

PSO

Newsletter



*The Newsletter of the
Pennsylvania Society for Ornithology*

November 1996

Volume 7, Number 4

FROM THE PRESIDENT'S DESK....

Leaves are down on the northern tier, weather patterns are changing as rapidly as the warm weather retreats to the tropics, and most wildlife are preparing for the harsh winter to follow. Some are just "getting out of Dodge" as perhaps a simpler solution. I recently watched both a gray squirrel and a whistle pig on the forest floor gathering dry leaves in their mouths; both were totally oblivious to my presence. The squirrel headed up to stash a tree nest and the woodchuck ducked down into a ground cavity. Migrating Solitary Vireos usually sing as loudly and steadily in my "woods yard" during the month of October as they do in May, but this fall only once did I hear one. Regardless of the strategy we employ or the severity of the winter ahead, most of us intend to and will get through those long months and return to full life again next summer.

The PSO held a productive board meeting earlier this fall at State College (September 28) to continue its mission: the promotion and conservation of birds and their required habitats, birding, education, and the recognition of important contributions to Pennsylvania ornithology. At the meeting we heard Doug Gross talk about significant progress on PSO's Special Areas Project (SAP) which has documented over 2,000 field trips including 300 this year alone in some of Pennsylvania's richest bird lands. Data are complete in

some cases and will soon be ready for use by land managers, local Audubon chapters and bird clubs, and park superintendents, to name a few. We also discussed the new timbering strategy for Pennsylvania's 2.1 million acres of public (state) forest and how to best conserve avian biodiversity in the context of significantly higher cuts (or, as the foresters call them, "treatments"). In our letter of response, the PSO went on record to request an assessment of the impact of changes in harvest strategy on the degree of forest fragmentation or edge production before implementation. State park policy related to private development initiatives, such as a current proposal to build a private lodge(s) on Lake Glendale in Prince Gallitzin State Park did not escape our scrutiny either. The PSO supports the basic policy of DCNR of no private development on state park lands; however, directors felt that conservation goals may be tailored at individual state parks to recognize the special qualities or natural resources present. If the purpose of a lodge is tied directly to conservation education and emphasizes the enjoyment of wildlife or other natural resources in a non-disturbing or non-consumptive fashion, why not have one at some state parks? Unfortunately, too many developers have purposes in mind that are not compatible with our state park heritage.

The last major topic of discussion in State

College was our annual spring meeting. Plans are underway to meet in May 1997 at the Mont Alto campus of PSU in the Chambersburg/Gettysburg area. The theme of this spring event will be "Mason-Dixon Birding" due to its southern reach and promise of some species with a more typically southeastern distribution. Shonah Hunter continues to coordinate and plan many of the arrangements for our meeting, while other directors work on speakers and the rest of the program. Plan now to be there, May 16-18, 1997. Also, we do plan ahead and will accept nominations and/or offers to host future meetings of the PSO. Let us know where you want future meetings held.

Do you have all your leaves in for winter yet?

--Robert M. Ross, President

Pennsylvania Hawk Watch Sites

by Alan Gregory

The Golden Eagle (*Aquila chrysaetos*) is the prime drawing card at hawk watch sites across the Northeast throughout much of November. It's a rare to common migrant at all 15 hawk watch sites that submitted end-of-season data to *Pennsylvania Birds* in 1995. The 1995 season's tally from the reporting hawk watches totaled 640 Golden Eagles.

The 1996 season, of course, is far from over, but many of the state's hawk watches have already recorded Golden Eagles this year. For example, Council Cup, the state's northernmost site in Luzerne County, tallied its first Golden Eagle in early October.

Most migrating Golden Eagles that pass Pennsylvania hawk watches are observed in November, concurrent with the high point for migrating Red-tailed Hawks (*Buteo jamaicensis*).

The hawk watch site at Waggoners Gap near Carlisle in southcentral Pennsylvania (Cumberland County) has been the state's champion Golden Eagle watch site for the past few years. In 1995, Waggoners

Gap recorded 146 Golden Eagles, and the site's average count for the 1990s is 125 eagles.

At most of the hawk watches in Pennsylvania and the Northeast, the first 15 days of November each year are the high point for the Golden Eagle migration. The one-day high at Waggoners Gap has been reached three times in recent years during the first half of November: Nov. 2 in 1984, Nov. 11 in 1994, and Nov. 8 last year. Nine Golden Eagles passed over the Waggoners Gap watch site on October 14 this year.

At this site and most others in Pennsylvania, most Golden Eagles begin moving past watch sites following the passage of cold fronts, with north and northwest winds being the most favorable. Southwest winds can also prompt Golden Eagles to fly by Waggoners Gap often bringing the birds in close to the site, notes site compiler Greg Grove.

The Waggoners Gap hawk watch site is located where State Route 74 crosses the Blue (Kittatinny) Mountain six miles northwest of Carlisle. Carlisle is reached via the Pennsylvania Turnpike or Interstate 81. Eagle watchers coming north on I-83 or south on I-81 should take Exit 17 (the Mechanicsburg exit) and then get on westbound SR 944. Route 944 will then intersect with Route 74 at the base of the mountain. One right turn and two miles later, you will arrive at the hawk watch site.

If you visit Waggoners Gap, wear sturdy hiking shoes since the terrain is rocky. A woman fell at



the site this year, cutting her head and breaking her glasses. Visitors to the site also should bring food and beverage. There are no sanitary facilities nearby.

Other good eagle-watching sites near Waggoners Gap include Sterretts Gap in Perry County and Millers Gap. Of those two sites, only Sterretts is manned on a part-time basis each fall, but Millers Gap is the easiest to access and has the best seating. You can reach the latter site by driving up SR 944 near Exit 17 on I-81. After leaving the interstate, turn toward the mountain at Visaggio's Restaurant. Sterretts Gap, which produced a season-ending tally of 31 Golden Eagles in 1995, is located on a powerline cut where SR 34 crosses the Blue Mountain.

Here are some other Pennsylvania Golden Eagle watch sites plus their eagle counts: Allegheny Front (Bedford County), 36 Golden Eagles in 1995; Blacklog Mountain (Huntingdon County), 1 Golden Eagle in 1995; Bald Eagle Mountain (Centre County), 62 Golden Eagles in 1995; Council Cup (Luzerne County), 8 Golden Eagles in 1995; Hawk Mountain (Berks County), 100 Golden Eagles in 1995; Jacks Mountain (Mifflin County), 63 Golden Eagles in 1995; Little Gap Bird Observatory, 40 Golden Eagles in 1995; Militia Hill (Montgomery County), 7 Golden Eagles in 1995; Rocky Ridge (York County), 3 Golden Eagles in 1995; Second Mountain (Lebanon County), 68 Golden Eagles in 1995; Stone Mountain (Huntingdon County), 45 Golden Eagles in 1995; Tuscarora Summit (Fulton County), 16 Golden Eagles in 1995; and the WHP Tower (Dauphin County), 14 Golden Eagles in 1995.

Summary data on the migration of Golden Eagles through Pennsylvania for the past several years has been published in *Pennsylvania Birds*. More complete data is published each year in *Hawk Migration Studies*, the journal of the Hawk Migration Association of North America.

Many birders think of the Golden Eagle as primarily a bird of western North America, but atlas projects in the Canadian maritime provinces and New York have discovered potential and confirmed nest sites. The *Atlas of Breeding Birds of the Maritime Provinces*, for example, lists probable nest sites on the Cape Breton Island highlands and interior New Brunswick, with a few

scattered "possible" sites elsewhere in Nova Scotia and New Brunswick.

In New York, that state's breeding bird atlas lists a handful of possible and probable nest sites in the Adirondack region, with an outlying "possible" site in far western New York. "The first verified nest for New York was found in 1957 by G. T. Chase on an escarpment in St. Lawrence County (northern New York). A young bird was successfully fledged that year," writes Janet R. Carroll in her account for the species in the New York atlas.

The Golden Eagle is truly a bird of the wilderness. These majestic birds attract bird watchers to such wild places as the Snake River Canyon below Boise, Idaho. Only the preservation of large tracts of wild land will keep the Golden Eagle present as a nesting species across its North American range. Indeed, as Janet Carroll notes in the New York atlas, "Many believe the loss of an already limited amount of open space may be the major reason for this eagle's extirpation as a breeding species in the state."

We're sorry!

Our sincere apologies to Rudy Keller, a new member of our board elected at the May meeting, whose name was inadvertently omitted from the list of officers and board members published in the July Newsletter. Rudy's address is 71 Lutz Road, Boyertown, PA 19512.

Did you know that a Wild Turkey has been clocked running at 19 miles per hour?

Announcing:

*Birding in Western Pennsylvania,
A Guide to Hot Spots for Birding
and Nature Walks*

Western Pennsylvania is an excellent place to find birds because of its diversity of habitats, its uniqueness as a meeting place of northern and southern life zones, and its location between the Mississippi and Atlantic Coast Flyways.

The Audubon Society of Western Pennsylvania has published a new regional birding guide entitled *Birding in Western Pennsylvania, A Guide to Hot Spots for Birding and Nature Walks*. It describes 24 of the best birding hot spots and natural areas in 16 counties of western Pennsylvania. There are 52 pages of text describing a national forest, a national wildlife refuge, state game lands, marshes, nature reserves, reservoirs, reclaimed strip mines, and county and state parks. Each description includes information on habitats and the birds expected to be found. There are line-drawing maps and written directions to all hot spots. The final 20 pages of the book contain checklists of 311 species of birds, the seasons in which they occur, and an abundance code.

This 70-page, spiral-bound book sells for \$7.95. It is available from the Audubon Society of Western Pennsylvania's bookstore at 412-963-6100.



The Raven Reporter

News of the Special Areas Project

Over 2,000 Field Trips and 280 Species in the SAP Database

The Special Areas Project has passed another milestone. We now have over 2,000 field trips entered into the SAP database. As of October 13, the SAP database includes data from 2,117 field trips taken at 55 SAP Locations. This does not include some spring and most summer field trips taken in 1996.

The number of field trips at SAP locations range from 1 to 469. The Special Areas Projects with the most field trips are: Yellow Creek State Park, Codorus State Park, Nescopeck State Park, Briar Creek Lake, Blue Marsh Lake, Game Lands 211--"St. Anthony's Wilderness," and Beaver Creek Nature Area. All of these sites have at least 80 field trips in the SAP database. This is an extraordinary achievement for the local coordinators in charge of these projects. We thank all local coordinators and volunteers who have contributed to this large compendium of information.

All of these field trips have resulted in recording 669,389 birds at Special Areas Project locations. Some of the highest numbers come from lakes where water birds stop in large numbers. Of course, some abundant migrant songbirds are also on our "top ten" most numerous species list. The species with the highest numbers are: Common Grackle, Canada Goose, Ring-billed Gull, European Starling,

American Coot, Mallard, American Robin, American Crow, and Cedar Waxwing. Over 16,000 birds were reported for each of these species.

There have been 280 bird species and two hybrids reported from Special Areas Project locations. This total may decrease slightly as we edit the Summary Sheets for undocumented rare birds and database entry errors. As we add field trip data, it may also increase. This is a terrific total, especially since most of the data comes from locations which were not previously well reported by the state's birders.

Wild Resource Conservation Fund--Doing Something Wild About Birds

The Wild Resource Conservation Fund generously supports the PSO Special Areas Project by funding the data management and coordination of the project. Birdwatching is fun, but inputting and checking data is work. The project would not be nearly as organized and successful without this financial support.

The WRCF is the key funding mechanism for most biodiversity and non-game species projects in Pennsylvania. It has funded Osprey reintroduction, research on Ovenbirds and Wood Thrushes in fragmented forests, Yellow-bellied Flycatcher distribution study, Louisiana Waterthrush habitat study, and educational displays at Hawk Mountain and Middle Creek. Without WRCF, there would also be less support for research and conservation of bats, Allegheny woodrats, northern flying squirrels, butterflies, stoneflies, mosses, bog turtles, and hellbenders. The WRCF funds the Pennsylvania Natural Diversity Inventory, one of the most cost effective and useful environmental programs in the state. I am just naming a few of the many worthy projects that WRCF has aided.

Please support the Wild Resource Conservation Fund and spread the word about the WRCF Income Tax Check-off and the Conserve Wild Resources license plate. After all, the Northern Saw-whet Owl is the mascot of the WRCF. That says a lot about what the WRCF means to all of us. For information about the Wild Resource Conservation Fund, write the WRCF, Box 8764, Harrisburg, PA 17105.

Birding at SAP Locations during Hunting Seasons

Many Special Area Projects are conducted on game lands and other locations where hunting is permitted. It is extremely important to be safety conscious during hunting season, especially on game lands. We share the woods, fields, marshes, and meadows with hunters. These hunters have financially contributed to the purchase and management of game lands. We need to respect their privileges as license holders to hunt during legal seasons.

We can birdwatch on game lands in the hunting season. We just have to be careful and courteous about our activities. Here are a few suggestions for conducting SAP field trips in hunting seasons:

- 1. Do more of your birding on Sundays when most hunting is not permitted.
- 2. In hunting season, conduct more of your birding in areas where hunting is not allowed. Many state and county parks have no hunting areas.
- 3. Wear bright colors, especially blaze orange, during the hunting season.
- 4. Be aware of hunting activity. Take note of vehicles parked in the lot and along the road where you go birding. Listen for dogs and other signs of hunter activity.
- 5. Be friendly and respectful of hunters. Give them their space. In the big picture, we are fellow outdoor recreationists and conservation allies. Besides, the hunters are often birdwatchers themselves and might share some of their sightings. I have had some very pleasant and informative conversations in the field with hunters returning to their vehicles. They are often curious about birding and hiking and share some interests. (Some SAP Coordinators are hunters, too!)
- 6. Be careful out there! Travel in groups more often and let people know where you are going.

Pennsylvania Important Bird Areas and SAP

Several Special Area Project locations have been nominated as Important Bird Areas. The data collected during SAP trips made the task of nominating a site much easier. The National Audubon Society chose Pennsylvania as the pilot IBA Project in

the United States because of the success of Pennsylvania's Atlas Project. The Pennsylvania IBA nomination process has been a very inclusive and democratic one. It was an experiment that worked fairly well.

Thanks to all of you for nominating SAP locations as IBAs. The IBA process is a dynamic one. It is not too late to fill out an IBA Nomination Form and send it in to the NAS Mid-Atlantic office in Camp Hill. If you want this location to be considered for the 1996 nomination, you need to do this very quickly!

The Ornithological Technical Committee is the selection committee for the Pennsylvania IBA project. It will select sites at a meeting in early November from those locations which have been nominated.

The PA IBA process has brought the realization that there good public records of birds populations at many sites nominated (and perhaps elected) as IBAs do not exist. The solution to this dearth of data is the Special Areas Project. If a location was good enough to be nominated as an IBA, it is good enough to adopt as a SAP location. If you inventory birds at your local IBA, you are assuring yourself that the bird data will be collected and shared with others who care about the birds that live there.

SAP Local Coordinators: Who and Where List

It would be useful for many traveling birders to have a list of SAP locations and their local coordinators. If a birder visited a SAP location, he or she could fill out a daily field trip form and send it to the site's coordinator. Most SAP coordinators would welcome a few extra field trips at their SAP. Before I publish a list of SAP locations and their coordinators, I want each coordinator to agree to having his or her address published. I should note that the addresses of PSO members are published in the 1995 November issue of PSO Newsletter already, so this should not seem like a violation of privacy.

If any local coordinator does not want his or her name and address published in a list of Special Areas Projects to be published in *Pennsylvania Birds*, please contact Doug Gross at the address listed at the end of this column.

Some SAP Form Tricks and Tips of the Trade

After looking over hundreds of seasonal report forms, I have learned a few tricks that can reduce errors in the data management process. Here are a few ideas;

- 1. Use different colored pens to mark in the SAP field trips on adjacent columns of the form.
- 2. Fill in the SAP seasonal form as you go through the season.
- 3. Use a ruler or some kind of straight edge to find all the rows, especially on the right columns.
- 4. Once you have filled in all of the field trips in a season, go back over the daily forms to make sure you did not forget to fill in certain pages on the seasonal form. (At SAP Central, we sometimes wonder if page 8, the finch page, was left blank on purpose or by accident.) Then go through the seasonal report and write in "No Birds" on pages where there were no species observed for the whole season. This will relieve some doubt about those blank pages.
- 5. Recruit somebody to help check the forms before you send them in. I think it is particularly helpful to have somebody read the data to another person.
- 6. For the really rare species, make a copy of your field notes or rare bird report sent to PORC and send it in with the seasonal report form. This will alleviate some concerns about the really rare species reported on SAP trips.

Herpetological Atlas

The Pennsylvania Breeding Bird Atlas was a huge success of which many of us were glad to be a part. A similar effort to map the distribution of reptiles and amphibians is now in the works. The Pennsylvania Herpetological Atlas will provide detailed distribution maps for all species of reptiles and amphibians. It will provide a baseline data set for measuring trends and range changes for each species. A herp atlas would greatly aid efforts to understand many of the conservation problems that the state's reptiles and amphibians face. The knowledge of the ranges for several species of herps is extremely poorly known.

Since many SAP volunteers are interested in all kinds of nature, many of you might be interested in participating in the project. Several SAP local

coordinators have recorded herps encountered during SAP field trips on the "Notes on Other Wildlife" section at the end of the seasonal field trip form. The Juniata Valley Audubon Society has already started canvassing their county for herps, starting with one of their SAP areas, Game Lands 166 on Canoe Mountain. Stan Kotala is the Local Coordinator for Game Lands 166. Perhaps more of you would like to widen your zoological experience in your Special Areas and help with this project.

For more information on the Pennsylvania Herpetological Atlas, please contact Dr. Arthur Hulse, Project Director, Indiana University of Pennsylvania, Biology Department, Indiana, PA 15701. His phone: (412) 357-2279. His fax: (412) 357-6949.

Natural History of Special Areas

Many of us aspire to be all-around naturalists. It is fairly easy to make a few notes of the local flora and fauna while visiting a SAP Location. This is especially true when there are several members of a field trip team. Several SAP volunteers have made special efforts to explore their sites for all kinds of life, not just birds. I would like to acknowledge a few of these naturalists.

Alan Gregory has compiled a list of butterflies for Hughes Swamp (SGL 141), his newest SAP. He has also contributed butterfly data for Nescopeck State Park and Game Lands 57-- "Dutch Mountain." Names like Spring Azure, American Copper, Leonard's Skipper, Tiger Swallowtail, Mourning Cloak, Meadow Fritillary, and Juvenal's Duskywing have been added to the SAP Seasonal Forms. I am sure that E.O. Wilson would be proud of those observations.

Joan Silagy and the Baird Ornithological Club have collected data on the critters they encountered on Game Lands 80 near Rock, Schuylkill County. On one trip, they dodged a timber rattlesnake which Joan aptly described as "beautiful." Joan also reported pickerel frogs, wood frogs, smooth green snakes, eastern garter snakes, northern dusky salamanders, and red efts.

Skip Conant has been one of the Special Area Project's most productive local coordinators. He has

coordinated or helped with at least eight Special Areas. Skip is not only a first rate birder, but also one of the state's most knowledgeable amateur herpetologists. Skip Conant's interest in reptiles and amphibians runs deep. As a youngster he was trained by his father, Roger, the author of the *Field Guide to Reptiles and Amphibians of Eastern North America*. Skip's interest in the subject has led him to give programs on reptiles and amphibians at World's End and Rickett's Glen State Parks. He has also contributed information about the herps at those parks to the park staffs.

The Special Areas Project can provide this information to the managers of the sites in a report. Local coordinators and volunteers are encouraged to personally provide the information to state park naturalists and superintendents. Please write down the butterflies, mammals, reptiles, amphibians, and any other wild living things you would like to report on the SAP seasonal form. There is a section on page 8 for these kinds of observations.

Please send SAP data (feathered or otherwise) and any inquiries to:

Douglas A. Gross
The PSO Special Areas Project
Susquehanna SES Environmental Laboratory
R.R. 1, Box 1795
Berwick, PA 18603

THE CONSERVATION PAGE

"Takings" Proposal Will Take Us

Conservationists/Environmentalists/Birders are strong supporters of the U.S. Constitution including the 5th amendment, often referred to as the "takings" clause, and the corresponding article of the Pennsylvania Constitution. However, recent legislation introduced into the state Senate, Senate Bill 1587, distorts this constitutional protection into something never intended and was devised by anti-environmental-

ists to destroy or severely weaken environmental regulation.

Conservationists/Environmentalists oppose "takings" legislation such as S. 1587, for many of the following reasons: increased costs to governmental agencies resulting in increased costs to taxpayers; partial agency paralysis due to lack of funds and/or potential threats of a "taking" determination; increased litigation resulting in more taxpayer dollars being spent on attorney fees and court costs; delays of important public and community health, safety, and pollution control regulations; flawed application and inappropriate alteration of property rights as guaranteed by the U.S. Constitution and the Pennsylvania Constitution; a lack of consideration of the rights of neighboring property owners and the community; and an unprecedented attack on governmental regulations that in fact protect homeowners and other property owners from unscrupulous property owners.

The current bill (S. 1587) states that its purpose is "to protect the rights of ownership and use of private property by: 1) requiring Commonwealth agencies to evaluate governmental actions to determine the impact upon the use and value of private property and 2) establishing guidelines to be observed by Commonwealth agencies in the exercise of governmental actions."

However, many believe this kind of legislation, i.e. S. 1587, is nothing more than a backdoor attack on critical governmental regulations by anti-regulatory forces, the "roots" of which can be traced to U. S. Attorney General Meese. In 1988, President Reagan issued Executive Order 12630 titled "Governmental Actions and Interference with Constitutionally Protected Property Rights." Supposedly, its purpose was to guard against "the risk of undue or inadvertent burdens on the public fisc" in light of recent Supreme Court decisions. The Order directed federal agencies to review the "takings implications" of proposed actions and to decide whether and how to proceed with an action in light of their review. This distortion of the U.S. Constitution and of the U.S. Supreme Court's decisions was a deliberate attack on governmental regulation by anti-regulatory extremists hoping to create a climate where federal agencies are seen as

overburdening and against property rights.

Former Solicitor General Fried's (under President Reagan) statement provides supporting evidence for this view of the Executive Order. He stated "Attorney General Meese and his young advisors--many drawn from the ranks of the then fledgling Federalist Societies and often devotees of the extreme libertarian views of Chicago law professor Richard Epstein--had a specific, aggressive, and, it seemed to me, quite radical project in mind: to use the Takings Clause of the Fifth Amendment as a severe brake upon federal and state regulation of business and property. The grand plan was to make government pay compensation as for a taking of property every time its regulations impinged too severely on a property right--limiting the possible uses for a parcel of land or restricting or tying up a business in regulatory red tape. If the government labored under so severe an obligation, there would be, to say the least, much less regulation." S. 1587 fits into this philosophy.

The bill, S. 1587, contains several additional flaws besides being an attack on the legitimate government responsibility of promulgation and enforcement of regulations. First, there is no demonstrated need. The bill states that it is "to protect the rights of ownership and use of private property"; these rights are already protected by both the U.S. Constitution and the Pennsylvania Constitution. To our knowledge, constitutional rights are guaranteed; why create confusion with unnecessary and distorting legislation.

This bill and similar bills distort the meaning of the "taking" clauses in the U. S. Constitution and the Pennsylvania Constitution. The U.S. Supreme Court has promoted an understanding of and developed a series of "tests" in order to determine when a "taking" has occurred. Bills such as S. 1587 turn this understanding of "taking" completely around. Under such requirements as listed in "takings" bills, the government must use the risk of a constitutional "taking" rather than an actual court determined "taking" in deciding whether they should proceed. The end result is the conversion of the constitutional requirement to pay compensation for proper interference into a situation where governmental agencies may not take action at all.

This deceptive determination contradicts what the U.S. Supreme Court has said about "takings." In the U. S. Supreme Court case, Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 413 (1922), the concept of a regulatory "taking" was first proposed; however, in their opinion, the Court stated "government could hardly go on if to some extent values incident to property could not be diminished without paying for every such change in the general law....Some values are enjoyed under an implied limitation and must yield to the police power." This opinion clearly recognizes the need for reasonable government regulation that does not result in a "taking." "Takings" legislation destroys this concept of constitutional law by creating an artificial standard that was never envisioned by the Constitution and the Supreme Court.

Another flaw is the required assessment or "taking impact analysis" (TIA) in sections 5, 7, and 8. TIAs are unnecessary, are costly, create more bureaucracy, and would provide little if any benefit for Pennsylvania's citizens. Worse, TIAs are impractical because it is almost impossible to theoretically determine whether or not a particular regulation or permit action might result in a "taking" for properties across the state. The U.S. Supreme Court has repeatedly emphasized that a "taking" claim must be evaluated on a case by case basis. In this way, the specific economic impact on the property owner can be considered as well as the owner's investment-backed expectations and the public purpose served.

In September, 1994, 33 state Attorneys General wrote Congress and said the following about assessment legislation: (TIAs) "would require agencies to speculate about the precise amount by which the value of all affected private property might be diminished, then speculate about how much diminution in value would be caused by various alternative courses of action, and then speculate about what the courts might decide in any potential lawsuit challenging the regulation." Their letter closes by stating, "We urge you to preserve the 200-year tradition of allowing courts to decide takings issues by voting against takings legislation."

A very serious flaw in "takings" legislation such as S. 1587, is that little, if any, consideration is given to

the rights of neighboring property owners and communities. In court rulings, the impact on neighbors and community is given consideration; under this kind of legislation, the rights of and impacts on other property owners appear to be ignored. The result is that the Attorney General prepares "takings" guidelines based on the few cases where a "taking" was ruled to have occurred and the agencies decide on the impact of their regulations on affected private property owners--the rest of the community is ignored. Thus, it appears that the proponents of this type of legislation are attempting to benefit the few without considering the rights and needs of the majority of property owners and the community.

In addition to the above flaws, there is a serious oversight connected with this bill. The oversight is the lack of a fiscal note--even though there is the potential of costing state agencies millions of dollars. It is unfortunate that a fiscal note has not been prepared; and in the absence of such a study, I have reviewed fiscal studies from other states. The studies reviewed reported that such legislation could cost in the millions of dollars. For example, a fiscal analysis in Colorado found that the annual cost of assessments for the state agencies would be between \$829,982 and \$4,587,024.

These increased costs are fiscally irresponsible. Government, over the past several years, has recognized the need to not only control spending but to spend more wisely. Passage of bills such as S. 1587 not only has the potential to reverse the controls on spending but can significantly add to the expense of running the state agencies.

The alternative to increased spending (thus costing the taxpayers more) is for state agencies to stop or severely curtail the development and enforcement of regulations and permits. This is equally irresponsible and intolerable. The most sensible and logical solution for the Senate of Pennsylvania is to NOT approve S. 1587 and any similar legislation. This will avoid both the increased costs and the failure to promulgate needed regulations.

Regulation of private property for the common good is a responsibility of government. This

responsibility has been recognized time and again by the courts including the U.S. Supreme Court. As Teddy Roosevelt said, "Every man holds his property subject to the general right of the community to regulate its use to whatever degree the public welfare may require it." "Takings" legislation, such as S. 1587 is an attack on the responsibility of government and thus the right of citizens, to regulate for the "public welfare."

The "takings" issue will continue to be discussed in the PA legislature and in Congress. If you share my concerns with this kind of legislation, you may want to contact your legislators and let them know how you feel.

If you would like to comment or offer suggestions, contact Mark Henry, Conservation Editor, P.O. Box 410, Pine Grove Mills, PA 16868.

Great Blue Heron/Osprey Encounter

by Dick Byers

When two animals occupy the same habitat and eat the same food, there is great potential for conflict between the two species due to direct competition. Although Ospreys and Great Blue Herons fit this criteria, most of us probably never gave any thought to the fact that these two species lived in anything less than perfect harmony. Conflict is avoided by differences in feeding behavior and locality. The Osprey fishes from the air in the middle of the lake while the Great Blue Heron patrols the shore and spears fish in shallow water. The two competitors thus keep out of each other's way even though they eat the same food. Bald Eagles and Osprey, however, both feed from the air in the middle of the lake and come into conflict more frequently. Most naturalists know how the eagle bullies the Osprey and steals his fish. Such conflict by two birds occupying the same niche is expected and surprises no one; but on September 1, I witnessed an event that concludes not all is at peace between the Ospreys and the Great Blue Herons either.

I was canoeing out of the backwater marsh area on Donegal Lake in eastern Westmoreland County trying to approach close enough to photograph a large painted turtle sunning itself on a stump. A Great Blue Heron was foraging along the north shore while an Osprey leisurely picked a fish apart on a nearby nesting platform. Unfortunately I was too focused on the turtle and missed the initial contact. I caught the heron flying across the lake out of the corner of my eye but paid no attention. Seconds later, to my astonishment, I saw the Osprey in the air and the heron perched on the Osprey nesting platform. The heron's bill was pointed skyward as if he had just swallowed something. Though I didn't actually see it, it was my impression that the heron had pirated the Osprey's fish. Meanwhile the Osprey was circling and coming in for a landing on the platform. As the Osprey spread his wings to land, the heron snapped his bill at him and let out a loud croak. The Osprey beat a hasty retreat and made no further attempt to dislodge the heron.

When I pulled my canoe out of the water a half hour later, the Great Blue Heron was still perched on the Osprey's nest. Bald Eagles are not the only Osprey bullies. Has anyone else seen these two species in conflict?

Annual PSO Meeting

May 16-18, 1997

Mont Alto Campus
Penn State University

"Mason-Dixon Birding"

Banquet Speaker: Eirik Blom

The weekend will feature:
Field Trips & Learning Experiences
Afternoon Sessions
Social Times & Banquet

Christmas Bird Count	Date	Compiler	Phone No.
Bloomsburg		Bob Sagar	717-925-6461
Butler Co.	December 21, 1996	Suzanne Butcher	330-759-1945
Mansfield	December 21, 1996	Bob Ross	717-376-5392
Tunkhannock	December 21, 1996	Rick Koval	717-829-4381
Washington	December 21, 1996	Roy Ickes	412-228-3532
Bushy Run (Westmoreland)	December 21, 1996	Dick Byers	412-327-6189
State College	December 22, 1996	Wayne Laubscher	
Indiana (Indiana)	December 26, 1996	Roger & Margaret Higbee	412-354-3493
Clarion Co.	December 28, 1996	Margaret Buckwalter	814-782-3925
Lock Haven	December 28, 1996	John Peplinski	
Pittsburgh	December 28, 1996	Jim Valimont	412-828-5338
Clarksville	December 28, 1996	Ralph Bell	412-883-4505
Southeastern Bradford County	December 28, 1996	Bill Reid	717-836-2734 or 822-8433
Hamburg	December 29, 1996	Laurie Goodrich	610-756-6961 (work)
New Bloomfield	December 29, 1996	Ramsay Koury	717-761-1871
Rector (Westmoreland)	December 29, 1996	Robert Mulvihill	814-629-5374
Newville	January 4, 1997	Don and Robyn Henise	717-776-6550

This year will mark the 97th annual Christmas bird count. Listed above are only a few of the Christmas bird counts that are conducted in Pennsylvania. The official count period this year is Friday, December 20, 1996, through Sunday, January 5, 1997. If you have never participated in a Christmas count, try one this year. CBCs are fun, offer fellowship, and add to almost a century's span of data concerning the early winter distribution of birds. For more information, contact Alan Gregory, P.O. Box 571, Conyngham, PA 18219. (717-788-1425).

Other Events

Nov. 20: Speaker: PGC Biologist Jack Giles Contact Person: Ron Comstock Topic: *Biology and Conservation of Pennsylvania's Bobcats*
(717-724-3796)

Nov. 24: Outing to Millville Game Lands in Columbia County. We'll meet leader Scott Killam at the convenience store in middle of this rural town and then carpool out to the game lands. On this outing, we'll drive

PENNSYLVANIA BIRDS and PENNSYLVANIA SOCIETY FOR ORNITHOLOGY

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One year subscription to *PB* & Individual Membership in PSO (\$27.50 value)** \$26.00

One year subscription to *PB* & Family Membership in PSO (\$32.50 value) \$30.00

One year subscription to *PB* & Sustaining Membership in PSO (\$42.50 value) \$40.00

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PLEASE NOTE!

*One year's subscription includes 4 issues covering bird sightings from January to December. The first issue (containing reports for Jan-Mar) is mailed in June and the last issue (containing reports from Oct-Dec) is mailed in March of the following year. New subscriptions received during the publishing year (late June through March) receive all back issues for that year plus any remaining issues for the current publishing year unless another year is specified above.

Pennsylvania Society for Ornithology
c/o R.V. Higbee
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Indiana, PA 15701

