

September 5, 2014

The Honorable Doc Hastings
Chairman
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Peter DeFazio
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
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Dear Chairman Hastings and Ranking Member DeFazio:

Good morning. My name is Jeffrey Pyle. For the last ten years I have served the good people of the 60th Legislative District (Armstrong, Indiana and Butler Counties) in the Pennsylvania State house. During this tenure, I have served on our Environmental Resource and Energy committee for a decade and currently chair its subcommittee on mining and as the majority member on the Mining Reclamation Advisory Board. From these roles and others I have become quite familiar with today's topic and hope that my time here is seen by the esteemed panel as informative and helpful.

I'm told the purpose of this hearing is a change in listing for the Northern Long Eared bat. I suppose I've been called because of my experience with another federally endangered bat, the Indiana bat. Before I can fully explain this, a bit of background is necessary. My home is Armstrong County which lies roughly 200 miles west of Harrisburg, northeast of Pittsburgh. Armstrong County is bisected almost in half lengthwise by one of the rivers that forms the Ohio in Pittsburgh, the Allegheny River. The Allegheny is a global oddity-one of only two gravel bottom rivers in the World due to its role as a main drainage channel for the retreating glaciers during the last Ice Age. The County is blessed by abundant agriculture, ample water supplies, broad blanket forests, tremendous coal, shallow gas, shale gas, various rock aggregates and 70,000 of the most red white and blue Americans you will ever meet. We are former rust belt that has not recovered but are doing our best with what we've got. A huge part of our citizens' employment is in natural resource recovery of the aforementioned. It is not an exaggeration to say that a few years ago, before the Clean Air Act killed our power plant, we heated the East Coast and never failed to make the lights come on. The county seat and largest town is Kittanning (pop.4600) and its second largest is Ford City (pop.3400) just 3 miles away. Two years ago, a new school board voted to close each town's high school and build a new combined one for both towns' students on a location high upon a mountain separating both towns and gazing over miles of the Allegheny and the first new school for Kittanning since 1955 and Ford City since 1908. A generous donation of hundreds of acres of land by

a family dedicated to education would be the site. That's when I learned about the Environmental Protection Agency's federally protected endangered Indiana bat.

When the architects and engineers first entered the site to survey and what not, they were informed the building site was in a zone inhabited by federally protected Indiana bats and that special procedures would be needed at, of course, the school district's expense. This entailed doing a bat study in which finely meshed mist nets would need to be hung over hundreds of yards from the trees to accurately measure the presence on the property of Indiana bats and determine the remediation efforts that would be required. A few weeks after the nets were hung, they were studied and it was found that there were no bats BUT because the building site was located in their presumed feeding range, there would have to be considerations made by the school district to the EPA so that we could build the school. It seemed to matter not that no bats were found; for us to build our school, it would cost us a little over \$60,000 so that the EPA could go purchase and set aside land somewhere else for the Indiana bats since our new school building apparently disturbed their ability to frolic and prosper even though they weren't there at the time. No bats, no problem-pony up \$60K and you can fire up the dozers. That's how it went down.

All bat populations in the Commonwealth are currently experiencing their own Ebola like plague called White Nose Syndrome. It is viral in nature and thus defies and escapes our ability to cure it. From what we know of it, it started up in New England and worked its way down the Appalachians to us. It is not harmful to humans but does a real number on bats who, instinctively, huddle very close together to conserve body heat. Therein is the transmission point of the virus. Like Ebola, it is instinctual direct huddling and touch of an infected bat to another and after that, they're going to die in amazingly high percentages. We've seen it here in Pennsylvania and cannot stop it. We've had researchers at our universities look for a cure and they haven't found it yet. White Nose Syndrome will continue to work its way down the mountains until roughly 85% of all the bat population on the East Coast is decimated. To sum up, their instincts encourage them to transmit and incurable virus among themselves and they are going to be nearly wiped out and we can do almost nothing about it. That's the straight hard facts.

If the EPA's classification of the Northern Long Eared bat rises, there will be changes to how you live your lives. As I learned from a former PA Department of Environmental Protection administrator who now holds a prestigious position in Pittsburgh with an environmental lobbying group, it's not whether the bats live there or not (as happened to us), it's about habitat-could the endangered bat in question utilize the area to re-establish itself and come back to a healthy population. It is rhetorical in nature as the White Nose Syndrome will do exactly as has been described but it has not deterred neither the EPA nor the PA Game Commission (who administers our endangered species program and tells everyone it's the DEP) who, nonetheless, have drawn the "supposed" ranges of the bats in large outlines all over a map of the Commonwealth. Within those boundaries, those ranges, anyone wishing to perform seemingly any kind of outdoor activity must submit to the conditions prescribed by our various rule promulgating agencies because of being located in the bat's yard. Great trouble is encountered in that bats, being airborne creatures, move over great distances and create immense outlines where human activity is highly regulated. To compound the great range, the roosting of the various bat species takes place in abandoned homes, trees and just about anywhere that's got a half inch crack that will let them

stay dry. Those are also protected places which puts our ability to tear down urban blighted properties. To limit human activity within 3 to 10 mile radius of every pine tree (where little Brown bats roost) in Pennsylvania covers just about the whole place and again, it's not whether or not you find the endangered creature there, it's could they live there? If my testimony has angered any of these agencies enough for them to take a closer look at Armstrong County, they will find that our abundant food and water sources, coupled with a rugged hill and valley strata covered by dense forest, would be an ideal habitat for Bigfoot. Using the "we don't have to actually find them, just call it habitat and extort huge fees that jeopardize jobs" approach currently in use, they could do it and the part with which you should concern yourselves with is how you, the House of the people, can't stop them.

EPA is a rule promulgating agency just like the Pennsylvania Game Commission and Fish and Boat Commission. In short, they can make rules that hold the force of law without you even knowing unless you monitor and read the correct bulletins. Executive directors execute these rules at the behest of the appointed EPA administrator or game commissioners. In Pennsylvania, these game commissioners are chosen by the governor's nomination and our Senate's confirmation. At no time does that House of Reps have any role in any of the process. Of interest to this discussion is that our game commissioners are non-elective yet hold the power to make rules that hold the force of law. To point, in addition to the federal EPA's endangered list, the Commonwealth maintains an additional list of threatened or endangered species that they consider endangered. I say "they" because none of the listings are ever subjected to a governmental OR public vote. They can just do it and they do. As a personal note, I see no salient logic as to why the state snake of Arizona (the massasauga rattlesnake) is a protected species in Pennsylvania. Using the same logic, we better get cracking on designating the Timber Wolf and Buffalo because I'm sure both lived here a long long time ago.

I recently offered legislation that would have required the Commonwealth's handling of species of concern in a more open manner. One of the things my bill would have done was require our Game Commission and Fish and Boat Commissions to open up their confidential data base of identified species locations to allow interested developers to learn whether or not the land being considered for development hosted endangered species that would require additional financial investment to establish the dictated remediations. I felt it served the spirit of caveat emptor-the buyer beware-and allow them to do their due diligence of quantitative and qualitative data from a confidential protected data base PRIOR to the execution of sale on the property. It struck me as innately fair-one does not buy a car without kicking the tires. The measure was strongly opposed by mainly west coast environmental groups and their Pennsylvanian chapters who emailed with vengeance that this part of the bill made me a genocidal maniac and once created a picture of me in a Batman costume standing in front of scorched Earth (not buff Batman-the Adam West batman). Apparently I struck a nerve as their goal, as a rulemaking agency that holds force of law without accountability to the public in any shape or fashion, was to protect their ability to "ambush" developers with financial demands but these couldn't be made until after the purchase was finalized. Being a genocidal maniac I can't really speak from authority, but that's just how the ten year observation appears.

Panel, my family has lived in Armstrong County since before it was Armstrong County (1803). We have farmed its fields, dug its coal, made its steel and taught its kids for over 200 years. Whenever our Nation

called us to go fight we did and often spilled blood the whole way from Germantown and Antietam to Kuwait. To think that a distant unelected body can dictate to us when we can and cannot cut our standing timber on our own land according to a bat's mating schedule is simply preposterous. It wouldn't be so bad if there was some kind of recourse to protest these ruling made so far away by people who have never been here who really don't give a hoot whether the citizens of Armstrong County have jobs is wholly and comprehensively unacceptable. The ESA encourages us, who have such a dynamic and deep grasp of patriotism, to become lawbreakers in the Nation we've gone to fight for. It has to stop. That folks who don't live here can profess to know what's best for us is ridiculous and exposes to me only one thing: ideological positioning and defense for animals that don't affect the area and people who live around them exposes only their hollow "supremacy" that they cannot justify when questioned. Seriously, do you think Philadelphia would shut down Independence Mall if they found an endangered bat there? I think not.

It defies logic that our care for one animal has become so trivial. We know we cannot cure white nose syndrome yet nonetheless, we advance a ruling on yet another species that means more than homo sapien.

Thank you for your time and attention and I eagerly await your questions should you have any.

Sincerely,

State Representative Jeffrey Pyle
60th Legislative District

JPP:hp