

THE MINUTES OF  
NJ FISH AND GAME COUNCIL AND  
ENDANGERED AND NONGAME SPECIES ADVISORY COMMITTEE  
JOINT MEETING  
OCTOBER 10, 2023

A joint meeting of the Endangered and Nongame Advisory Committee and the Fish and Game Council was held on the above date.

The meeting was called to order at 10:00 a.m. by Chairman Virgilio.

Chairman Virgilio read aloud the following notice: In accordance with P.L.1975, c. 231 notice of this meeting was filed with the Office of the Secretary of State on October 4, 2023, and delivered to the designated newspapers for the division, The Atlantic City Press and The Newark Star Ledger on October 6, 2023.

Roll call was taken in accordance:

**F&G:**

Chairman Frank Virgilio

Councilman Jim DeStephano

Councilman Mitchell Jones

Councilman Ed Kertz

Councilman Dr. Rick Lathrop

Councilman Rob Pollock- **Absent**

Councilman Bob Puskas- **Absent**

Councilman Loren Robinson

Councilman Ken Whildin

**ENSAC:**

Chairman Rick Lathrop

Committee member Catherine Tredick- **online**

Committee member Howard Reinert - **Absent**

Committee member Emile DeVito- **Absent**

Committee member Russ Furnari

Committee member Jane Morton Galetto

Committee member Howard Geduldig- **online**

Committee member Erica Miller

Committee member David Mizrahi- **Absent**

Committee member Marion McClary – **Online**

Awaiting Appointment- Ty Gould

Awaiting Appointment- Martha Maxwell Doyle

Division employees included: D. Golden, L. Barno, G. Kopkash, K. Clark, F. Panico, M. Monteschio, A. Ivany, S. Crouse, P. Woerner, J. Powers, and D. Bajek.

There were numerous members of the public in attendance.

Chairman Virgilio asked if there were any changes or corrections to the September 12 minutes.

**A motion was made by Councilman Robinson to approve the September 12, 2023, minutes, seconded by Councilman DeStephano. Vote taken; motion carried.**

Chairman Virgilio of the the Fish and Game Council welcomed everyone. Our two councils have played a critical role in working on the challenges to preserve the stability of New Jersey's wildlife. I would like to thank all members of both councils for using the words of former New Jersey governor Howard Hoffman: "Your workings will receive little recognition while things are being done or remembered after your work is finished. Your work for wildlife in NJ will have no monetary reward, applause, or glory. You will see the task after your own hearts, and you will force your own interests in your work to take the place of money."

Chairman Lathrop mentioned last week he had the opportunity to participate in a group meeting that the Endangered and Nongame Species Program convened on updating the State Wildlife Action Plan. First up is identifying the species of greatest conservation need and when you scroll through the list you see what a daunting task this is. Some of those species have been a subject of intense monitoring and research for a number of years and some others we have only limited information on. Next up is evaluating various threats and prioritizing conservation tasks. It is an incredibly daunting task, but he was amazed and reassured that the team that the program has assembled it is going to be a real collaborative community effort and will be interesting to see how it all comes together over the coming months.

Assistant Commissioner Golden mentioned this is always one of his favorite meetings of the year, its great to bring the council and the committee together. Our staff has spent an incredible amount of time working with each group separately, so it is neat to bring everyone together.

## **New Business:**

### **Endangered and Nongame Wildlife Rule Proposal:**

Kathy Clark gave a presentation on the recommendations to amend the lists of endangered and nongame wildlife. Statutory Authority, N.J.A.C. 23:2A-4 NJDEP Fish and Wildlife is charged with conducting investigations of wildlife indigenous to the State to develop information on populations, distribution, habitat needs, and other biological and ecological data, to determine management measures needed for wildlife populations to perpetuate themselves successfully. On the basis of such investigations, the DEP may promulgate a list of those species that are determined to be endangered. This list shall be periodically reviewed and amended.

Recommended changes include:

- Additions, deletions, and conservation status updates to the list of endangered and the nongame species population in the State.
- One significant and several minor organizational amendments to the new lists. The proposed structural and organizational amendments affect how we describe the conservation status updates, so this will address the structural/organizational changes first.
- Changes to the definitions including adding four new terms. Amending five existing terms, and a minor change to the title of the nongame species list.
- A new subsection that addresses the way DEP adds species to the list of endangered species that have been added to the Federal list (ESA) but are not currently included on the State list of endangered species.
- Updates and corrections to the scientific and/or common names of several species on both lists based on updated nomenclature.
- A minor amendment regarding the term of the Chairperson of the Endangered and Nongame Species Advisory Committee (ENSAC).

A List of endangered species will be formally defined to include species with a conservation status of endangered or threatened. The statute includes two degrees of imperilment, which the Department has defined as “endangered” and “threatened.”

- Endangered species were put on the endangered species list.
- Threatened species were put on the nongame list.
- This categorization was addressed in a 2008 legal decision that confirmed threatened as a subset of endangered species.

This rule change will formally move threatened species from the nongame list to the list of endangered species.

Under the Endangered Species list there are 5 total changes to species currently listed as Endangered or Threatened that will no longer be E or T., they are bald eagle (breeding), bald

eagle (non-breeding), osprey (breeding), red-headed woodpecker (non-breeding), and cattle egret (breeding). A total of 27 species will be newly added to the list as E (endangered) or T (threatened) not currently listed on the list. There are four species on the list that will be reduced on the endangered list.

Recommended species on Nongame Species list, there are 115 recommendations to Nongame list. The Nongame Wildlife list increased conservation status for 18 species to Special Concern (SC). There is also 11 species that will be removed from the Nongame list.

There are four amendments to definitions.

- 1- **List of Endangered Species**- the list of wildlife indigenous to NJ determined to meet the statutory definition of an endangered species. The list of endangered species includes species assigned a conservation status of “endangered” and species assigned status of “threatened.”
- 2- **List of Regulated Nongame Species**- the list of wildlife indigenous to NJ that meet the statutory definition of a nongame species. Species included on the list may be assigned the conservation statuses of Secure-stable (S), Special Concern (SC), or Undetermined (U).
- 3- **Threatened Species**- the conservation status assigned to a species or subspecies of wildlife included on the list of endangered species (N.J.A.C. 7:25-4.13(b) for which the Department has determined the prospects of survival in the state are likely within the foreseeable future to become in jeopardy.
- 4- **Indigenous Species**- a species of wildlife living within its natural range and regularly and predictably occurring within the State.

A new subsection addresses the way DEP adds species to the list of endangered species that have been added to the Federal list (ESA) but are not currently included on the State list.

The Department wants to propose the amendments by the end of 2023, Notice of the rule will be posted on the DEP website with a 60-day public comment period. All comments can be sent to [Nongame@dep.nj.gov](mailto:Nongame@dep.nj.gov) and use: “Listing Rule” in the subject line.

Discussion took place between council and committee members.

#### **Public Comment on Rule Proposal:**

Barbara Sashau commented she does not agree with the rule proposal.

### **Shared Wildlife Health Information System:**

Patrick Woerner gave an overview of what the Office of Information has been working on. The Office of Wildlife Information Systems develops and maintains geographic information systems (GSI) data, provides geospatial analyses, develops web mapping applications, and provides GIS assistance to guide strategic habitat conservation and support fish and wildlife management throughout NJ. You can explore our apps on a desktop or mobile device.

Sabrina Greening with Penn Vet gave a presentation on the Health Wildlife Information System, which went live in October 2022 which she had been working on for the last 2-years. This was built for all State agencies to manage and collect wildlife health data.

### **Deer Recommendations:**

Jodi Powers, Deer Project Leader gave a presentation on Simplifying Deer Regulations for consideration for 2025 Game Code. We had gotten feedback from hunters that our deer regulations were too complicated to understand, and too many nuances. We came up with three areas that we could simplify deer while keeping management strategies intact.

1. Antler Point Restrictions (APR)
  - Eliminate APR regulations.
2. Simplify Regulations
  - Eliminate and combine regulation sets.
  - Align season date structure.
  - Reinstate the 7 buck bag limit.
3. Multi-Zone Permits
  - Possible expansion

### **Lunch: 12:32 – 1:05**

Chairman Virgilio asked for a motion to cancel the November 14<sup>th</sup> meeting due to the Farm Borough meeting on the same date and not having a quorum.

**Councilman DeStephano made a motion to cancel the November 14<sup>th</sup> F&G meeting, seconded by Councilman Jones. Vote taken; all approve.**

### **Beach Closure Rules:**

Mary Monteschio addressed the proposed new rule N.J.A.C. 7:25-4A Access Restriction to Tidal Waters and Adjacent Shorelines for Endangered Species Protection. The DEP is proposing a new rule allowing DEP to restrict tidal waters and/or the adjacent shoreline to protect threatened or endangered species of wildlife and their critical habitat areas. Examples of restrictions include:

1. Seasonal closures of selected beaches to protect migrating shorebirds and beach-nesting birds that forage and rest in the intertidal zone.
2. Seasonally fenced beach areas to protect endangered birds or sea turtles nesting on the beach.

The department would determine whether a restriction is required by confirming that 3 specific conditions are present at a site:

1. The Department must document that an endangered species is presently using, or is anticipated to use, tidal waters and/or the adjacent shoreline.
2. The tidal waters and/or adjacent shoreline must be demonstrated to be a critical habitat area for the species.
3. The Department must find that existing or anticipated injurious uses would result in harm, a form of “take” prohibited under the Endangered and Nongame Species Conservation Act.

If the Department determines a restriction is required, it will determine the extent of the area and the time frame for the restriction to be in place. The Department will designate the minimal area and duration necessary to protect the species or the critical habitat area. Restrictions may re-occur as needed: annually, span multiple years, or start and end multiple times within a year or across years. The Department will provide advance notice of all restrictions by U.S. mail, or email to the affected landowner and the respective municipality. Property owners will be notified at least 30 days prior to the implementation of a restriction. Exceptions to the 30-day notice may occur if there is an urgent need for a restriction, or if the need for the restriction was not anticipated. In those cases, notice will be made as soon as all affected property owners can be identified and contacted. Public notice regarding access restrictions will also be made public via postings on the Departments website. The Department will post signs, stakes, or flags and/or fencing or ropes to mark restricted areas to notify the public physically and visually of a restricted area. The Department is proposing a minimum fine of \$250 for entering a restricted area, and \$50 for damage to or removal of State property, such as signage or fencing. Penalties may be up to \$25,000 for those who enter a restricted area and up to \$1,500 for those who cause significant damage or remove State property.

The Department will propose this new rule in early 2024. Notice of the rule proposal will be posted on the DEP website ([www.nj.gov/dep/rules](http://www.nj.gov/dep/rules)) with instructions on how to provide comments. All comments, questions, and suggestions can be emailed to [Nongame@dep.nj.gov](mailto:Nongame@dep.nj.gov). Use “**Shore Protection**” in the subject line.

### **Organic Farming:**

Assistant Commissioner Golden reported that within title 23:8a-1 the F&G council is given the opportunity to review any sale, lease or conveyance that we might have related to Wildlife

Management Areas and then make a recommendation if they choose to the Commissioner. We have something that we've been working on for quite some time, related to our Organic Farming Pilot. Both the council and the committee have been updated previously at some point over the past 2 years about this pilot program to advance organic practices in some of the areas that we have traditionally farmed, or farm leased on WMA's. We have around 3,500 acres of area on our 365,00-acre WMA system that we put out to farm lease. A few years ago we made a decision to see if we could use organic practices in those areas and we set out a pilot program. We carved out around 500 acres to put them into this organic pilot. It is finally coming together, as Covid was a disruptor, but we are working with Rutgers University through an MOU and also with NOFA NJ (Northeast Organic Farming Association) to identify farmers to participate in this program. They will work towards getting the leases and we will sign the leases as individual farmers come in.

We have the first one that has come around through that program on our Whittingham WMA, the leasee is Chief Mann of the Ramapo Lenape Nation. It is 40 acres, which amounts to 16 fields. The crop would be small grains. Restrictions will be embedded into every lease, where there is no animals, no fencing, no irrigation, must maintain public access and no structures. This is ready to move forward, it moved through the State house commission back on September 18<sup>th</sup> and we wanted to present it in front of the council today to see if there were any concerns or recommendations to the Commissioner regarding this lease.

Committee member Jane Morton-Galetto made a motion to support advancing organic practices on Wildlife Management Areas where farming is the selected land use, seconded by Councilman Lathrop. Vote taken; all approve.

### **Non-Lead Partnerships:**

Leland Brown, a biologist from Oregon zoo gave a presentation on non-lead ammunition and all the partnerships who contribute to preserving our wildlife conservation and hunting heritage.

### **F&W Non-Lead Information:**

Sam Forlenza, Senior Biologist from the Hunter Education program gave a presentation on Hunting with Non-Toxic Ammunition and the costs and benefits.

### **Public Comment:**

Janet Pizar commented about an OPRA request.

Barbara Sashau commented that she is against the bear hunt. She also stated that she has been hearing about non-lead for 10 years.

Chairman Virgilio asked for a motion to adjourn the meeting.

**Councilman Jones made a motion to adjourn the meeting at 3:00, seconded by Councilman DeStephano. Vote taken; all approve.**

**The November 14<sup>th</sup> F&G meeting has been canceled.**

**Next meeting will be December 12, 2023, at 10:00. In-person at the Robbinsville office.**