAC members with DEP letters commenting on proposed federal changes to the Endangered Species Act.
- L. Herrighty/D. Golden to provide F&G Council with Game Bird Species Status Assessment results from Delphi process prior to the October Joint meeting.
- D. Golden to share paper of Delphi Technique with F&G Council prior to October Joint meeting.