

Testimony on House Bill 1576
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I would like to take this opportunity to offer comment regarding several statements that were made at a recent hearing of the House Game and Fisheries Committee on HB 1576. This legislation is a significant measure that not only alters current regulatory procedures, but it also strikes at the fundamental relationship between the natural resource agencies, state government, and the Legislature. With that in mind, facts matter.

It was stated several times during the hearing that Game Commission's decisions are made in secret and that there is no mechanism to appeal them. The Commission process for promulgating a regulation is wholly transparent, requiring notice to be published in the Pennsylvania Bulletin and two separate votes at two public meetings. Additionally, our agenda is placed on our web site around two weeks prior to the Commission Meeting for the public to view. Each meeting is separated by a three month period during which comments on the proposal are accepted and reviewed. Once a regulation has been adopted any citizen may challenge its validity. An appeal may be brought directly to the Commission or to the Commonwealth Court. If a regulation is appealed, the Commission must be able to provide evidence indicating that the regulation was not arbitrary or capricious or an abuse of discretion. Throughout my tenure as Executive Director, I am aware of several instances in which regulations were challenged in Court. The Commission's regulations were not found to be below the legal standard and were upheld.

It was apparent at the hearing that there is confusion regarding the environmental review process and, specifically, the Game Commission's role in it. The Game Commission does not approve or deny permits for construction or natural resource development in the Commonwealth. By law, that responsibility falls under the purview of the Department of Environmental Protection (DEP). One of the criteria DEP will consider when evaluating a permit is whether the proposed project will have an impact on threatened or endangered (T&E) species. To assist in that role, the Game Commission will work with applicants on identifying the presence of T&E species and will provide best management practices on how any detrimental impacts may be minimized or avoided. The Commission's role, in essence, is similar to that of a consultant. Clearly stated: the PGC cannot deny a permit; the PGC cannot force an applicant to take action. Whether or not the permit is approved or denied is wholly the decision of the DEP.

To continue on this important point, in conversations with members about this bill, I have heard rumors of shakedowns and blackmail. Stories are circulating about the Commission forcing applicants to build roads, buy land, to do the Commission's bidding to win approval. I emphatically state that those rumors are false. Not only does the Commission not have approval authority, but to act in that manner runs counter to all we do to fulfill of our special mandate. Our interests are in working with the applicant on ways to identify the presence of T&E species and then to minimize the impacts to those species. To my knowledge, there has not been a single

case in the Commonwealth in which a permit was denied because of the Game Commission. Any rumors you have heard to the contrary are simply not true.

Many of the issues related at the last hearing were related to Indiana Bat, a federally listed species. The issues described were from the US Fish and Wildlife Service not the Pennsylvania Game Commission. This legislation would not change any of those issues.

It is also important to note that this permit review process that is at work presently would be unchanged should HB 1576 become law. DEP would still require an applicant to work with the PGC on identifying and protecting T&E species.

As I have stated previously, the Commission has significant reservations about HB 1576, specifically the impact it would have on our ability to protect the most vulnerable species in the Commonwealth as well as the potential loss of federal funds.

I appreciate your attention on our effort to correct the record. I would be glad to answer any questions.