

Table of Contents

| | |
|-------------------------------------------------------------------------------------------------------------|-----|
| Call to Order | 87 |
| Roll Call | 87 |
| Review and Approval of Minutes from the April 21, 2009 Meeting | 87 |
| Public Comment to Commissioners and Staff | 88 |
| Awards and Presentations | 88 |
| Announcement regarding Executive Director | 89 |
| Election of Commission President and Vice-President..... | 89 |
| Executive Director’s Report..... | 89 |
| Announcement of Notational Vote (Exhibit B)..... | 89 |
| Announcement of Executive Session | 89 |
| Reports of Commissioner Committees | 90 |
| Executive and Planning (Commissioner Lichvar) – | 90 |
| Administration (Commissioner Worobec) – | 90 |
| Boating (Commissioner Ketterer) – | 90 |
| Communications (Commissioner Czop) – | 90 |
| Fisheries (Commissioner Bachman) –..... | 90 |
| Habitat and Environmental (Commissioner Shetterly) –..... | 90 |
| Law Enforcement (Commissioner Ketterer) – | 90 |
| Legislation (Commissioner Sabatose) -..... | 91 |
| ADMINISTRATION | 92 |
| A. Huya Property Rights Acquisition, McKean Township, Erie County..... | 92 |
| B. Lake Erie Regional Conservancy, Property Acquisition, Fairview and McKean Townships, Erie County..... | 94 |
| C. Corry Water Line Easement Acquisition, Concord and Wayne Townships, Erie County..... | 96 |
| BOATING..... | 98 |
| FINAL RULEMAKING | 98 |
| A. Amendments to §53.8 (Boats) and Section 97.1 (Personal Flotation Devices)..... | 98 |
| B. Amendment to §91.5 (Parental and Boat Owner Responsibility)..... | 100 |
| C. Amendment to §101.5 (Confidentiality of Boating Accident Reports)..... | 101 |
| D. Amendment to §105.3 (Unacceptable Boating Practices)..... | 102 |
| E. Amendment to §109.1 (Air Boats)..... | 103 |
| F. Amendment to §109.6 (Special Marine Events)..... | 104 |
| G. Amendment to §111.17 (Clearfield County)..... | 105 |
| H. Amendment to §111.20 (Crawford County)..... | 106 |

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| PROPOSED RULEMAKING..... | 107 |
| I. Amendment to §111.56 (Somerset County)..... | 107 |
| OTHER MATTERS..... | 108 |
| J. Boating Infrastructure Grant to the Sports and Exhibition Authority of Pittsburgh and Allegheny County..... | 108 |
| K. Grant to the Schuylkill River Development Corporation, Schuylkill River, Philadelphia County..... | 110 |
| L. Allegheny Valley Conservancy, Public Fishing Access and Conservation Easement Acquisition, Allegheny River, Venango County..... | 111 |
| M. Swatara Watershed Association, Public Fishing Access and Conservation Easement Acquisition, Swatara Creek, Lebanon County..... | 112 |
| FISHERIES..... | 113 |
| OTHER MATTERS..... | 113 |
| A. Fish Passage and Habitat Restoration Grant to American Rivers, Inc. for Removal of Howell Dam on Unnamed Tributary to Little Sewickley Creek, Westmoreland County..... | 113 |
| B. Sinnemahoning Creek Watershed Restoration Grant to Cameron County Conservation District... | 114 |
| C. Sinnemahoning Creek Watershed Restoration Grant to McKean County Conservation District. ... | 115 |
| D. Sinnemahoning Creek Watershed Restoration Grant to Western Pennsylvania Conservancy. | 116 |
| Other New Business..... | 117 |
| Time and Place of October 2009 Commission Meeting..... | 117 |
| Adjournment..... | 117 |

Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 86th Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, July 13 and 14, 2009, at the Pennsylvania Fish and Boat Commission headquarters, Harrisburg, PA 17110.

Commission committees met on July 13 beginning at 1:00 p.m. and on July 14 beginning approximately at 8:30 a.m. The public session for review of this agenda began at or about 4:00 p.m. on July 14.

Call to Order

The meeting was called to order by Commission President Leonard L. Lichvar and followed by the Pledge of Allegiance to the Flag.

Roll Call

Members Present

Leonard L. Lichvar, President
Thomas C. Shetterly, Vice-President
Robert A. Bachman
Samuel M. Concilla
Richard W. Czop
Steven M. Ketterer
William J. Sabatose
William R. Worobec

Members Not Present

Norman R. Gavlick

President Lichvar then introduced the Commission's newly appointed Boating At-Large Commissioner G. Warren Elliott. Commissioner Elliott is from Franklin County and will serve for a term of eight years. He replaces Commissioner Donald K. Anderson whose term expired on June 4, 2009.

Review and Approval of Minutes from the April 21, 2009 Meeting

A motion was made by Commissioner Sabatose and seconded by Commissioner Ketterer to approve the April 21, 2009 minutes as written. Motion carried.

Public Comment to Commissioners and Staff

There were no comments or questions from the public.

Awards and Presentations

The Northeast Conservation Law Enforcement Chiefs Association 2008 Officer of the Year Award was presented to Waterways Conservation Officer Craig Garman. This was in recognition of his outstanding contribution to fish and wildlife law enforcement and protection of our country's natural resources.

Pennsylvania Fish and Boat Commission Lifesaving Awards were presented to Waterways Conservation Officer Scott J. Christman and Deputy Waterways Conservation Officer David Roberts for their efforts to save lives under extraordinary circumstances on March 6, 2009.

Waterways Conservation Officer Scott Christman was also presented with the Pennsylvania Boating Law Enforcement Officer of the Year Award by the National Association of State Boating Law Administrators (NASBLA). He was recognized for his outstanding public service, unmatched professionalism in marine law enforcement, and personal commitment to ensuring safe and enjoyable recreational boating.

The Commission's 2008 Stanley Long Outstanding Volunteer Service Award was awarded to Gordon Smith for outstanding volunteer service and unwavering dedication during 26 years as a Deputy Waterways Conservation Officer (DWCO) protecting the natural resources of the Commonwealth of Pennsylvania in Lehigh and Northampton Counties. DWCO Smith's selfless contributions provided endless hours in assisting with boat patrols, trout details, outdoor shows, and many other unsung services. During this time, his positive and professional presence established him as an exemplary role model for our agency and reflects great credit upon himself and the Commission.

Melody Zullinger, former Executive Director of the Pennsylvania Federation of Sportsmen's Club, received a Certificate of Appreciation for her significant contributions to the protection, conservation and enhancement of Pennsylvania's aquatic resources and the provision of fishing and boating opportunities in the Commonwealth.

Commissioner Donald K. Anderson was recognized and commended with an award for his outstanding leadership and dedication while serving as a Commissioner of the Pennsylvania Fish and Boat Commission from 1995 to 2009.

Commissioner Samuel M. Concilla was recognized and commended with an award for his outstanding leadership and dedication while serving as a Commissioner of the Pennsylvania Fish and Boat Commission from 1993 to 2009.

Commissioner Leonard L. Lichvar was presented with an award that is traditionally presented to the outgoing president. The award acknowledged his outstanding leadership and dedication while serving as President of the Pennsylvania Fish and Boat Commission from July 15, 2008 to July 14, 2009.

Announcement regarding Executive Director

Commission President Lichvar made an announcement on behalf of the Board of Commissioners. The announcement was as follows: "I would like to announce that the Board of Commissioners of the Pennsylvania Fish and Boat Commission has reassigned Executive Director Douglas Austen's work responsibilities exclusively to pursuing and securing federal conservation program initiatives that are essential and important to the already established goals and objectives that comprise the mission of the Fish and Boat Commission."

Election of Commission President and Vice-President

Commission President Leonard L. Lichvar presided over the elections. President Lichvar called for nominations for the office of President, and Commissioner Worobec nominated Commissioner Thomas C. Shetterly as President. Commissioner Czop seconded the nomination. A motion was made by Commissioner Sabatose and seconded by Commissioner Bachman to close the nominations. The motion was carried, and nominations were closed. The Commission elected Commissioner Shetterly to serve as President of the Commission for 2009-2010.

Commissioner Sabatose nominated Commissioner William R. Worobec as Vice-President. Commissioner Bachman seconded the nomination. A motion was made by Commissioner Czop and seconded by Commissioner Sabatose to close the nominations. The motion was carried, and nominations were closed. The Commission elected Commissioner Worobec to serve as Vice-President of the Commission for 2009-2010.

Executive Director's Report

The "PFBC Activity Report – Highlights for Second Quarter 2009" (Exhibit A) was provided to the Commissioners. The report includes an update of major activities and accomplishments over the last three months.

Announcement of Notational Vote (Exhibit B)

The Commission voted on one item by notational vote since the April 2009 meeting. This item relates to the Commission's action to approve the acquisition of an occupied dwelling below the Virgin Run Lake Dam and further authorized the acquisition of easements or other property interests to ensure that occupied structures are not constructed within the inundation area in the future.

Announcement of Executive Session

Commissioner Shetterly announced that several executive sessions were held on Monday, July 13 and Tuesday, July 14 to discuss personnel matters.

Reports of Commissioner Committees

Executive and Planning (Commissioner Lichvar) –

The Executive and Planning Committee met on Monday, July 13, at 1: 00 p.m. Tim Schaeffer provided a review of the Commission’s strategic planning efforts.

Administration (Commissioner Worobec) –

The Administration Committee met on Monday, July 13, at approximately 2:45 p.m. Agenda items were discussed. Dan Leonard provided a presentation on the quarterly accomplishments of the Bureau of Engineering and Property Services. Brian Barner provided an update on ecological management plans for Commission properties and the Erie Access Improvement Program.

Boating (Commissioner Ketterer) –

The Boating Committee met on Monday, July 13, at 2:00 p.m. Agenda items were discussed. Dan Martin provided a 2009 boating accident update and a Boating Advisory Board update. Kelly Sharp provided an update on the North East and Walnut Creek Marinas.

Communications (Commissioner Czop) –

The Communications Committee met on Tuesday, July 14, at approximately 9:15 a.m. Carl Richardson provided an update on Outreach and Education Section activities. Rick Levis provided updates on the Lapsed Angler Program and the upcoming Forrest Wood Cup in Pittsburgh.

Fisheries (Commissioner Bachman) –

The Fisheries Committee met on Tuesday, July 14, at approximately 9:35 a.m. and then reconvened at approximately 2:00 p.m. following a break. Leroy Young provided a general overview of the following items: the status of river herring regulations as a result of recent Atlantic States Marine Fisheries Commission action; the Trout Plan; the Commission’s study plans on the effects of hooking mortality in catch and release fisheries; removal of the Class A wild trout stream designation for Baldwin Run; smallmouth bass studies on the Susquehanna River; the walleye plan; Salamander Mussel survey protocols and the Upper Delaware Flexible Flow Management Plan white paper. Larry Hines provided an update on the northern hatcheries, and Chris Urban provided an update on the Timber Rattlesnake Program. Members of the Delaware River Shad Fishermen’s Association provided comment on shad in the classroom.

Habitat and Environmental (Commissioner Shetterly) –

The Habitat and Environmental Committee met on Tuesday, July 14, at approximately 2:55 p.m. Agenda items were discussed. Leroy Young provided an update on the projects approved for funding under the Sinnemahoning Creek Watershed Restoration Grant Program. Leroy Young provided an update on the status of the Commission’s restricted revenue accounts.

Law Enforcement (Commissioner Ketterer) –

The Law Enforcement Committee met on Monday, July 13, at approximately 3:40 p.m. Tom Kamerzel provided an update on “Operation Shellshock,” the progress of the 19th Waterways Conservation Officer training class, and the Waterways Conservation Officer contract. A

discussion was held regarding the display of fishing licenses, and the Committee decided to defer consideration of this matter indefinitely.

The Committee also acted upon proposed revocations. The Committee revoked the fishing privileges of one individual for a period of two years and three individuals for one year, and the Committee chose not to revoke the fishing privileges of one individual. In addition, the Committee revoked the boating privileges of four individuals for two years with a reduction to one year upon successful completion of a classroom boating safety education course.

Legislation (Commissioner Sabatose) -

The Legislation Committee met on Tuesday, July 14, at approximately 8:30 a.m. Legislative, Lake Erie permit, severance tax, and license package strategy updates were provided.

ADMINISTRATION

A. Huya Property Rights Acquisition, 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 Commission has been offered fee title to a ±1.44 acre parcel of land having frontage on Elk Creek and an easement on over ±800 linear feet of Elk Creek as it flows across two contiguous parcels of property owned by Joseph J. Huya in McKean Township, Erie County, for \$68,000. The easement will be for public fishing, boating, and riparian and fishery management and will include the stream corridor and extend 25 feet back from the top of bank to the extent of the ownership of the seller. A map depicting the subject parcels is attached as Exhibit C.

The fee title parcel is located immediately east of Interstate 79 off of West Road and provides easy access to Elk Creek. A parking area for between five and ten vehicles exists on the property. The fee title parcel will provide a core area from which the Commission may pursue additional fishing easements.

The easements areas are located upstream of, and adjacent to, the fee title parcel. The first easement area will provide access to ±100 linear feet of Elk Creek on one side. The second easement area will provide access to ±350 linear feet on both sides of Elk Creek.

Elk Creek provides significant trout and steelhead fishing opportunities in the area. In addition, Elk Creek annually receives several trout stockings in this area, and the acquisition of the subject rights will provide additional trout fishing opportunities. The Commission’s regional law enforcement and fisheries staff have recommended that the site be pursued and acquired if possible.

The seller and the Commission have signed option agreements that will allow staff to perform its due diligence. The Commission’s exercise of the option will be subject to meeting the due diligence and funding requirements. In addition, 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. The Commission may, at its sole discretion, pay for any necessary costs to obtain and record a subordination of lien for the property.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission authorize the acquisition of the property rights in 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 Worobec to authorize the acquisition of the property rights in McKean Township, Erie County, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account. Motion carried.

B. Lake Erie Regional Conservancy, Property Acquisition, Fairview and McKean Townships, 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.

Staff have been working with two partners on a property acquisition along Elk Creek in Fairview Township, Erie County. A map depicting the subject parcel is attached as Exhibit D. The partners include the Lake Erie Regional Conservancy (LERC) and the Pennsylvania Department of Conservation and Natural Resources (DCNR). Based on an appraisal for the property, the LERC is requesting a grant from the Commission in an amount not to exceed \$174,400. The grant funds will be used for the purchase price and costs associated with acquiring the property. The LERC also has applied for funding from the DCNR.

This property is located along Peffer Road between State Highway 832 (Sterrettania Road) and Interstate 79. The property consists of 45.58 acres and includes approximately 1,703 linear feet of access on Elk Creek. Elk Creek is a popular steelhead fishery; however, access to Elk Creek is severely limited. The acquisition of this property will continue the Commission’s efforts to link together linear stream frontage along the Creek. The Rand property, which the LERC purchased, in part, with Commission funding in October 2008, is 1.5 miles upstream from this property. Less than one mile upstream from the Rand Property is the Commission’s Rick Road access. Streuchen Flats is one mile downstream from the property to be acquired by the LERC. Once the LERC acquires the property, it plans to construct a parking area on it to increase public access to this section of Elk Creek.

The LERC will own and control the property subject to the terms and conditions established as part of the acquisition process. The LERC has agreed that it will use the property, in part, to improve access to Elk Creek. The LERC will grant to the Commission a public fishing access and conservation easement that will allow for public access along Elk Creek and a parking area in perpetuity. An agreement between the LERC and the Commission will be developed that commits agency funds and will include specific provisions for the protection of the Commission’s interests and the angling public. The provisions will include a requirement that the LERC, or another conservation organization approved by the Commission, hold a perpetual conservation easement on the balance of the property if the LERC were to transfer the property to another entity in the future. The Commission would have the option of being either a co-holder or a beneficiary of the easement. If the Commission elects to hold the easement, Commission approval will be required at that time.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission authorize the Executive Director to enter into a cooperative agreement with the Lake Erie Regional Conservancy that commits an amount not to exceed \$174,400 towards the acquisition of the property in Fairview and McKean Townships as more fully described in the Commentary and to acquire a public fishing access and conservation easement that will allow public fishing access along this portion of Elk Creek in perpetuity.

Action:

A motion was made by Commissioner Czop and seconded by Commissioner Worobec to authorize the Executive Director to enter into a cooperative agreement with the Lake Erie Regional Conservancy that commits an amount not to exceed \$174,400 towards the acquisition of the property in Fairview and McKean Townships as more fully described in the Commentary and to acquire a public fishing access and conservation easement that will allow public fishing access along this portion of Elk Creek in perpetuity. Motion carried.

C. Corry Water Line Easement Acquisition, Concord and Wayne Townships, Erie County.

Commentary:

The Commission owns and operates the Corry State Fish Hatchery (SFH) that consists of 347.5 acres in Concord and Wayne Townships in Erie County and Farmington Township in Warren County. The Corry SFH is an essential component in the Commission's Coldwater Fishery Program by providing almost 684,000 trout for stocking. Of these fish, 310,000 are adults, 265,300 are fingerlings for the "put, grow and take" program and the remainder is provided for the Cooperative Nursery Program. The SFH's water supply is provided by on-site springs, ground water collection systems and wells. Staff are working to enhance and facilitate operations at the SFH, which will include providing an additional and alternate water supply.

The additional water supply has been achieved by the drilling of a new well on an outlying undeveloped Commission owned parcel referred to as the Foster Tract. The new well will be connected to the main hatchery infrastructure with a new 12-inch water line. The Commission already collects water from this parcel and pipes it to the main hatchery via an old six inch line. The location of the old line is not known in all locations. The engineering analysis for the new water line has determined that a portion of the new line will need to run along a PennDOT owned and operated road (Washington Street SR 2020 and Route 6), primarily within the public right-of-way. A highway occupancy permit will be required from PennDOT for this use. A drawing depicting this route is attached as Exhibit E. The new line will be in the proximity of the old existing six inch water line along Route 6.

The new water line will run outside of the right-of-way and on approximately four private properties in the proximity of drainages courses and structures that restrict the Commission's ability to keep the water line within the public road right-of-way. The Commission will need to acquire permanent easements at these locations to allow for the placement, operation, maintenance and replacement of a water line and to allow for riparian buffer and erosion control management. The exact size of these areas will be subject to final survey and coordination with the PennDOT on the location of the water line on their adjoining right-of-way. However, none of these easement areas will exceed 0.25 acres in size, and most are much smaller. The riparian buffer and erosion control management component of the easement is meant to address erosion concerns in areas where the lines will run through drainage courses.

In addition to the need for permanent easements, the Commission will need to acquire temporary construction easements on approximately nine properties adjacent to the PennDOT right-of-way. Since the placement of the new water line will be close to the right-of-way line, there will be a need for the Commission and/or its agents and assigns to access and utilize the adjoining private property in the course of the placement and construction of the new water line.

The cost of the rights to be acquired should not be significant. Commission staff will secure an appraisal to determine the unit value of the permanent easement areas, will use

the appraisal to determine the value of the temporary easements and will provide just compensation for the areas that are needed. The Commission also will pay for damages caused by the installation of the new water line and restore the impacted property.

Staff will seek to acquire the necessary property rights in an amicable manner but as a last resort may need to rely on the Commission's powers of eminent domain. Staff also will adhere to the Commission's standard practices for acquiring property, including meeting due diligence and funding requirements.

Briefer:

Daniel D. Leonard, P.E., Director, Bureau of Engineering and Property Services

Recommendation:

Staff recommend the Commission authorize the acquisition of permanent and temporary easements for the new water line at the Corry State Fish Hatchery as described in the Commentary.

Action:

A motion was made by Commissioner Czop and seconded by Commissioner Concilla to authorize the acquisition of permanent and temporary easements for the new water line at the Corry State Fish Hatchery as described in the Commentary. Motion carried.

BOATING **FINAL RULEMAKING**

A. Amendments to §53.8 (Boats) and Section 97.1 (Personal Flotation Devices).

Commentary:

Section 97.1(f) of the Commission's regulations follows the Code of Federal Regulations that excludes racing shells, rowing sculls and racing kayaks from the requirements for personal flotation devices (PFDs). However, this subsection provides that the exemption does not apply on Commission and State Park owned or controlled boating waters. Section 53.8 of the Commission's regulations similarly requires occupants of skulls, shells and racing kayaks to carry or wear Coast Guard approved PFDs on Commission property.

This type of boating is somewhat exclusive due to its nature. Most often, racing shells, sculls and kayaks are used by high school, college or university students or special clubs. They are, with few exceptions, very safe boaters, and the accident record for such boats does not point to a need for requiring PFDs for their occupants. Moreover, there is no support to require occupants of such boats to wear PFDs on small Commission lakes when they are not required to carry them onboard on larger waters.

Section 91.7(f) also provides detailed information on what type of PFDs must be carried by the safety boat accompanying the shells, sculls or racing kayaks. However, section 97.1(f) does not, and may not (because of the federal regulations), require that there to be a safety boat present. Accordingly, it does not make sense to stipulate requirements for safety boats when the safety boats are not required to be on the scene. Also, this section states that safety boats shall carry a sufficient number of Type I, II, III or V PFDs for the occupants of the racing boats that they accompany. However, this also does not make sense. Any PFDs required to be carried should be the type that can easily be thrown to someone in the water (*e.g.*, Type IV throwable PFDs). Moreover, the accident record for such boats does not point to the need for requiring PFDs on safety boats. Accordingly, the Commission proposed amendments to remove these requirements from its regulations.

A notice of proposed rulemaking containing the proposed amendments was published at 39 Pa. B. 1870 (April 11, 2009). Prior to the public comment period, the Commission received one public comment regarding the proposed amendments suggesting different language. Copies of all public comments were provided to the Commissioners.

On June 9, 2009, the Boating Advisory Board considered the proposed amendments and recommended that the Commission adopt them on final rulemaking.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking. If adopted, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. These amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

B. Amendment to §91.5 (Parental and Boat Owner Responsibility).

Commentary:

The Commission's current regulations do not include a provision making it unlawful for a boat owner knowingly to allow someone to operate a boat without a boating safety education certificate onboard when the individual is required to have one. Law enforcement staff have requested that this requirement be added. Accordingly, the Commission proposed amendments to this section.

A notice of proposed rulemaking containing the proposed amendments was published at 39 Pa. B. 1870 (April 11, 2009) (Exhibit F). Prior to the public comment period, the Commission received one comment opposing the proposal. Copies of all public comments were provided to the Commissioners.

On June 9, 2009, the Boating Advisory Board considered the proposed amendments and recommended that the Commission adopt them on final rulemaking.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking. If adopted, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. These amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

C. Amendment to §101.5 (Confidentiality of Boating Accident Reports).

Commentary:

The confidentiality of boating accident reports is covered in detail in section 5503 of the Fish and Boat Code, 30 Pa. C.S. §5503, and in section 101.5 of the Commission's regulations. The Commission receives requests from time to time for certified abstracts for specific boating accidents. This is the only information that can be released from the Boating Accident Report (PFC-260) filed by the boat operator or owner who was involved in a reportable, recreational boating accident. Commission staff have always asked that such requests be in writing and have viewed e-mails to be sufficient. Accordingly, the Commission proposed that requests for certified abstracts always be in writing and that language be added to support the Commission's standard practice and clarify this matter to the inquiring public.

A notice of proposed rulemaking containing the proposed amendment was published at 39 Pa. B. 1870 (April 11, 2009) (Exhibit F). The Commission did not receive any public comments regarding this proposal.

On June 9, 2009, the Boating Advisory Board considered the proposed amendment and recommended that the Commission adopt it on final rulemaking.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, this amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. This amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

D. Amendment to §105.3 (Unacceptable Boating Practices).

Commentary:

The existing regulation concerning pontoon boats allows passengers to ride outside the normal passenger carrying area when the pontoon boat is travelling at slow, no wake speeds. This is an unsafe practice because the passenger can very easily fall overboard, even at the reduced, slow, no-wake speed. Because of the nature of the hull design of pontoon boats, slow, no-wake can be a faster speed than on single hull boats, such as a runabout. If the passenger is in the bow of the boat and falls overboard, he will most likely be struck by the boat's propeller with catastrophic results. This very scenario took place last year on a lake in western Pennsylvania when the pontoon boat operator unexpectedly hit a log causing a boy, who was riding on the bow outside of the normal passenger carrying area, to fall overboard and be struck by the boat's propeller. The Commission therefore proposed an amendment removing this language from the regulation.

A notice of proposed rulemaking containing the proposed amendment was published at 39 Pa. B. 1870 (April 11, 2009) (Exhibit F). Prior to the public comment period, the Commission received one public comment generally supporting the proposed amendment but suggesting alternative language. Copies of all public comments were provided to the Commissioners.

On June 9, 2009, the Boating Advisory Board considered the proposed amendment and recommended that the Commission's staff review the proposal to determine whether it places an unfair restriction on passengers riding in installed seating on the bow, outside the continuous railing on such boats at slow, no wake speed, and whether an accommodation should be made to permit this practice. Staff further reviewed the proposed amendment and determined that it is not overly burdensome and sitting in seats outside the railing of pontoon boats at any speed, even slow, no wake, is a dangerous practice and one that should not be permitted.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, this amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. This amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

E. Amendment to §109.1 (Air Boats).

Commentary:

Section 109.1 of the Commission's regulations provides detailed standards for the construction of air boats. However, there is no known example of this regulation being enforced in any part by Commission officers. In fact, a recent technical inquiry by a member of the general public about this regulation could not be answered because there are no known sources for the content of this regulation. There are very few airboats in Pennsylvania, and our law enforcement staff have had few issues with operators of these unusual boats. Therefore, the Commission proposed that this regulation be deleted.

A notice of proposed rulemaking containing the proposed amendment was published at 39 Pa. B. 1870 (April 11, 2009) (Exhibit F). The Commission did not receive any public comments regarding this proposal.

On June 9, 2009, the Boating Advisory Board considered the proposed amendment and recommended that the Commission adopt it on final rulemaking.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, this amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. This amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

F. Amendment to §109.6 (Special Marine Events).

Commentary:

Section 109.6(b)(5) of the Commission's regulations provides that the Commission will not issue a special activities permit for a marine event in a State Park unless the applicant first obtains written permission from the Bureau of State Parks, Department of Conservation and Natural Resources (DCNR) for the event. The Commission, however, issues permits for events occurring in State Forests, not just those in State Parks. The regulation goes on to state that for marine events held on waters under the ownership or control of other Federal or State agencies, the Commission will require evidence that the applicant has the permission of the controlling agency.

In order to simplify the regulation, the Commission proposed to revise the regulation to simply require the permission of the entity that owns or controls the waters on which the marine event will occur. The Commission routinely issues special activities for marine events that occur on private and public waters, including waters owned or controlled by the DCNR, the Pennsylvania Game Commission, the U.S. Army Corps of Engineers, and county and municipal governments.

A notice of proposed rulemaking containing the proposed amendments was published at 39 Pa. B. 1870 (April 11, 2009) (Exhibit F). The Commission did not receive any public comments regarding this proposal.

On June 9, 2009, the Boating Advisory Board considered the proposed amendments and recommended that the Commission adopt them on final rulemaking.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking. If adopted, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. These amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

G. Amendment to §111.17 (Clearfield County).

Commentary:

Curwensville Lake is a U.S. Army Corps of Engineers, Baltimore District (USACOE) impoundment of the West Branch of the Susquehanna River in central Clearfield County. It is managed jointly by the USACOE and the Clearfield County Recreation and Tourism Authority.

The lake comprises 790 acres with 19 shoreline miles and unrestricted horsepower. The lake provides open water adjacent to the dam with the majority of the water in a serpentine pattern based upon the original river contours. The lake narrows severely in its upper reaches. Use of the upper area is popular but not conducive to unrestricted horsepower boating. These upper reaches, most of which are less than 200 feet in width, have been posted and enforced as a slow, no-wake area but have never been defined by regulation. Giving clear and legal definition of the slow, no wake area is of joint interest of the agencies and will enhance fairness in public notice and enforceability.

The USACOE has requested that the slow, no-wake area be marked in the area upriver of the cliff at Ferguson and the area between the old viaduct pillars. The Commission therefore proposed amendments adding these restrictions.

A notice of proposed rulemaking containing the proposed amendments was published at 39 Pa. B. 1870 (April 11, 2009) (Exhibit F). The Commission did not receive any public comments regarding this proposal.

On June 9, 2009, the Boating Advisory Board considered the proposed amendments and recommended that the Commission adopt them on final rulemaking.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking. If adopted, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. These amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

H. Amendment to §111.20 (Crawford County).

Commentary:

Pymatuning Lake is part of Pymatuning State Park. The Department of Conservation and Natural Resources (DCNR) regulates the waterway's horsepower limit and has recently set it at 20 horsepower, like several other lakes owned or controlled by the DCNR. In the past, the Commission removed all references to horsepower limits on DCNR waterways from Chapter 111 of the Commission's regulations. Removal of Pymatuning Lake will complete that process. Accordingly, the Commission proposed an amendment deleting this regulation.

A notice of proposed rulemaking containing the proposed amendment was published at 39 Pa. B. 1870 (April 11, 2009) (Exhibit F). The Commission did not receive any public comments regarding this proposal.

On June 9, 2009, the Boating Advisory Board considered the proposed amendment and recommended that the Commission adopt it on final rulemaking.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, this amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

At the outset of the Commission's consideration of the boating related agenda items, a motion was made by Commissioner Ketterer and seconded by Commissioner Czop to adopt the amendments as set forth in the notice of proposed rulemaking for all of the boating related final rulemaking agenda items, including this item. This amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

PROPOSED RULEMAKING

I. Amendment to §111.56 (Somerset County).

Commentary:

A recent review of the Commission's regulations shows that section 111.56, subsections (c) (relating to Lake Somerset), (d) (relating to High Point Lake) and (e) (relating to Cranberry Glade Lake) were not included when the Commission reorganized its boating regulations in 1994. These subsections were inadvertently omitted by staff at the time and thus were not part of the rulemaking package that was published in the *Pennsylvania Bulletin*.

Staff therefore propose that §111.56 be amended to add these overlooked subsections:

§111.56. Somerset County.

* * *

(c) Lake Somerset. - The operation of boats powered by internal combustion motors is prohibited.

(d) High Point Lake. - The operation of boats powered by internal combustion motors is prohibited.

(e) Cranberry Glade Lake. - The operation of boats powered by internal combustion motors is prohibited.

On June 9, 2009, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking.

Briefer:

Dan Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the amendments described in the Commentary. If adopted on final rulemaking, the amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Ketterer and seconded by Commissioner Czop to approve the publication of a notice of proposed rulemaking containing the amendments described in the Commentary. If adopted on final rulemaking, the amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

OTHER MATTERS

J. Boating Infrastructure Grant to the Sports and Exhibition Authority of Pittsburgh and Allegheny County.

Commentary:

The Boating Infrastructure Grant Program (BIG) is administered by the U.S. Fish and Wildlife Service (USFWS) and provides grant funds to construct, renovate and maintain tie-up facilities with features for transient boaters in vessels 26-feet or more in length. The Commission has been designated as the state representative for the BIG Program in Pennsylvania, and in 2001, the Commission authorized staff to award grants under this program. The BIG Program includes two funding tiers, Tier One (non-competitive) and Tier Two (nationally competitive). Under Tier One, each state may receive funding for eligible projects up to \$100,000 annually. The Commission annually participates in the Tier One Program. Tier Two proposals are reviewed, evaluated and ranked by a national panel with the final decision for funding made by the Director of the USFWS.

The Commission recently was approved for \$985,991 dollars in federal funding through the BIG Tier Two Program. The Commission worked with the Sports and Exhibition Authority of Pittsburgh and Allegheny County (SEA) to develop and submit the application for federal funding. The SEA will be responsible for the construction of the project and for providing the funds necessary to match the federal grant. These BIG funds are earmarked for the construction of 26 dock spaces, 16 of which will be for transient boaters and day dockage users with larger non-trailerable boats (over 26-foot in length). The main purpose of the project is to provide transient recreational boaters with access to the Convention Center Riverfront Park in Pittsburgh. The park will offer boaters access to several destinations within walking distance, such as the Cultural District, the Strip District, the North Shore and the Mellon Arena. The project is part of a larger \$8.5 million redevelopment effort by the SEA and is located on the Allegheny River in the Northeast corner of Pittsburgh's central business district between the Rachael Carson Bridge and the Fort Wayne Railroad Bridge.

This is the second time that the Commission successfully applied for, and received, federal funding under the Tier Two Program. Last year, the Commission received \$1.35 million that was ultimately granted to the Urban Redevelopment Authority of Pittsburgh for the construction of a 525-foot tie-up facility for transient boaters and day dockage users for up to seventeen 26-foot or larger non-trailerable boats. That project provides transient recreational boaters with access to the South Shore Riverfront Park and the SouthSide Works in Pittsburgh. As with the last year's project, the Commission's role is to be the "pass through" agency for the USFWS grant. After we receive the grant funding from the USFWS, we will provide the funding in the form of a grant to the SEA.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission approve a grant in the amount of \$985,991 dollars to the Sports and Exhibition Authority of Pittsburgh and Allegheny County for the construction of the facility described in the Commentary.

Action:

A motion was made by Commissioner Ketterer and seconded by Commissioner Czop to approve a grant in the amount of \$985,991 dollars to the Sports and Exhibition Authority of Pittsburgh and Allegheny County for the construction of the facility described in the Commentary. Motion carried.

K. Grant to the Schuylkill River Development Corporation, Schuylkill River, Philadelphia County.

Commentary:

In the 2009 round of the Boating Facility Grant Program, staff recommended and the Executive Director approved a grant to the Schuylkill River Development Corporation in the amount of \$15,000 to remove old abandoned pilings from the tidal section of the Schuylkill River in Philadelphia County. The pilings are located in the navigable portion of the river in the City of Philadelphia near the Market Street Bridge, and they present a serious safety hazard to boaters. The Schuylkill River Development Corporation intends to cut the pilings and remove them from the river to prevent potential boating accidents.

Upon further consideration of this grant, Commission staff have determined that the project does not fully meet the eligibility and other requirements of the Boating Facility Grant Program. Staff nonetheless believe that this project is a worthy one and should be funded. Therefore, staff recommend that the Commission authorize a grant to the Schuylkill River Development Corporation outside the context of the Boating Facility Grant Program to remove the pilings. The funding amount and the scope of the project will remain the same. However, the grant will not have to conform to the eligibility and other requirements of the Boating Facility Grant Program.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$15,000 to the Schuylkill River Development Corporation as more fully described in the Commentary.

Action:

A motion was made by Commissioner Czop and seconded by Commissioner Ketterer to approve a grant not to exceed \$15,000 to the Schuylkill River Development Corporation as more fully described in the Commentary. Motion carried.

L. Allegheny Valley Conservancy, Public Fishing Access and Conservation Easement Acquisition, Allegheny River, Venango County.

Commentary:

In the 2009 round of the Boating Facility Grant Program, the Executive Director approved a grant in the amount of \$90,000 to the Allegheny Valley Conservancy for the acquisition of a 13-acre property located along the Allegheny River upriver of Emlenton, Pennsylvania. The property has approximately 5,700 linear feet of frontage along the Allegheny River. A map depicting the property is attached as Exhibit G.

The Allegheny Valley Conservancy (AVC) proposes to acquire the property and work toward the development of a public boat launch facility on the site. There are no other public boat launch facilities within four miles upstream or downstream of the proposed site. The acquisition of the property is Phase 1 of the project and will provide public access. Acquisition also will protect open space for development as a future boating facility. The Pennsylvania Department of Conservation and Natural Resources has approved a grant in the amount of \$120,000 for the acquisition of the property.

Although the site is currently suitable for unpowered boats and shore fishing, staff will require as a condition of the grant that AVC construct facilities, including a ramp, parking area, and access road for unpowered boats within five years of acquiring the site. Staff also will require as a condition of the grant that AVC convey a public fishing access and conservation easement to the Commission that will allow for public access along the Allegheny River and a parking area in perpetuity.

An agreement between AVC and the Commission will be developed that commits agency funds and will include specific provisions for the protection of the Commission's interests and the angling public. The provisions will include a requirement that AVC, or another conservation organization approved by the Commission, hold a perpetual conservation easement on the balance of the property if AVC were to transfer the property to another entity in the future. The Commission would have the option of being either a co-holder or a beneficiary of that easement. If the Commission elects to hold the easement, Commission approval will be required at that time.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission authorize the acquisition of a public fishing access and conservation easement on the property to be acquired by the Allegheny Valley Conservancy, as more fully described in the Commentary.

Action:

A motion was made by Commissioner Ketterer and seconded by Commissioner Concilla to authorize the acquisition of a public fishing access and conservation easement on the property to be acquired by the Allegheny Valley Conservancy, as more fully described in the Commentary. Motion carried.

M. Swatara Watershed Association, Public Fishing Access and Conservation Easement Acquisition, Swatara Creek, Lebanon County.

Commentary:

In the 2009 round of the Boating Facility Grant Program, the Executive Director approved a grant in the amount of \$90,000 to the Swatara Watershed Association for the acquisition of a 33.69-acre property located along the Swatara Creek near Annville, Pennsylvania. The property has approximately 3,341 linear feet of frontage along Swatara Creek. A map depicting the property is attached as Exhibit H.

The Swatara Watershed Association proposes to acquire the property and work toward the development of a public boat launch facility on the site. There are no other public boat launch facilities within eight miles upstream or downstream of the proposed site. The acquisition of the property is Phase 1 of the project and will provide public access. Acquisition also will protect open space for development as a future boating facility. The Pennsylvania Department of Conservation and Natural Resources has approved a grant in the amount of \$190,000 for the acquisition of the property.

Although the site is currently suitable for unpowered boats and shore fishing, staff will require as a condition of the grant that the Watershed Association construct facilities, including a ramp, parking area, and access road for unpowered boats within five years of acquiring the site. Staff also will require as a condition of the grant that the Watershed Association convey a public fishing access and conservation easement to the Commission that will allow for public access along Swatara Creek and a parking area in perpetuity.

An agreement between the Watershed Association and the Commission will be developed that commits agency funds and will include specific provisions for the protection of the Commission's interests and the angling public. The provisions will include a requirement that the Watershed Association, or another conservation organization approved by the Commission, hold a perpetual conservation easement on the balance of the property if the Watershed Association were to transfer the property to another entity in the future. The Commission would have the option of being either a co-holder or a beneficiary of that easement. If the Commission elects to hold the easement, Commission approval will be required at that time.

Briefer:

Daniel G. Martin, Director, Bureau of Boating and Access

Recommendation:

Staff recommend that the Commission authorize the acquisition of a public fishing access and conservation easement on the property to be acquired by the Swatara Watershed Association, as more fully described in the Commentary.

Action:

A motion was made by Commissioner Czop and seconded by Commissioner Ketterer to authorize the acquisition of a public fishing access and conservation easement on the property to be acquired by the Swatara Watershed Association, as more fully described in the Commentary. Motion carried.

FISHERIES
OTHER MATTERS

A. Fish Passage and Habitat Restoration Grant to American Rivers, Inc. for Removal of Howell Dam on Unnamed Tributary to Little Sewickley Creek, Westmoreland County.

Commentary:

At the October 2004 meeting, the Commission established the Statewide Grant Program for Fish Passage and Habitat Restoration. The purpose of this grant program is to provide a mechanism for the Commission to pass federal and other funding, as it becomes available, to dam owners throughout Pennsylvania who agree to provide fish passage and habitat restoration at their dams. The Commission authorized the Executive Director to approve individual pass-through grants of up to and including \$100,000 each to dam owners and their designees for dam removal, fish passage and habitat restoration projects statewide. For individual pass-through grants in excess of \$100,000, staff will seek separate Commission approval.

The Commission has obtained up to \$400,000 from the Pennsylvania Turnpike Commission to mitigate impacts associated with the Milepost 67 to Milepost 75 Total Reconstruction and Widening Projects. The funding is earmarked to address the removal of Howell Dam and associated stream bank and habitat restoration activities on an unnamed tributary to Sewickley Creek, Westmoreland County. Staff propose to provide 45 \$400,000 in the form of a grant to American Rivers, Inc. to finance the project. The Commission's Division of Habitat Management will provide the necessary technical assistance and oversight as well as administer the contract on behalf of the Commission.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve a grant of up to \$400,000 to American Rivers, Inc. for the removal of Howell Dam.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Czop to approve a grant of up to \$400,000 to American Rivers, Inc. for the removal of Howell Dam. Motion carried.

B. Sinnemahoning Creek Watershed Restoration Grant to Cameron County Conservation District.

Commentary:

At the October 2008 meeting, the Commission established the Sinnemahoning Creek Watershed Restoration Grant Program. This program was funded by a settlement agreement between the Commonwealth of Pennsylvania and Norfolk Southern, pursuant to which Norfolk Southern paid the Commission \$3,675,000 as restitution for natural resource damages stemming from a June 30, 2006 sodium hydroxide spill into Big Fill Run, Sinnemahoning-Portage Creek, Driftwood Branch of Sinnemahoning Creek and Sinnemahoning Creek. Under the agreement, the Commission must use these monies for developing and implementing projects that benefit recreational fishing and boating and the aquatic resources of Cameron, McKean, Elk and Potter Counties. Projects to be considered will include, but will not be limited to, acid mine drainage abatement; habitat protection, enhancement and restoration; the acquisition of properties (in fee or easements) for public fishing and access, as well as improvements to existing access areas; and aquatic inventories. The Commission authorized the Executive Director to approve individual grants in the amount of \$100,000 or less per grantee per year for projects meeting the objectives of the grant program. For grants exceeding that amount, staff will seek separate Commission approval.

The Cameron County Conservation District proposes to conduct a project entitled "*May Hollow 49 Passive Treatment System.*" The objective of the project is to complete construction of a passive system to treat mine discharge into May Hollow, a tributary to Sterling Run, Cameron County. Engineering design and a maintenance and operations plan for the system have been completed (Gannett Fleming) and reviewed, approved and permitted by the Pennsylvania Department of Environmental Protection. Completion of the project, as well as three others already funded and authorized, will restore water quality and aquatic life to over seven miles of May Hollow Run and Sterling Run, historic trout fisheries. As a condition to the grant agreement, the Cameron County Conservation District will be required to maintain and operate the treatment system during its useful life. Operation and maintenance should require minimal time and resources due to the nature and amount of mine discharge entering the system.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve a grant in the amount of \$240,000 to the Cameron County Conservation District for the purposes described in the Commentary.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Czop to approve a grant in the amount of \$240,000 to the Cameron County Conservation District for the purposes described in the Commentary. Motion carried.

C. Sinnemahoning Creek Watershed Restoration Grant to McKean County Conservation District.

Commentary:

At the October 2008 meeting, the Commission established the Sinnemahoning Creek Watershed Restoration Grant Program. This program was funded by a settlement agreement between the Commonwealth of Pennsylvania and Norfolk Southern, pursuant to which Norfolk Southern paid the Commission \$3,675,000 as restitution for natural resource damages stemming from a June 30, 2006 sodium hydroxide spill into Big Fill Run, Sinnemahoning-Portage Creek, Driftwood Branch of Sinnemahoning Creek and Sinnemahoning Creek. Under the agreement, the Commission must use these monies for developing and implementing projects that benefit recreational fishing and boating and the aquatic resources of Cameron, McKean, Elk and Potter Counties. Projects to be considered will include, but will not be limited to, acid mine drainage abatement; habitat protection, enhancement and restoration; the acquisition of properties (in fee or easements) for public fishing and access, as well as improvements to existing access areas; and aquatic inventories. The Commission authorized the Executive Director to approve individual grants in the amount of \$100,000 or less per grantee per year for projects meeting the objectives of the grant program. For grants exceeding that amount, staff will seek separate Commission approval.

The McKean County Conservation District proposes to conduct a project entitled "*McKean County Habitat Restoration Program*." Project objectives include 1) providing coordination and management of stream improvement projects in McKean County; 2) completing a minimum of 24 stream habitat improvement/stream bank stabilization/riparian buffer projects; and 3) improving four public access sites with pre-existing safety and stream degradation issues. Initiatives advanced under this project will be completed with technical assistance and/or review provided by the Commission's Division of Habitat Management and Bureau of Engineering and Property Services. As a condition of the grant, the Conservation District will be required to secure lease agreements with the owners of properties on which projects will be located to ensure long-term public access for fishing.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve a grant in the amount of \$315,400 to the McKean County Conservation District for the purposes described in the Commentary.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Bachman to approve a grant in the amount of \$315,400 to the McKean County Conservation District for the purposes described in the Commentary. Motion carried.

D. Sinnemahoning Creek Watershed Restoration Grant to Western Pennsylvania Conservancy.

Commentary:

At the October 2008 meeting, the Commission established the Sinnemahoning Creek Watershed Restoration Grant Program. This program was funded by a settlement agreement between the Commonwealth of Pennsylvania and Norfolk Southern, pursuant to which Norfolk Southern paid the Commission \$3,675,000 as restitution for natural resource damages stemming from a June 30, 2006 sodium hydroxide spill into Big Fill Run, Sinnemahoning-Portage Creek, Driftwood Branch of Sinnemahoning Creek and Sinnemahoning Creek. Under the agreement, the Commission must use these monies for developing and implementing projects that benefit recreational fishing and boating and the aquatic resources of Cameron, McKean, Elk and Potter Counties. Projects to be considered will include, but will not be limited to, acid mine drainage abatement; habitat protection, enhancement and restoration; the acquisition of properties (in fee or easements) for public fishing and access, as well as improvements to existing access areas; and aquatic inventories. The Commission authorized the Executive Director to approve individual grants in the amount of \$100,000 or less per grantee per year for projects meeting the objectives of the grant program. For grants exceeding that amount, staff will seek separate Commission approval.

The Western Pennsylvania Conservancy proposes to conduct a project entitled “*Sinnemahoning-Portage Creek and Driftwood Branch Assessment and Restoration Plan.*” Project objectives include 1) completion of a comprehensive assessment of Sinnemahoning-Portage Creek and tributaries (160 miles) to document impairment and habitat needs; 2) land parcel digitization for the Sinnemahoning-Portage Creek watershed, and 3) land parcel digitization for the main stem Driftwood Branch from the confluence of Portage Creek downstream to the mouth of Bennetts Branch. The project will provide information to assist the Commission in targeting and prioritizing areas for habitat improvement in the future. It also will identify property boundaries and owner contact information to assist in obtaining public fishing and boating access and conservation easements in the future.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve a grant in the amount of \$114,695 to the Western Pennsylvania Conservancy for the purposes described in the Commentary.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Czop to approve a grant in the amount of \$114,695 to the Western Pennsylvania Conservancy for the purposes described in the Commentary. Motion carried.

Other New Business

None.

Time and Place of October 2009 Commission Meeting

The next meeting is scheduled for October 5-6, 2009 and will be held at the Commission's headquarters in Harrisburg.

Adjournment

A motion was made by Commissioner Czop and seconded by Commissioner Worobec to adjourn the meeting at approximately 4:45 p.m. Motion carried.