

Approved
4/1/15

**Endangered and Nongame Species Advisory Committee
Meeting Minutes
January 21, 2015
NJ Division of Fish and Wildlife's Central Region Office
Robbinsville, New Jersey**

Members in attendance: Barbara Brummer (chair), Jim Applegate, Joanna Burger, Jane Morton Galetto, Howard Geduldig, Rick Lathrop, Erica Miller, David Mizrahi, Howard Reinert, Jim Shissias

Absent: Emile DeVito

Staff in attendance: Larry Herrighty (Assistant Director DFW), Dave Jenkins (Chief ENSP), Kathy Clark (ENSP), Robert Somes (ENSP), Kris Schantz (ENSP), Amanda Dey (ENSP).

Guests: Eric Schradig (USFWS), Scott Angus (NE PARC), Tim Dillingham (Am. Littoral Society), Kelly Mooij (NJ Audubon), Gretchen Taylor (AmeriCorps, DEP Watershed Ambassador)

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

R. Lathrop called the meeting to order. All attendees introduced themselves.

Approval of Minutes

J. Shissias moved for approval of the November 19, 2014 minutes, seconded by E. Miller. Minutes were approved by voice vote. Three members (Burger, Lathrop, Mizrahi) abstained due to their absence from the November meeting.

Status of Action Items identified in November's meeting

D. Jenkins reported that he has communicated the Committee's desire to provide input on the No Net Loss proposal to the Commissioner's office. B. Brummer asked who would like to serve on an ENSAC subcommittee (if one is formed) to develop advice for the Commissioner on this topic. Discussion followed as to the charge of the subcommittee, and that the subcommittee would consult with the full ENSAC prior to communicating their views. Those interested in participating included: J. Burger, H. Geduldig, J. Galetto, E. DeVito, and R. Lathrop. Since R. Lathrop coauthored the report he would be able to provide valuable insights on the report's recommendations.

The Water Quality Management Planning (WQMP) rules have not yet been proposed but they are likely to be proposed in the very near future. Once published as a proposal there will be a public comment period.

New action item: D. Jenkins to provide a summary of the WQMP rules to Committee members when available.

Approved
4/1/15

At the request of D. Jenkins that someone from the USFWS NJ Field Office attend ENSAC meetings, Eric Schrading, Supervisor of USFWS New Jersey Field Office (NJFO) attended this meeting.

ENSP's report on the Lepidoptera status review was provided to members prior to this meeting.

Regarding Diamondback Terrapin (DBT) harvest regulations: The Marine Fish Council regulations subcommittee met in December followed by a meeting of the full Council in January. The regulations subcommittee meeting was attended by ENSAC member H. Reinert. The regulatory committee recommended to the Council that they seek closure of the DBT season for the next two seasons. Options for achieving this include a Department Administrative Order (AO) followed by regulatory proposal.

D. Jenkins noted that there is legislation introduced (S2615, A3932) that would make the DBT a nongame species that if passed into law would obviate the need for an AO or regulatory fix.

New action item: Draft and send a memo to the Commissioner that ENSAC would support the MFC recommendation to immediately close the season, and further, to support the legislation to move DBT to the nongame list. J. Burger moved, J. Shissias seconded. Voting in favor: 8. Motion carried with two abstentions (Applegate, Geduldig). Deadline: January 30.

The work plan for the Tennessee Gas Pipeline herp management plan was provided to ENSAC prior to this meeting.

2015 Meeting dates were sent to all members, however, it was noted that September 16 is the date of the planned joint meeting of ENSAC and Fish & Game Council. B. Brummer suggested that ENSAC and FGC each recommend two topics.

There will be no official meeting on July 15 as previously indicated. Instead an informal, unofficial gathering is planned for be **July 14** at the Sedge Island Natural Resource Education Center.

Legislative Report

L. Herrighty reported in the Director's absence. He provided a handout containing currently proposed legislation that may be of interest to the Committee.

Public Input

T. Dillingham from American Littoral Society -- alerted the Committee that there is an issue of conflict between newly federally listed red knots and aquaculture and urged the Committee to begin addressing this issue.

Approved
4/1/15

NEW BUSINESS

Report from the Nominating Committee

R. Lathrop reported on the nominating committee's activities. There are three positions up for reappointment in April 2015. J. Shissias (public-at-large), J. Applegate (academic) are interested in stepping down after many years of service; J. Galetto will continue to serve. The nominating committee is soliciting for people interested in the public-at-large and academic positions. R. Lathrop asked D. Jenkins to suggest the type(s) of expertise the ENSP desires for the academic position. D. Jenkins provided the reminder that ENSAC's role in nominating is advisory to the Department.

Results of Delphi Status Review of butterfly species

D. Jenkins gave a briefing on the topic. Rob Somes reported that the Delphi panel reached consensus on 33 of the 51 species reviewed and on which ENSP biologists agreed with the status. Tables were provided along with the draft summary report.

J. Burger motioned acceptance of 33 species in the "summary table" and not shaded; seconded by E. Miller. Motion passed unanimously.

Committee reviewed 12 species presented in Table 4, those for which consensus was not reached.

J. Burger motioned acceptance of ENSP's recommended statuses for Appalachian Azure (U), Pepper and Salt Skipper (T), Common Roadside Skipper (T), Dotted Skipper (T), Leonard's Skipper (T), Gray Comma (T), except for Checkered White, which would be left in its current status of threatened. Seconded by E. Miller. Discussion followed. With regard to Checkered White, the four panelist votes for NA were deemed questionable given the species was documented in NJ in the last four years. For each of the other species, Committee members supported ENSP's recommendations because they represented the majority of Delphi voting. **Motion passed unanimously.**

J. Galetto motioned to accept ENSP's recommended statuses for the remaining species in Table 4: Rare Skipper (SC), Edwards' Hairstreak (S), Northern Oak Hairstreak (SC), Coral Hairstreak (S), Aphrodite Fritillary (U). Seconded by J. Burger. Discussion followed. R. Somes was asked to describe the status and panelist discussion around Rare Skipper; he stated NJ is a stronghold for this species that is listed as threatened or endangered in neighboring states and of concern in the region as a whole. Committee members wanted to recognize the importance of NJ to this species' conservation by recommending SC over S status. **Motion passed unanimously.**

H. Reinert motioned to accept ENSP's recommended statuses for the six species in Table 5, for which the Delphi panelists voted Not Applicable. Species include Harris' Checkerspot, Mitchell's Satyr, Appalachian Grizzled Skipper, Arctic Skipper, Silvery Checkerspot, and Columbine Duskywing. Seconded by J. Burger. Discussion followed. With regard to Harris' Checkerspot, R. Somes noted that most panelists commented it is likely extirpated, but some expressed the possibility it could reappear (and there was one vote for E status); thus ENSP's recommendation was to leave its status unchanged. Mitchell's Satyr is federally endangered and thus is automatically (by statute) state endangered. Appalachian Grizzled Skipper (currently E) is rare and declining throughout its range; most panelists voted extirpated or probably extirpated, but with the possibility it could be found, the prudent course would be to leave it in its current status. Regarding Arctic Skipper, R. Somes stated the

Approved
4/1/15

panelists' comments noted NJ is range-edge, but the last sighting date of 2005 is recent enough to warrant keeping it on the NJ list in an "unknown" status. R. Somes related panelists' comments that suggest Silvery Checkerspot was historically common in southern NJ, a region not well studied; given the uncertainty, it was deemed prudent to keep it on NJ's list with "unknown" status. The Columbine Duskywing had no Delphi consensus but most voted for unknown status, which is ENSP's recommendation. **Motion passed unanimously.**

J. Burger suggested that ENSAC needs to discuss the factors used to determine species statuses in Delphi (definition of terms) including and understanding the influence of factors such as changing climate, regional responsibility, etc., to assist ENSAC members as they review Delphi results. **Action Item:** Discussion on Delphi status definitions should take place before Committee votes on the next Delphi results.

Red Knot Federal Listing – emergent issues

E. Schradling of USFWS briefed the Committee. Red knot was listed as federally endangered on December 9, 2014, effective 30 days from that date, on January 9, 2015. In NJ, it may affect beach nourishment under ACOE permitting, as well as aquaculture that requires ACOE permitting. Oyster aquaculture requires maintenance that may require restrictions to avoid adverse impacts to knots. Regarding banding, a Section 10 permit is required; states (including NJ) that have Cooperative Agreements under Section 6 will not need to obtain Section 10 permits.

USFWS is developing conditions for ACOE permits for oysterculture. Applicants have 3 options: withdraw permit app, abide by USFWS conditions, or to not agree to conditions. In the last case, ACOE has the option of entering into formal Section 7 consultation with USFWS.

B. Brummer requested a copy of the most recent conditions that USFWS has recommended for oysterculture permittees.

D. Mizrahi will convene an ENSAC subcommittee made up of D. Mizrahi, R. Lathrop, J. Burger, and J. Galetto, for the purpose of reviewing the USFWS recommendations on behalf of ENSAC, and make recommendations to ENSAC.

Approval of 2015 Work Plan for implementing the Reptile & Amphibian Management Plan for the NJ Skylands Region with a focus on Timber Rattlesnakes and N. Copperheads

After some discussion, J. Applegate moved to approve the Work Plan as presented, seconded by R. Lathrop. There was no further discussion. Motion passed unanimously.

State Wildlife Action Plan Update

D. Jenkins reported that the Wildlife Action Plan revision is one of the featured topics on the NJDEP's website. The website will provide information and allow for public comments. ENSP staff is meeting

Approved
4/1/15

tomorrow with Dee Blanton of the USFWS Region 5. Staff is working on species prioritization, and the prioritization process will be explained on the website. The SWAP executive committee meeting is scheduled for late February. This revision will be more focused by way of a smaller group of focal species and selected conservation areas.

Species Status Reviews - Update

ENSP staff is working on status reviews in progress:

- Reptiles/Amphibians is in round two.
- Freshwater Fish is in round three.
- Birds will be addressed in two groups: land birds and water birds. The lists of birds for review are being compiled, which may total 100 land birds and 75 water birds. The expert reviewer lists are being compiled.

Update on WQMP – D. Jenkins

WQMP rules are under revision now. With regard to Endangered and Threatened wildlife, the amended rules are likely to clarify standards for E&T habitat protection including describing mitigation standards and procedures. For the most part they will not significantly change the protections, but make them more clear and attempt to capture ongoing Department practice. Some exceptions are that will likely include a special treatment for agriculturally-dependent species. Importantly, the rule amendments may introduce the standard of no net loss of habitat value for E&T wildlife habitat for the first time. Application of this standard would be through more explicit mitigation provisions that would require inclusion of conservation measures to achieve no net loss. To promote “smart growth” the rules may include a relaxed standard in specific “growth” areas, but with a safety net or backstop to protect habitat critical to a sustaining a local population of E&T species. Much of this is still under discussion.

Adjournment

Meeting adjourned at 2:30 PM by motion (R. Lathrop) and second (J. Shissias).

Summary of Action Items

1. By February 4: Draft minutes will be issued to ENSAC members.
2. Meeting schedule changes:
 - March meeting is changed to **April 1**.
 - The July meeting date will be **July 14**, instead of July 15. Planned for Sedge Island location.
 - **September 16** is the date of the planned joint meeting of ENSAC and Fish & Game Council. Suggestions that ENSAC suggests two topics, FGC suggests two topics,
3. DJ to determine if he may provide a summary of the proposed revisions to WQMP rules to Committee members and do so if permissible (once rules amendment proposal is published it will be a public document and DJ will ensure that ENSAC members are provided a copy of or a link to the proposal)

Approved

4/1/15

4. By January 30: Draft and send a memo to the Commissioner that ENSAC would support the MFC recommendation to immediately close the season and further, supports introduced legislation to move DBT to the nongame list.
5. Action Item: Discussion on Delphi status definitions should take place before Committee votes on the next Delphi results.
6. E. Schrading will provide to D. Jenkins the most recent conditions that USFWS has recommended for oysterculture permittees.
7. D. Mizrahi will convene an ENSAC subcommittee made up of D. Mizrahi, R. Lathrop, J. Burger, and J. Galetto, for the purpose of reviewing the USFWS recommendations, on behalf of ENSAC, and make recommendations to ENSAC.
8. All shorebird information to be presented will be made available to ENSAC well ahead of the April 1 meeting, at least by March 20.