

Statement of the Joseph M. Hinson
Before the
Senate Education, Energy and the Environment
On SB 946, Authorizing Conservation Plans for Various Bat Species
March 4, 2025

Mr. Chairman and members of the committee:

I am Joe Hinson, a consulting forester and member of the Maryland Forests Association board. I live in Salisbury, MD. Over my career, I have had extensive experience dealing with endangered species issues.

I and the forest products companies with which I work are very much in support of HB894, which authorizes the Department of Natural Resources to develop a conservation plan for three species of bats found in Maryland, one of which, the Northern Long-eared Bat, is listed as “endangered” under both federal and state law. These plans, commonly called habitat conservation plans, are essentially negotiated agreements for management practices, in our case logging, which are both workable and acceptable to those who must implement them on the ground, and which will also help protect bats

Bats are not declining because of logging or any other land use but because they are susceptible to a fungus disease, white-nose syndrome, which attacks and spreads during the winter when large numbers of bats hibernate together. So far, there is no cure for this disease. Therefore, the US Fish and Wildlife Service is looking at any activity that might adversely affect bat populations, no matter how remote the possibility may be. For example, we harvest less than 1% of the forestland in Maryland each year, yet we must address bat populations in our forests.

The federal Endangered Species Act defines “Endangered” as any species in danger of extinction throughout all or a significant portion of its range. Maryland’s law automatically accepts federal listings. Both Maryland and federal law prohibit any “taking” of a listed species. “Taking” is very broadly defined as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”

The Fish and Wildlife Service has published a guidance document outlining measures to be taken, presumably limiting any impacts to bats and preventing unlawful “taking.” The Maryland Department of Natural Resources is in the process of developing a parallel state-level guidance document. While we have not seen a draft of the state document, we have significant concerns with the federal version, which we would like to address in the state

guidance document. Our objective is to incorporate the state's guidance into the conservation plan with acceptable management practices.

The current federal guidance includes seasonal constraints that virtually preclude logging during the summer months when it is driest and oftentimes the only time of year when we can log wet areas or steep ground that might erode during wet seasons. In western Maryland, there are also numerous cliffs, mines, caves, and other areas where bats are likely to hibernate during the winter. The guidance would mandate that there be no disturbing activities, including tree removal, within 0.5 miles of a potential hibernating area and within 3.0 miles of known bat hibernacula. Finally, suitable roost trees will not be cut during spring staging and fall swarming within 5.0 miles of hibernacula entrances for long-eared bats and within 3.0 miles of hibernacula entrances for tri-colored bats.

We have to view such constraints as threatening to our entire industry and unworkable, particularly in western Maryland, since we have so many areas where bats can potentially hibernate or roost. For now, the state is applying these restrictions to state forests and other state-managed properties, federal lands, and private lands where there is a funding or permitting nexus, such as participation in various farm bill programs. However, both federal and state laws prohibit “taking” on any ownership, so we do not doubt that these restrictions will ultimately be enforced on private lands as well.

Federal law authorizes habitat conservation plans (HCPs) that identify actions landowners and others can adopt and which, if followed, provide an “incidental take” permit. These agreements may include measures less onerous than a blanket “take” prohibition. Maryland's law authorizes conservation plans and incidental take permits for only two species, Delmarva Fox Squirrels and Tiger Beetles. The legislation is straightforward. It adds Northern Long-eared Bat (NLEB), Tricolor Bat (TCB), and Indiana Bat as other species for which HCPs can be developed and an incidental take permit. Without such a plan and permit, “taking” one of these three bat species would be prohibited and unlawful.

Without authorization for a conservation plan and incidental take permit for bats, as allowed under federal law, Maryland will likely simply adopt the measures in the federal guidance document as adequate to prevent unlawful taking under both federal and Maryland law. The bill authorizes (but does not mandate) the secretary to develop a conservation plan and issue an incidental take permit for those activities described in the plan and its conservation measures.

For those, like the timber industry, who believe the seasonal restrictions on logging in the federal guidance are unworkable, a state conservation plan, developed in cooperation with the Department of Natural Resources, hopefully, will provide an opportunity to both do all

we can to ensure the bat's survival through conservation measures that are more acceptable for Maryland than those currently in the federal guidance document.

We urge your passage of this critical legislation and thank you for the opportunity to present our views.