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Commonwealth of Pennsylvania  
Pennsylvania Fish and Boat Commission

Minutes

The 74th Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, September 25 and 26, 2006, at the Pennsylvania Fish and Boat Commission headquarters, Harrisburg, PA 17110.

Commission committees met on both September 25 and September 26 beginning at 8:00 a.m. The public session for review of this agenda began at or about 3:10 p.m. on September 26.

**Call to Order**

The meeting was called to order by Commission President Donald K. Anderson and was followed by the Pledge of Allegiance to the Flag.

**Roll Call**

**Members Present**

**Donald K. Anderson, President**  
**William J. Sabatose, Vice-President**  
**Samuel M. Concilla**  
**Richard W. Czop**  
**Leonard L. Lichvar \***  
**Frederick P. Osifat**  
**Thomas C. Shetterly**  
**William R. Worobec**

**\* Present via telephone**

**Review and Approval of Minutes from the July 2006 Meeting**

A motion was made by Commissioner Sabatose and seconded by Commissioner Worobec to approve the July 2006 minutes as written. Motion carried.

### **Executive Director's Report**

Dr. Austen pointed out that many of staff's efforts have been highlighted in the "PFBC Activity Report – Third Quarter 2006" (Exhibit F) that was provided to the Commissioners. The report includes an update of major activities and accomplishments over the last quarter. Staff will be providing this report, which describes a variety of activities, at future quarterly Commission meetings.

The Commission is pleased to announce that the 2009 Northeast Fish and Wildlife Association meeting and the 2010 American Fisheries Society (AFS) meeting will be held in Pennsylvania. Since the AFS bid has been awarded to Pennsylvania, the Pennsylvania Chapter of AFS and the Commission will develop a set of working committees that will address the logistics of hosting the meeting. The AFS meeting will be held in Pittsburgh. Both events will be a wonderful opportunity to highlight Pennsylvania's resources.

The Point of Sale project has been moving forward, and the Commission is close to implementing it and should have it up and running this December.

On September 28, Governor Rendell along with staff and Commissioners from the PFBC will be participating in a special check signing ceremony at Leaser Lake that will commemorate the release of monies to cover restoration work planned for the lake.

Commission staff continue to work towards finding a means to resolve the issues resulting from the fish kill caused by the Norfolk Southern train derailment in northcentral Pennsylvania.

Finally, Dr. Sue Thompson is officially on board with the Commission as the first director of the Three Rivers Ecological Research Center (3RERC). Sue comes to the Commission from her position as the President and CEO of the Pennsylvania Biodiversity Partnership where she led the effort to develop the Pennsylvania Biodiversity Conservation Plan. She also has been the primary force in producing *Biodiversity in Pennsylvania: Snapshot 2002* and many other publications on plant ecology and ecological restoration. Sue has worked as an assistant curator and herbarium administrator at the Carnegie Museum of Natural History. Her education includes a Ph.D. in plant biology from the University of Illinois, a Master's degree in botany from the University of California, Berkeley, and an undergraduate degree in anthropology from Harvard University. Sue is a native of Indiana but has lived in the Pittsburgh area for about 20 years.

The 3RERC is a new component of the Commission and is being developed as a cooperative venture among conservation partners in the Pittsburgh area that have an interest in and work on the ecology and management of the Three Rivers, their major tributaries and the surrounding area. The 3RERC is still being formulated, and Sue will play a major role in creating the foundation and direction for this new organizational unit with the help of other staff and PFBC partners.

### **Announcement of Notational Votes (Exhibit A)**

The Commission voted on three items by notational vote since the July 2006 meeting.

First, the Commission authorized the Executive Director to enter into a cooperative agreement with Girard Township that commits \$73,000 towards the acquisition of the Miller property and to acquire a public fishing access easement that will allow public fishing access along this portion of Elk Creek in perpetuity.

Second, the Commission authorized the Executive Director to enter into a cooperative agreement with Millcreek Township that commits \$50,000 towards the acquisition of the Cassidy Campground property and to acquire a public fishing access easement that will allow public fishing access along this portion of Walnut Creek in perpetuity.

Third, the Commission approved a spending plan of approximately \$23.5 million for hatchery repairs and \$4.0 million for dam repairs and other Commission infrastructure improvements utilizing Growing Greener II bond funds. Of this \$4.0 million, the Commission will allocate \$1.75 million to the repair of the Leaser Lake dam. (Note: Commissioner Czop asked that the record reflect that the Commission, by previous actions, already had approved a spending plan of approximately \$23.5 million for hatchery infrastructure restoration and wastewater improvement projects and \$4.0 million for dam repairs and other Commission infrastructure improvements, utilizing Growing Greener II bond funds. Due to an oversight, the minutes from the May 2006 meeting do not reflect the Commission's approval with regard to the spending plan for dam repairs and other infrastructure improvement projects totaling \$4.0 million. Instead of amending the minutes to correct the oversight, the Commissioners memorialized their prior approval through this notational vote and specifically authorized the allocation of \$1.75 million to the repair of the Leaser Lake dam.)

### **Announcement of Executive Session**

Commissioner Anderson announced that executive sessions were held on Monday, September 25, at 8:00 a.m. and at 5:05 p.m. and also on Tuesday, September 26, at 1:35 p.m. Litigation and personnel matters were discussed.

### **Reports of Commissioner Committees**

#### **Executive and Planning (Commissioner Anderson) -**

The Executive and Planning Committee met on Monday, September 25, at 11:30 a.m. Agenda items were discussed, and Dr. Austen provided an update on the awards program. Brian Barner provided an overview on the 07-08 budget request.

#### **Administration and Legislation (Commissioner Worobec) -**

The Administration and Legislation Committee met on Tuesday, September 26, at 8:00 a.m. Gary Moore provided a review of the National Hunting and Fishing Day itinerary and legislative visits at the Capitol. He also provided a legislative update and quarterly report. Brian Barner provided an overview of the Point of Sale project, and Barry Putt provided a demonstration of how it is expected to work once implemented.

**Boating, Education and Publications (Commissioner Czop) -**

The Boating, Education and Publications Committee met on Tuesday, September 26, at 2:15 p.m. Laurel Anders provided a presentation of an evaluation of the Commission's educational programs. Commissioner Czop noted that although a notice of proposed rulemaking containing the proposed amendments to §97.1 (relating to personal flotation devices) has not yet been published in the *Pennsylvania Bulletin*, information regarding the proposal is on the Commission's webpage, and therefore, Commissioners may receive comments and questions from the public about it.

**Fisheries (Commissioner Sabatose) -**

The Fisheries Committee met on Monday, September 25, at 2:30 p.m. Agenda items were discussed. Dick Mulfinger provided an update on hatchery infrastructure improvement projects. Leroy Young provided a report of the results of the Lehigh River management public meeting and the smallmouth bass sampling efforts. A fisheries management study was discussed, and Tom Greene provided the findings of the stocked trout creek survey.

**Habitat-Environmental (Commissioner Shetterly) -**

The Habitat-Environmental Committee met on Monday, September 25, at 4:00 p.m. Scott Carney provided a review of present fisheries roles in habitat monitoring, protection and restoration. He also provided a description of a framework for setting priorities for future habitat issues and initiatives and a review of funding habitat initiatives.

**Law Enforcement (Commissioner Osifat) -**

The Law Enforcement Committee met on Monday, September 25, at 4:30 p.m. Tom Kamerzel provided an update on the 18<sup>th</sup> Waterways Conservation Officer Class. The Committee also acted upon proposed revocations. The Committee revoked the fishing privileges of six individuals for one year and three individuals for two years.

**Access and Marina Development (Commissioner Concilla) -**

The Access and Marina Development Committee met on Monday, September 25, at 11:15 a.m. Topics of discussions included the disposition of the Oswayo State Fish Hatchery property to the Pennsylvania Department of Transportation, a property access acquisition, a property donation on Falling Springs Creek, the status of the Boating Facility Grants Program, increasing the dock fees at Walnut Creek and an Erie Access Improvement Program grant to North East Township for property on 20-mile Creek. Commissioner Concilla indicated that he would like to see a meeting scheduled to discuss a multi-year plan for the Walnut Creek Marina.

During the Committee meeting, a motion was made by Commissioner Sabatose and seconded by Commissioner Anderson directing the Executive Director to draft a letter to the U.S. Coast Guard regarding its notice of proposed rulemaking establishing safety zones throughout the Great Lakes for the purpose of restricting vessels during live fire training exercises by Coast Guard boat crews. Motion carried.

**Public Comment to Commissioners and Staff**

There were no comments or questions from the public.

## EXECUTIVE AND PLANNING

### A. Dates for Fish and Boat Commission Meetings in 2007.

#### Commentary:

At the fall meeting each year, the Commission historically has established a schedule for regular meetings for the following year. Under the Fish and Boat Code, the Commission is required to have two meetings each year, one in January and the other in July. These meetings must be held in the Harrisburg area. Traditionally, the Commission has held two additional meetings each year in April or May and September or October.

Staff have reviewed the available dates and possible conflicts for scheduling regular Commission meetings for 2007. This review included a look at holiday, hunting and fishing seasons and other conflicting events. Based upon this review, the following dates are proposed for regular Commission meetings in 2007:

January 22-23, 2007 (Monday and Tuesday)  
April 16-17, 2007 (Monday and Tuesday)  
July 16-17, 2007 (Monday and Tuesday)  
October 1-2, 2007 (Monday and Tuesday)

The January and July 2007 meetings will be held at the Harrisburg headquarters. The April and October 2007 meetings will be held at locations designated by the Commission for the transaction of business.

#### Briefer:

Dr. Douglas J. Austen, Executive Director

#### Recommendation:

Staff recommend that the Commission approve the dates for the regular meetings of the Commission for 2007 as set forth in the Commentary.

#### Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Osifat to approve the dates for the regular meetings of the Commission for 2007 as set forth in the Commentary. Motion carried.

B. Review and Approval of Submission of Fiscal Year 07-08 Budget Request.

Commentary:

Under Commonwealth government budget procedures and in accordance with sections 522 and 532 of the Fish and Boat Code (30 Pa. C.S. §§522, 532), the Commission annually submits to the Governor's Budget Office the proposed Commission budget for the following fiscal year. The Commission's submission for Fiscal Year 2007-08 is due at the Budget Office in the early part of October.

Staff have prepared preliminary draft budget documents for submission to the Budget Office, which according to the Budget Office, are confidential. After the Executive Director submits the budget request, the Governor's Office may make changes to the spending authority requested by the Commission. These changes are generally a result of changes in calculations for personnel and/or other costs. The Governor will announce the details of the FY 07-08 budget in February 2007.

Briefers:

Dr. Douglas J. Austen, Executive Director  
Barner P. Barner, Director, Bureau of Administration

Recommendation:

Staff recommend that the Commission authorize the Executive Director to submit a request to the Governor's Budget Office for Fiscal Year 2007-08 spending authority as more fully described in staff's preliminary draft budget documents with the following modifications: an increase in the complement by two and additional spending authority to address statewide fishing access issues.

Action:

A motion was made by Commissioner Czop and seconded by Commissioner Worobec to authorize the Executive Director to submit a request to the Governor's Budget Office for Fiscal Year 2007-08 spending authority as more fully described in staff's preliminary draft budget documents with the following modifications: an increase in the complement by two and additional spending authority to address statewide fishing access issues.  
Motion carried.

Following action on this item, Commissioner Worobec extended his thanks to Brian Barner, Director, Bureau of Administration, for his efforts in preparing and providing a full explanation of the budget.

## BOATING

### A. Approval of Fee Increase for Seasonal Slips at the Walnut Creek Marina

#### Commentary:

The Commission's regulations at 58 Pa. Code §53.12a(a)(1) provide that the Commission will from time to time establish and modify the seasonal, daily and other boat mooring fees and fees for overnight parking of boats applicable to access areas and marinas under the ownership or control of the Commission. The regulations further provide that the Commission will publish a notice containing the fees or a revision to the fees as a notice in the Pennsylvania Bulletin.

Funds were approved to replace the 30 year old docks at the Walnut Creek Marina for the 2007 boating season at a cost of approximately \$185,000. To help defray this cost, staff are proposing to increase the current fee from \$575 to \$725. This increase will provide additional yearly revenues of \$10,350. Although the current rates at the Walnut Creek Marina are significantly lower than those at other marinas in the Erie area, this increase will place the Commission's rates at the lower end of those charged by private marinas.

The Commission last increased the mooring fees at the Walnut Creek Marina in 2003. The Commission increased the fees from \$500 to \$575 at that time.

#### Briefer:

John F. Simmons, Director, Bureau of Boating and Education

#### Recommendation:

Staff recommend that the Commission increase the fees for the seasonal slips at the Walnut Creek Marina from \$575 to \$725.

#### Action:

A motion was made by Commissioner Concilla and seconded by Commissioner Czop to increase the fees for the seasonal slips at the Walnut Creek Marina from \$575 to \$725. Motion carried.

## ENGINEERING AND DEVELOPMENT

A. Property Disposition to the Pennsylvania Department of Transportation at the Oswayo State Fish Hatchery, Potter County.

Commentary:

The Pennsylvania Department of Transportation (PennDOT) needs to replace the State Route 0244 Bridge over Brizzee Hollow Run in Oswayo Township, Potter County, adjacent to the Commission's Oswayo State Fish Hatchery. The replacement of the bridge will require PennDOT to acquire fee title to a  $\pm 0.1$  acre area and a temporary area for a construction easement on a  $\pm 0.8$  acre area from the Commission. The new bridge will be slightly wider and higher than the existing structure, which is the reason why PennDOT needs to acquire this area from the Commission. The primary need for the temporary area of construction is to provide a temporary run-around immediately south of the existing bridge that will allow traffic to be maintained on State Route 0244 while the bridge replacement project is taking place. The temporary area of the construction easement will revert back to the Commission at the conclusion of the project.

The Commission's Bureau of Fisheries and Bureau of Engineering and Development staff have met and consulted with PennDOT and reviewed their preliminary bridge replacement design and found that the bridge replacement will not have a significant impact on the Commission's operations. Commission staff will monitor the project as it proceeds.

PennDOT will provide the Commission with benefits similar to those given to other claimants impacted by highway improvement projects, such as being paid fair market value for any property acquired and restoration of the impacted and adjoining areas.

Briefer:

Richard M. Mulfinger, Director, Bureau of Engineering and Development

Recommendation:

Staff recommend that the Commission authorize the disposition of the property rights necessary for PennDOT to replace the State Route 0244 Bridge over Brizzee Hollow Run, subject to there being no adverse impact to the Commission's operations at the Oswayo State Fish Hatchery, the Commission receiving fair market value for the property and the damages incurred, and the area being restored at the conclusion of the bridge replacement project.

Action:

A motion was made by Commissioner Concilla and seconded by Commissioner Osifat to authorize the disposition of the property rights necessary for PennDOT to replace the State Route 0244 Bridge over Brizzee Hollow Run, subject to there being no adverse impact to the Commission's operations at the Oswayo State Fish Hatchery, the Commission receiving fair market value for the property and the damages incurred, and the area being restored at the conclusion of the bridge replacement project. Motion carried.

B. Rick Road Property Acquisition along Elk Creek, McKean Township, Erie County.

Commentary:

Section 2907.2 of the Fish and Boat Code, 30 Pa. C.S. §2907.2, provides that the proceeds from the sale of the special Lake Erie fishing permits and \$6 of the fees for the combination trout/ salmon/Lake Erie permits are to be deposited into a restricted account within the Fish Fund for five years and that this restricted account “shall be used to provide public fishing access on or at Lake Erie and the watersheds of Lake Erie.” The funds that are deposited into the Lake Erie restricted account are restricted now and into the future for their legislatively intended purposes. The balance in the account as of July 31, 2006 is more than \$1,156,000.

The Commission has been offered a ±4.2 acre parcel located along Elk Creek at the northwest corner of the Rick Road Bridge in McKean Township, Erie County, for \$55,000. The parcel is shown on Exhibit B. The parcel provides for ±945 feet of frontage along the north bank of Elk Creek and ±450 feet of frontage along the south bank of Elk Creek, and 324 feet of frontage along Rick Road. The parcel is zoned rural residential and is located approximately ½ mile west of the McKean Exit off I-79, which is the 1<sup>st</sup> exit south of I-90.

The site is on grade with Rick Road that allows for easy access. The creek along this parcel, close to the bridge contains a long, deep hole. Rick Road has a wide shoulder in this area that provides existing parking; however, the topography and nature of the parcel would allow for the expansion of parking without a significant cost.

Elk Creek at this location received one pre-season and two in-season trout stockings in 2006. The site is well known to steelhead anglers and is significantly utilized. The Commission’s regional law enforcement and fisheries staff have recommended that the site be pursued and acquired if possible. Staff have determined that the sales price is reasonable in light of the recent land sales in the area, the site’s significant stream frontage and the site’s potential for development. The seller has agreed to be responsible for all current applicable real estate and transfer taxes that are normally shared between the buyer and seller and to provide the Commission with a title insurance policy for the property, which will save the Commission time and money. The conveyance will be free and clear of all liens, judgments and encumbrances with a good and marketable title. The conveyance also will be in accord with the Commission’s standard practices for acquiring property.

Briefer:

Richard M. Mulfinger, Director, Bureau of Engineering and Development

Recommendation:

Staff recommend that the Commission authorize the acquisition of the ±4.2 acre parcel on Rick Road, McKean Township, Erie County, as more particularly described in the Commentary utilizing monies in the Lake Erie restricted account.

Action:

A motion was made by Commissioner Concilla and seconded by Commissioner Czop to authorize the acquisition of the ±4.2 acre parcel on Rick Road, McKean Township, Erie County, as more particularly described in the Commentary utilizing monies in the Lake Erie restricted account. Motion carried.

### C. Property Donation on Falling Springs Creek near Chambersburg in Franklin County.

#### Commentary:

The Falling Springs Greenway, Inc., has acquired  $\pm 1.5$  acres along Falling Springs Creek in Guilford Township, Franklin County, and is willing to donate this property to the Commission. The Falling Springs Greenway, Inc. is a nonprofit corporation dedicated to promoting and protecting Falling Springs Creek. The property is located in the northwest corner of the Falling Springs Road Bridge immediately south of the intersection between Falling Springs Road and Garman Drive. The property has approximately 100 feet of frontage along the creek. The primary use of the property will be for fishing access, habitat protection, and potentially parking for a couple of vehicles.

The Commission previously acquired fee title to a  $\pm 6.9$  acre area in 1995 from the Conservation Fund and a 3.2-acre area in 1999 from the Falling Springs Greenway, Inc. along Falling Springs Creek in Guilford Township, Franklin County, for fishing access, habitat protection and parking. The 1995 acquisition is about  $\frac{1}{2}$  mile upstream from the subject property, and the 1999 acquisition is about one mile upstream from the subject property. The Commission's Catch and Release Fly-Fishing Only Area, which starts at the Commission's 1999 acquisition, extends downstream and covers the subject property. The Commission has determined that Falling Springs Creek is a wild trout water from the area of the Commission's 1999 acquisition downstream, including the 1995 acquisition, and the subject area that allows for the natural reproduction of rainbow trout. A map showing the location of the subject property and the previous acquisitions is attached as Exhibit C.

The conveyance will be free and clear of all liens, judgments and encumbrances with a good and marketable title. The conveyance also will be in accord with the Commission's standard practices for acquiring property. This potential acquisition is being brought forward at this time so as to provide the Falling Springs Greenway, Inc. with a determination prior to the nonprofit group expending a significant amount of time and money in pursuing a party to accept and hold title to the subject property.

The Falling Springs Greenway, Inc. may have an additional stream-front property just downstream from the subject property available in the near future. This potential future property may include a former private hatchery area that will be removed and allow for the restoration of the stream corridor.

#### Briefer:

Richard M. Mulfinger, Director, Bureau of Engineering and Development

#### Recommendation:

Staff recommend that the Commission authorize the acquisition of the property on Falling Springs Creek near Chambersburg, Franklin County, as more particularly described in the Commentary, subject to the conveyance meeting the Commission's standard conditions for property acquisitions.

#### Action:

A motion was made by Commissioner Concilla and seconded by Commissioner Czop to authorize the acquisition of the property on Falling Springs Creek near Chambersburg, Franklin County, as more particularly described in the Commentary, subject to the conveyance meeting the Commission's standard conditions for property acquisitions. Motion carried.

D. Approval of Erie Access Improvement Program Grant – 20-mile Creek, North East Township.

Commentary:

At its January 2006 meeting, the Commission voted to authorize the Executive Director to use monies in the Lake Erie permit restricted accounts to fund individual grants of \$100,000 or less to implement public access development and enhancement projects in the Lake Erie watershed. Staff were directed to seek separate Commission approval for grants in excess of \$100,000 and all acquisitions of property rights by the Commission or other parties with the Commission's monetary contribution from these funds.

North East Township lies on the eastern edge of Erie County. The Township has identified a parcel of land approximately 20 acres in size that will provide access to approximately 1900 feet of stream along the east side of 20-mile Creek. The property was recently appraised at \$155,000, and the Township has entered into an agreement of sale with the property owner for that amount. The Township already has obtained funding from the Pennsylvania Department of Conservation and Natural Resources in the amount of \$63,000 for this acquisition. The Township is requesting \$92,000 from the Commission to complete the acquisition. In addition, the Township is requesting additional funds to cover the costs of having the property appraised and surveyed and other due diligence costs.

The Township will acquire the property in fee title and develop nature trails and other low impact recreational opportunities as well as a parking lot for users. The Township will grant the Commission a perpetual easement to provide for angler access to the stream and riparian buffer and fisheries management. An agreement between the Township and the Commission will be developed that commits agency funds and will include specific provisions for the protection of the Commission's interests and those of the angling public. This transaction will be subject to legal, environmental, fiscal, title and suitability reviews by Commission staff.

Briefer:

John F. Simmons, Director, Bureau of Boating and Education

Recommendation:

Staff recommend that the Commission authorize the Executive Director to enter into a cooperative agreement with North East Township that commits funding not to exceed \$100,000 towards the acquisition of the property more fully described in the Commentary and to acquire an easement that will allow public fishing access along this portion of 20-mile Creek in perpetuity.

Action:

A motion was made by Commissioner Concilla and seconded by Commissioner Worobec to authorize the Executive Director to enter into a cooperative agreement with North East Township that commits funding not to exceed \$100,000 towards the acquisition of the property more fully described in the Commentary and to acquire an easement that will allow public fishing access along this portion of 20-mile Creek in perpetuity. Motion carried.

## **FISHERIES** **FINAL RULEMAKING**

A. New Catch and Release Lakes Program (§65.17) and Elimination of Miscellaneous Special Regulations for Pine Township Park Pond, Allegheny County; Raccoon Creek State Park Upper Pond, Beaver County; Bear Gap Reservoir, McWilliams Reservoir and Klines Reservoir, Columbia and Northumberland Counties; and Lower Burrell Pond Park, Westmoreland County (Amendment to §65.24).

Commentary:

Over the years, the Commission has regulated a number of ponds and lakes with no-kill regulations for all species under §65.24. These lakes and ponds include Pine Township Park Pond, Allegheny County; Raccoon Creek State Park Upper Pond, Beaver County; Bear Gap Reservoir, McWilliams Reservoir and Klines Reservoir; Columbia and Northumberland Counties; and Lower Burrell Pond Park, Westmoreland County. In an effort to simplify and consolidate the Commission's regulations, the Commission has proposed to establish a new special regulations program called the "Catch and Release Lakes Program" into which the above named six lakes and ponds and other impoundments may be designated. Waters in this program will be regulated as catch and release for all species on a year-round basis.

Under a separate agenda item, staff will recommend that the six waters named above as well as Owl Creek Reservoir, Schuylkill County, be included in the program. If designated into the new program, the miscellaneous regulations for the six lakes set forth in §65.24 will no longer be required. Therefore, the Commission further proposed that the miscellaneous special regulations for these six lakes be eliminated.

A notice of proposed rulemaking was published at 36 Pa. B. 4727 (August 26, 2006) (Exhibit D). Prior to the public comment period, the Commission received one comment supporting the new program and the designation of the seven named waters into it. A copy of the public comment was provided to the Commissioners. The Commission did not receive any public comments concerning the proposed regulation and amendments during the formal comment period.

Briefer:

Leroy M. Young, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission adopt the new regulation and the amendments as set forth in the notice of proposed rulemaking. If adopted, the new regulation and the amendments will go into effect on January 1, 2007.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Worobec to adopt the new regulation and the amendments as set forth in the notice of proposed rulemaking. The new regulation and the amendments will go into effect on January 1, 2007. Motion carried.

B. New Brood Stock Lake Program (§65.18).

Commentary:

Effective January 1, 2007, amendments to the Commission's regulations pertaining to muskellunge and muskellunge hybrids, northern pike and pickerel will go into effect. Among other things, the amendments provide for a year-round open season for these species on Commonwealth inland waters. Although the new year-round open season will provide additional angling opportunities, the Commission also must take into account the FDA mandated withdrawal period of 21 days that is associated with use of fish anesthetics during esocid culture operations. It is important that harvest and consumption of muskellunge and muskellunge hybrids, northern pike and pickerel in brood stock lakes are restricted during the withdrawal period. Therefore, the Commission proposed to restrict harvest of these species from April 1 through May 31 by creating a new program called the "Brood Stock Lakes Program" into which the brood stock lakes may be designated.

A notice of proposed rulemaking was published at 36 Pa. B. 4727 (August 26, 2006) (Exhibit D). The Commission did not receive any public comments concerning the proposed regulation.

Under a separate agenda item, Commission staff will recommend that the following lakes be designated into the new program: Canadohta Lake, Conneaut Lake, Sugar Lake, Tamarack Lake, Woodcock Lake, Howard Eaton, Edinboro Lake Reservoir, Union City Reservoir, Belmont Lake, Duck Harbor Pond, Lake Wallenpaupack, Lower Woods Pond, Miller Pond and Prompton Dam.

Briefer:

Leroy M. Young, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission adopt the new regulation as set forth in the notice of proposed rulemaking. If adopted, this new regulation will go into effect on January 1, 2007.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Concilla to adopt the new regulation as set forth in the notice of proposed rulemaking. This new regulation will go into effect on January 1, 2007. Motion carried.

## DESIGNATIONS

### C. Addition of Eight Waters to the Regional Opening Day of Trout Season Program.

#### Commentary:

At its July 18, 2006 meeting, the Commission designated streams and lakes in 18 counties into the Regional Opening Day of Trout Season Program under the new §65.12. Since that time, Commission staff have identified the following eight waters that should be added to the program:

County	Name of Water
Carbon	Lizard Creek
Carbon	Mahoning Creek
Huntingdon	Blacklog Creek
Huntingdon	Tuscarora Creek
Mifflin	East Licking Creek
Northumberland	Mahantango Creek
Snyder	Mahantango Creek West Branch
Snyder	Mahantango Creek North Branch

With the exception of North Branch Mahantango Creek, these streams are approved trout waters that are located in two or more counties, at least one of which the Commission already has designated as part of the Regional Opening Day of Trout Season Program. To maintain regulatory consistency within approved trout waters that are to be managed under the new program, the Commission proposes to designate the entire water as part of the program. North Branch Mahantango Creek, which is located solely in Snyder County, is a tributary to West Branch Mahantango Creek and is an approved trout water.

A notice of proposed designation was published at 36 Pa. B. 4674 (August 19, 2006) (Exhibit E). The Commission did not receive any public comments regarding the proposed designations.

#### Briefer:

Leroy M. Young, Chief, Division of Fisheries Management

#### Recommendation:

Staff recommend that the Commission approve the addition of eight waters to the Regional Opening Day of Trout Season Program as set forth in the notice of proposed designation. If approved, the designations will go into effect on January 1, 2007.

#### Action:

A motion was made by Commissioner Czop and seconded by Commissioner Concilla to approve the designations of Mahoning Creek and Lizard Creek only to the Regional Opening Day of Trout Season Program. The designations will go into effect on January 1, 2007. Motion carried.

D. Addition of Seven Waters to the Catch and Release Lakes Program.

Commentary:

Under a separate agenda item, staff will recommend that the Commission adopt a new regulation at §65.17 (relating to Catch and Release Lakes Program). If adopted by the Commission, staff recommend that the Commission designate the following waters into the program. These waters, with the exception of Owl Creek Reservoir, are currently regulated as catch and release waters under the Commission's miscellaneous special regulations at §65.24. Owl Creek Reservoir is currently regulated as catch and release pursuant to local ordinance by the Borough of Tamaqua.

County	Name of Water
Allegheny	Pine Township Park Pond
Beaver	Raccoon Creek State Park Upper Pond
Columbia and Northumberland	Bear Gap Reservoir
Columbia and Northumberland	McWilliams Reservoir
Columbia	Klines Reservoir
Schuylkill	Owl Creek Reservoir
Westmoreland	Lower Burrell Pond Park

A notice of proposed designation was published at 36 Pa. B. 4674 (August 19, 2006) (Exhibit E). Prior to the public comment period, the Commission received one comment supporting the new program and the designation of the seven waters into it. A copy of the public comment was provided to the Commissioners. During the formal comment period, the Commission did not receive any public comments regarding the proposed designations.

Briefer:

Leroy M. Young, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission approve the addition of seven waters to the Catch and Release Lakes Program as set forth in the notice of proposed designation. If approved, the designations will go into effect on January 1, 2007.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Osifat to approve the addition of seven waters to the Catch and Release Lakes Program as set forth in the notice of proposed designation. The designations will go into effect on January 1, 2007. Motion carried.

E. Addition of Fourteen Waters to the Brood Stock Lakes Program.

Commentary:

Under a separate agenda item, staff will recommend that the Commission adopt a new regulation at §65.18 (relating to Brood Stock Lakes Program). If adopted by the Commission, staff recommend that the Commission designate the following waters into the program. These waters are those from which brood fish are currently collected to supply eggs for muskellunge, northern pike, and/or pickerel propagation.

County	Name of Water
Crawford	Canadohta Lake
Crawford	Conneaut Lake
Crawford	Sugar Lake
Crawford	Tamarack Lake
Crawford	Woodcock Lake
Erie	Howard Eaton Reservoir
Erie	Edinboro Lake
Erie	Union City Reservoir
Wayne	Belmont Lake
Wayne	Duck Harbor Pond
Wayne	Lake Wallenpaupack
Wayne	Lower Woods Pond
Wayne	Miller Pond
Wayne	Prompton Dam

A notice of proposed designation was published at 36 Pa. B. 4674 (August 19, 2006) (Exhibit E). The Commission did not receive any public comments regarding the proposed designations.

Briefer:

Leroy M. Young, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission approve the addition of fourteen waters to the Brood Stock Lakes Program as set forth in the notice of proposed designation. If approved, the designations will go into effect on January 1, 2007.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Concilla to approve the addition of fourteen waters to the Brood Stock Lakes Program as set forth in the notice of proposed designation. The designations will go into effect on January 1, 2007. Motion carried.

**Other New Business**

A motion was made by Commissioner Worobec and seconded by Commissioner Czop directing the Executive Director to seek information regarding the costs of procuring pike, pickerel and musky from an outside vendor and to prepare an analysis of those results in comparison to the Commission's in-house costs to raise and stock them. Motion carried.

**Time and Place of January 2007 Commission Meeting**

The next meeting is scheduled for January 22-23, 2007. The meeting and will be held at the Commission's headquarters in Harrisburg.

**Adjournment**

A motion was made by Commissioner Sabatose and seconded by Commissioner Worobec to adjourn the meeting at approximately 3:45 p.m. Motion carried.