Comments in Opposition to Senate Bill 78

February 14, 2013

MEC is a coalition of 67 member organizations from across Michigan, including members in the Upper Peninsula. On behalf of these members, we are here today to express and explain our opposition to SB 78, and to ask the committee members to retain Part 355 (Biological Diversity Conservation) and Part 525 (Sustainable Forestry on State Forestlands) as they currently exist in Michigan law.

Land managed for biodiversity is an asset, not a liability, and is fitting with Michigan's long tradition of using the best science-based approaches to land management. The *2011 State of Michigan's Environment Report* highlights that biodiversity is a critical concern for Michigan's future. For example, tracking plant and animal diversity helps our state monitor and respond to threats to our forests, crops and waterways from invasive species. According to the report, "Invasions of terrestrial and aquatic ecosystems by exotic nuisance species now rank second only to habitat loss as the major threat to biodiversity in the Great Lakes Basin." (18) Similarly, it suggests that "data on plant diversity can be used to evaluate species richness patterns over time. This information will help to evaluate the effect of exotic plants relative to their native counterparts." (8)

We feel that SB 78 undermines our great tradition of science-based resource policy, and threatens the DNR's ability to protect, restore and properly manage the natural resources of the state. It puts at risk key tools in managing for the long-term health and natural resilience of our forests, our rich natural plant and animal communities, our fisheries and natural resources.

Confusion Regarding DNR Biodiversity Stewardship Areas (BSA) program

The bill's lead sponsor has stated in the past that his intent with this legislation is to eliminate and stop implementation of the Department of Natural Resource's "Living Legacies" (formerly Biodiversity Stewardship Areas, or "BSA") program, which it has been suggested would "set aside" and/or "lock up" as many as 400,000 acres of Michigan public land.

In investigating these concerns, and through conversations with policymakers, DNR officials, our member group representatives, our conservation allies and partners, and others in the natural resource community, we have come to believe that the BSA program is not clearly understood by any of the program's key constituents.

Therefore, prior to (or instead of) enacting the sweeping and potentially harmful reforms proposed in SB 78, we would instead suggest and offer our assistance to the committee to revisit, review, clarify and consider revisions to improve the proposed BSA/Living Legacies program.

Along with other state and regional organizations, MEC was invited to participate on the public advisory team assembled by the DNR in 2008 to advise and direct the creation and implementation of the BSA program. We are currently reviewing the agenda and minutes from this important series of meetings, and would be happy to share our findings with this committee.

But perhaps most notably, it is quickly apparent that designation for biodiversity conservation in the BSA program is not and was never intended to be a "set aside" designation. But fears of that outcome seem to be pushing this committee to consider SB 78, which would "throw the baby out the with bathwater" by redefining key concepts of biodiversity, and undermining the legitimate role of the state DNR in protecting and improving Michigan's natural biological diversity, its natural communities and its native plants and animals.

Our analysis suggests the legislation may also endanger other core programs, including our forest certification efforts, and put at risk areas that have long enabled people to see and appreciate Michigan's amazing natural assets. Places such as Hartwick Pines, Haven Hill and others are managed and designated at least in part based on biodiversity values, but are also popular places for wildlife viewing and as places to experience Michigan's history and cultural icons.

We believe SB 78 overreaches in this regard, and in doing so jeopardizes Michigan's commitment to and utilization of sound science-based natural resource management.

The Necessity of Biological Conservation

Our opposition to SB 78 stems from our conviction that biological conservation, and consideration of plant, animal and genetic diversity, is a fundamental and necessary tool in Michigan's natural resources management toolbox; it represents sound scientific consensus and approaches that safeguard benefits for Michigan's industry, residents and visitors.

Michigan is blessed with a wide variety of native plant and animal species and communities. These are an asset that must be actively protected with every tool available. The stewardship of threatened and endangered species, the protection of functioning natural communities, and the restoration of native plants and wildlife are concepts that date back more than 100 years in Michigan.

The DNR is right and justified in deploying the best scientific and professional expertise and strategies to ensure "the continued existence and normal functioning of native species and communities" in Michigan, i.e., in undertaking active biological conservation or managing for biodiversity.

Protecting, enhancing, and restoring Michigan's biological diversity (including ecosystem, species, and genetic diversity) is a completely logical and scientifically sound management tool. It protects the natural communities and native plants and animals of Michigan, and ensures a healthy and robust natural system for this and future generations. Biological diversity is a fundamental part of a mission that lies at the foundation of Michigan's long tradition of strong and responsible public land management. Managing lands for biodiversity and ecosystem health

and genetic resilience ensures that our forests can survive new invasive species, such as emerald ash borer, and our fisheries can withstand diseases such as VHS.

Biodiversity or biological conservation is a management tool for enhancing and restoring Michigan's native natural ecosystems, and is entirely in keeping with the idea of the Michigan's agencies are stewards of the public trust, and the caretakers of Michigan's abundant natural beauty and healthy ecosystems.

As such, we are opposed to SB 78 and its assumption that the perpetual survival of Michigan' native species and natural communities (as represented by the diversity of plant, animal and genetic material managed on state lands) is not of critical importance to Michigan and its residents. Tools such as sustainable forestry and land designation to protect vital natural features and communities are key tools in achieving the DNR's mission and preserving our great natural resource legacy; we see no reason to eliminate them.

Why is Biodiversity Important?

A healthy and diverse representation of Michigan's native and natural plant and animal communities provides countless social, environmental and cultural benefits to the state of Michigan. Diverse ecosystems with a strong and healthy population of native species are more robust, more resilient in the face of natural disasters and disease, and provide for a healthy interconnected web of plants and animals.

Healthy, diverse ecosystem also provide a host of important natural functions, including air and water cycles, the creation and breakdown of natural nutrients and breakdown of pollution. Diverse natural systems might also provide important biological benefits in the future, such as food, medicine, and gene diversity.

In Michigan, our rich and diverse natural communities also drive a large recreation and tourism economy, support healthy agriculture and forestry industries, and improve our quality of life.

Tools to protect, restore and enhance those natural communities should be encouraged at all levels – state, local and private organizations and individuals. The state agency charged with supporting this large task should be empowered to use the best tools and most sophisticated assessment strategies in meeting this management goal.

Specific Concerns With SB 78 as Drafted:

1. **Definitional Changes Would Remove Key Ecological Concepts.** The proposed definitional changes remove at least four concepts that were central to the state's approach to "biodiversity conservation" as articulated in the original law:

SB 78 removes at least four concepts that were central to the state's approach to "biodiversity conservation" as articulated in the original law:

- **Restoration**. Restoration of biological diversity is a vital function of natural resources management in Michigan. Science tells us that simply trying to preserve what is left is not adequate to counter the many threats to native species and natural communities. Michigan should also (and has for more than a century) worked to restore and enhance native communities that are undermined by bad management or human activity, threatened by invasive species, or weakened by other factors.
- **Quantity and Variety.** The original law states that "as much of the variety of native species and communities as possible" should be protected, restored and enhanced. This provision should be retained, as science again tell us that diversity provides our natural communities with greater health and resilience. Also, the amazing variety of plant and animal life found in Michigan is one of our state's greatest assets and responsibilities. It is our responsibility to identify, protect and restore examples of Michigan's natural heritage and native diversity.
- **Viability and Distribution**. The original law specifically suggests that the state should focus on "viability of populations" and ensuring that these populations be located "throughout the natural geographic distributions" of native species and communities. These are key scientific principles for ensuring a healthy ecosystem in Michigan, since small, isolated pockets of native plants or animals, cut off from their original natural "range" will never be as healthy or resilient as those that are located in a wide range and in robust numbers.
- **Continued Existence and Normal Functioning** of native species and communities. The law's original intent was clearly to ensure that Michigan's native species and communities be allowed to thrive alongside human activity. It is critical that Michigan's leaders not forfeit this responsibility, but instead retain the provision that clarifies the ultimate goal of biological conservation or biodiversity management is to support these native species and communities in their "continued existence and normal functioning" in perpetuity, so they will always be part of Pure Michigan.

Currently the law state provides the following definitions:

> 324.35501(c) "Conserve", "conserving", and "conservation" means <u>measures for maintaining</u> natural biological diversity and <u>measures for restoring</u> natural biological diversity through management efforts, in order to protect, restore, and enhance <u>as much of the variety of native species and communities as possible</u> <u>in quantities and distributions</u> that provide for the <u>continued existence and normal functioning of native species and communities</u>, including the viability of populations <u>throughout the natural geographic distributions</u> of native species and communities. (emphasis added).

The proposed law would delete that definition and replace it with the following. We **oppose these changes**:

> 324.35501(B) "CONSERVATION OF BIOLOGICAL DIVERSITY" MEANS MEASURES FOR MAINTAINING BIOLOGICAL DIVERSITY WHILE ENSURING ACCESSIBILITY, PRODUCTIVITY, AND USE OF THE NATURAL RESOURCES FOR PRESENT AND FUTURE GENERATIONS.

Note: Biological Diversity in both current and proposed law remains the same and is defined as:

> 324.35501(c) Biological Diversity means the full range of variety and variability within and among living organisms and the natural associations in which they occur. Biological diversity includes ecosystem diversity, species diversity, and genetic diversity.

We feel the original language should be retained.

2. Would Create Unnecessary Prohibitions on the DNR and Remove Key Tools.

The following language is proposed in SB 78. We **oppose these changes**:

> Sec. 504. (7) THE DEPARTMENT, DIRECTOR, OR COMMISSION SHALL NOT PROMULGATE OR ENFORCE A RULE OR ISSUE OR ENFORCE AN ORDER UNDER THIS ACT THAT DESIGNATES OR CLASSIFIES AN AREA OF LAND SPECIFICALLY FOR THE PURPOSE OF ACHIEVING OR MAINTAINING BIOLOGICAL DIVERSITY, AS DEFINED IN SECTION 35501, AND SUCH A RULE OR ORDER IS VOID.

We believe this section should not be added.

3. Would Undermine DNR's Duties Regarding Forest Management.

In several sections, the proposed bill would remove biological conservation, restoration and ecosystem considerations from the DNR's toolbox of good forest management, and insert concepts around economic return and valuation.

Habitat management, biological diversity and ecosystem considerations are fundamental tools of modern forest management, and it makes no sense to remove these from the DNR's mission or goals as it relates to forest management. Beyond simply guiding sound land stewardship, these principles are also the foundation of the state's investment in sustainable forestry certifications, which require plans and programs to protect biological diversity. Turning our back on these approaches now would reduce our ability to secure federal funds for programs such as Great Lakes Restoration Initiative (GLRI) and cooperative agreements for pest management (Emerald Ash Borer), Fire Management, and Private Land Stewardship programs with the US Forest Service, USDA and others.

Biodiversity is also fundamental to the state's Forest Action Plan, which helped Michigan bring in $22 million for cooperative agreements in recent years, including $800,000 in Great Lakes Restoration Funds for five projects including Chevy in the Hole restoration efforts in Flint. Removing biodiversity as a forest management tool available to the DNR risks the state's ability to do cooperative agreements to handle EAB, Fire Management, and Private Land stewardship

programs. It would undermine our eligibility for program such as America's Great Outdoors or other emerging programs, many of which include biological diversity as a goal.

Ignoring biodiversity, aquatic health and other key features of a healthy forest may also put the state in direct conflict with federal requirements related to threatened and endangered species. Similarly, substituting "voluntary silviculture practices" for state and federal requirements is not acceptable.

The following language is proposed in SB 78. We **oppose these changes**:

> Sec. 52502. (2) (iv) ~~Plan and manage~~ PLANNING AND MANAGING plantations in accordance with sustainable forestry principles and in a manner that complements the management of and promotes ~~the restoration and~~ conservation of natural forests.
>
> Sec. 52502. (2) (b) Conserve and protect forestland by doing all of the following: (iii)~~Manage~~ SUBJECT TO SECTION 504(7), MANAGING the quality and distribution of wildlife habitats and ~~contribute to the conservation of biological diversity by developing and implementing stand and landscape level~~ CONSIDERING measures that promote ~~habitat diversity and~~ the conservation of forest plants and animals ~~including aquatic flora and fauna and unique ecosystems~~ WHILE BALANCING ECONOMIC VALUES.

Sec. 52502. (2) (b) (vi) ~~Manage~~ MANAGING activities in high conservation value forests by maintaining ~~or enhancing~~ the attributes that define ~~such~~ THOSE forests WHILE BALANCING ECONOMIC VALUES.

Sec. 52502. (e)(i) ~~Require~~ REQUIRING that forest management plans and operations comply with ~~applicable federal and state laws.~~VOLUNTARY SILVICULTURAL PRACTICES.

We **oppose these changes** and suggest the original language be retained.

4. <u>Would Refute Clear Scientific Evidence and Consensus</u>

SB 78 proposes to delete a legislative finding that states most losses of biological diversity are the result of human activity. The legislature **should retain the following** (proposed for deletion), as there is clear scientific evidence that this is true:

> Sec. 35502. The legislature finds that: (b) Most losses of biological diversity are unintended consequences of human activity.

Conclusion

SB 78 is unnecessary and counterproductive. We oppose the proposed revisions and stand in support of Part 355 (Biological Diversity Conservation) and Part 525 (Sustainable Forestry on State Forestlands) and ask the committee to retain these as they currently exist in Michigan law.