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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 120th Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, September 26 and 27, 2016, at the Bayfront Convention Center, 1 Sassafra Pier, Erie, PA 16507.

Commission committees met on September 26 beginning at approximately 9:30 a.m. and on September 27 beginning at approximately 8:00 a.m. The public session for review of this agenda began on or about 9:45 a.m. on September 27.

Call to Order

The meeting was called to order by Commission President Glade E. Squires and followed by the Pledge of Allegiance to the Flag.

Roll Call

Members Present

Glade E. Squires, President
Rocco S. Ali, Vice-President
Eric C. Hussar
Leonard L. Lichvar
Edward P. Mascharka III
William J. Sabatose

Members Not Present

G. Warren Elliott
Norman R. Gavlick
Steven M. Ketterer

Review and Approval of Minutes from the July 12, 2016 Meeting

A motion was made by Commissioner Sabatose and seconded by Commissioner Ali to approve the July 12, 2016 minutes as written. Motion carried.

Awards and Presentations

Waterways Conservation Officer (WCO) Terry J. Crecraft was presented with a Lifesaving Award for his heroic efforts during a life threatening situation. After completing stocking efforts on a local stream on April 14, 2016, WCO Crecraft stopped into a local restaurant with some of his stocking assistants. After a short time, WCO Crecraft noticed that one of the assistants was choking and unable to breath. The individual was not coughing or able to gasp for breath at which point WCO Crecraft determined that the individual had a fully obstructed airway. The Heimlich maneuver was initiated which was successful in clearing the obstruction from the distressed individual. The individual's breathing returned to normal after a few minutes. WCO Crecraft called the individual later that night to check on his welfare and was informed of a full recovery. WCO Crecraft is to be commended on his quick efforts and decisive action to assist an individual in a life threatening situation and resolving that situation through his training as a first responder.

Waterways Conservation Officers Matthew A. Kauffman and Michael Johnson were presented with Lifesaving Awards for their heroic efforts during a boating safety detail. During a boating safety detail on July 2, 2016, WCO Kauffman and his partner, WCO Johnson, responded to an assistance call for an individual who attempted to flee officers by jumping into the Allegheny River. Shortly after entering the river, the suspect began having difficulties. Upon arriving on the scene, WCO Kauffman threw the man a throwable personal flotation device, but he was unable to grab it and went under the water's surface. While WCO Johnson maneuvered the patrol boat in close proximity of the individual, WCO Kauffman entered the water, rescued the man and returned him to the patrol boat. Many thanks to Officers Kauffman and Johnson for their quick actions associated with this incident.

Waterways Conservation Officers Matthew A. Kauffman and Daniel J. Wilson were presented with Lifesaving Awards for their heroic efforts during a patrol. On July 13, 2016 WCO Kauffman and WCO Wilson encountered an unconscious victim while on patrol in a rural and secluded location in Westmoreland County. They responded with decisive action and professional competence, saving the victim's life. The professional performance that Officers Kauffman and Wilson exhibited during this incident speaks well of their personal decision-making skills, is a testament of their fortitude and is affirmation of the high quality of our officers and their training. Officers Kauffman and Wilson are to be commended for their actions.

An Appreciation Award was presented to Tim and Pam Truitt. The Commission recognized Tim and Pam for their efforts to provide quality marina services at the North East Marina from 1999 to 2016. The Truitts operated a full-service marina under contract with the Commission during this timeframe. The Commission is appreciative of the partnership with North East Marina Services, Inc., which has enhanced the enjoyment of fishing and boating on Lake Erie. The Commission wishes the Truitts all the best in retirement.

An Appreciation Award was presented to the Pymatuning Lake Association. The Commission recognized the Pymatuning Lake Association for its efforts to protect the resource and promote fishing and boating in Pennsylvania through habitat projects, fishing tournaments and kids

fishing derbies. The Commission is very appreciate of the Association's accomplishments, which have enhanced the enjoyment of fishing in Pennsylvania.

An Outstanding Leadership Award was presented to former Commission President Mascharka. The Commission recognized and commended Edward P. Mascharka III for his outstanding leadership and dedication while serving as President of the Commission from July 14, 2015 to July 12, 2016.

At the conclusion of the awards presentation, Executive Director Arway presented Commissioners with a copy of the new book, *The Fishes of Pennsylvania*. The book is on the fishes of the state and was authored by Rob Criswell, Jay Stauffer of Pennsylvania State University and Doug Fischer. An account for each species that occurs in the state includes characters for identification, range (including an up-to-date dot distribution map), biological and ecological information, and a conservation status summary and remarks. Chapters of the book include a history of ichthyology in Pennsylvania, a description of the waterways and fish fauna of the state, basic anatomy, the study of fishes (including collection techniques, characters and methodology for identification, and information on photography and videography), conservation, and sport fishing opportunities in the state.

Executive Director's Report

The "July – September 2016 Quarterly Report" (Exhibit A) was provided to Commissioners. In commemoration of the Fish and Boat Commission's 150th anniversary, a resolution provided by the Pennsylvania Game Commission was read by Director Arway. Be it hereby resolved that the Board of Commissioners of the Pennsylvania Game Commission does hereby commend and celebrate the Pennsylvania Fish and Boat Commission on their significant achievement of marking 150 years of protection, conservation and enhancement of the Commonwealth's aquatic resources and providing fishing and boating opportunities.

Announcement of Executive Session

Commissioner Squires announced that an executive session was held on September 26 at 8:30 a.m. to discuss litigation and personnel matters.

Reports of Commissioner Committees

Executive and Administrative (Commissioner Squires) –

The Executive and Administrative Committee met on Monday, September 26, at approximately 9:30 a.m. Agenda items were discussed. Bernie Matscavage provided a license sales update. Steve Kralik gave an update on a discounted fishing licenses offer to commence on October 1, 2016 and continue through December 31, 2016. Michele Jacoby provided an engineering update, and John Shero reported on GPS mapping.

Boating (Commissioner Mascharka) –

The Boating Committee met on Tuesday, September 27, at approximately 8:25 a.m. Although agenda items were reviewed, the Committee did not vote on them because a quorum of the

committee members was not present. Colonel Corey Britcher provided an update on the efforts to select a vendor for the management and operation of the North East Marina, and he announced that a contract was awarded to Robert Mazza.

Fisheries (Commissioner Ali) –

The Fisheries Committee met on Monday, September 26, at approximately 11:00 a.m. During the Committee meeting, a motion was made by Commissioner Squires and seconded by Commissioner Sabatose that the Committee recommend to the Commission that staff meet with PA B.A.S.S. Nation to develop a mutually acceptable solution regarding spring bass tournaments and report back to the Committee at the January 2017 Commission meeting. Motion carried.

Agenda items were discussed. Geoff Smith provided updates on the middle and lower Susquehanna River and Juniata River Smallmouth Bass fishery regulations. Chuck Murray provided a presentation on the Lake Erie fishery. Andy Shiels reported on the Saucon Creek trophy trout artificial lures only alternatives analysis. During the Committee meeting, a motion was made by Commissioner Squires and seconded by Commissioner Sabatose to “table” the discussion on the Saucon Creek alternatives until a later date. Motion carried.

Habitat and Environmental (Commissioner Lichvar) –

The Habitat and Environmental Committee met on Monday, September 26, at approximately 3:55 p.m. and reconvened on Tuesday, September 27, at approximately 8:00 a.m. Discussion items included the timing of the annual Timber Rattlesnake status report, the Dunkard Creek 2016 biological assessments to follow up on the 2009 fish kill, Eastern Massasauga habitat restoration in Venango County, Susquehanna River impairment and 2016 Pennsylvania Department of Environmental Protection draft integrated water quality monitoring and assessment report, and an update on the Lake Erie tributary steelhead blockage assessment study.

Hatcheries (Commissioner Ali) –

The Hatcheries Committee met on Monday, September 26, at approximately 2:55 p.m. One agenda item was discussed. Brian Wisner provided an update on hatchery programs, and a gill lice report was provided. Rob Brown gave an update on the Great Lakes Restoration Initiative (GLRI) for hatchery programs.

Law Enforcement (Commissioner Sabatose) –

The Law Enforcement Committee met on Tuesday, September 27, at approximately 8:45 a.m. Updates were given on the Fish Kill hotline and on boating under the influence (BUI) laws and how they interlace with driving under the influence (DUI) laws. A vacancy update was also provided. The Committee did not act on any revocations.

Legislation and Public Outreach (Commissioner Mascharka) –

The Legislation and Public Outreach Committee met on Tuesday, September 27, at approximately 8:55 a.m. A legislative update was provided by Executive Director John Arway and included an overview of Senate Bill 1168 (authorization for the Commission to set its own fees) and Senate Bill 889 (extending heart and lung benefits to waterways conservation officers). Steve Kralik reported on planned revisions to the Commission’s website that will take effect on

October 6, 2016. Information regarding the progress being made by the Female Angler Recruitment, Retention, and Reactivation (R3) Workgroup was also provided.

Public Comment to Commissioners and Staff

Dewey Forsythe, President, Pymatuning Lake Association, provided comment on matters concerning Pymatuning Lake.

EXECUTIVE AND ADMINISTRATIVE

A. Dates for Commission Meetings in 2017.

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 2017. 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 2017:

January 23-24, 2017 (Monday and Tuesday)
April 24-25, 2017 (Monday and Tuesday)
July 10-11, 2017 (Monday and Tuesday)
September 25-26, 2017 (Monday and Tuesday)

The January and July 2017 meetings will be held at the Harrisburg headquarters. The April and September 2017 meetings will be held at locations designated by the Commission for the transaction of business.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend that the Commission approve the dates for the regular meetings of the Commission for 2017 as set forth in the Commentary.

Action:

A motion was made by Commissioner Hussar and seconded by Commissioner Ali to approve the dates for the regular meetings of the Commission for 2017 as set forth in the Commentary. Motion carried.

B. Review and Support of the 2017-18 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 2017-18 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. According to the Budget Office, these documents are confidential. After the Executive Director submits the budget request, the Governor's Budget Office may make changes to the spending authority requested by the Commission. These changes are generally a result of changes in the calculations for personnel and other costs. The Governor will announce the details of the Fiscal Year 2017-18 budget in February or March of 2017.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission support the Executive Director's submission of a request to the Governor's Budget Office for its Fiscal Year 2017-18 spending authority as more fully described in staff's preliminary draft budget documents.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Ali to support the Executive Director's submission of a request to the Governor's Budget Office for the Commission's Fiscal Year 2017-18 spending authority as more fully described in staff's preliminary draft budget documents. Motion carried.

BOATING FINAL RULEMAKING

A. Amendments to Sections 93.3 (Application for Boat Registration) and 93.102 (Application Procedure and Contents of Applications for Certificates of Title).

Commentary:

On April 27, 2012, the U.S. Coast Guard amended 33 CFR Parts 173, 174, 181 and 187 regarding numbering undocumented vessels and reporting boat accidents. These changes align and modernize terminology used in the Standard Numbering System (SNS), the Vessel Identification System, and accident reporting; require verification of vessel hull identification numbers; require SNS vessel owners to provide personally identifiable information; and provide flexibility for states and territories in administering these regulations. Together, the changes are intended to improve boating safety efforts, enhance law enforcement capabilities, clarify requirements for all stakeholders and promote the Coast Guard strategic goals of maritime safety and security. As such, states have until January 1, 2017 to implement these changes.

Since 2012, the Commission has been working on effecting the necessary changes to its systems to be in compliance with the amended Coast Guard regulations. Significant changes needed to be coded into our registration and titling system (RATS) and its accompanying database. Coordination with the Department of Revenue was required to revise the REV-336 Instruction for Application for Pennsylvania Boat Registration and/or Boat Title form.

The majority of the required updates reflect nomenclature and vessel data category grouping changes and are considered as “housekeeping.” Among these changes is standardizing how all states will now define “Vessel Type.” Hull material has been expanded to include Rubber/Vinyl/Canvas instead of referring to this class of hull material as “Other.” The Coast Guard also relabeled data categories. What we previously referred to as “Propulsion Type” is now called “Engine Drive Type.” This category, which identifies a boat’s engine drive, includes the terms, Inboard, Outboard, Pod Drive, Stern Drive and Other. In addition, the Coast Guard refined how states categorize the manner in which a boat will be operated. The Coast Guard now restricts a boat’s reported usage as Pleasure, Commercial Passenger, Livery/Rental, Commercial Fishing, Dealer and Other Commercial Operation.

While these required changes are administrative in nature, the Commission must also collect and provide to the Coast Guard personally identifiable information that uniquely ties a boat to an owner. This will be accomplished by creating a unique identification number for each boat owner by collecting and then combining the vehicle driver’s license of the owner with his or her date of birth. This unique identifier once entered into the system will match the boat’s hull identification number with a single individual instead of simply linking it to a name. This will greatly benefit law enforcement when dealing with lost or stolen boats.

A notice of proposed rulemaking containing the changes was published at 46 Pa. B. 2555 (May 21, 2016) (Exhibit B). The Commission did not receive any public comments regarding the proposed changes.

Briefer:

Colonel Corey L. Britcher, Director, Bureau of Law Enforcement

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 on January 1, 2017.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Ali to adopt the amendments as set forth in the notice of proposed rulemaking. These amendments will go into effect on January 1, 2017. Motion carried.

B. Amendment to Section 111.9 (Bucks County).

Commentary:

In 1997, the Commission enacted several regulations on the Delaware River to mirror New Jersey state law. One of those regulations was the slow, no wake zone on Paunacussing Creek from the mouth to the vicinity of Green Hill Road from 12:01 a.m. on the Friday before Memorial Day until midnight on Labor Day.

A recent review of this regulation found that it was never enacted in New Jersey and is not being enforced by either state. In discussions with the New Jersey State Police (agency with jurisdiction), Commission staff learned that New Jersey has no desire to add this requirement to its boating law. Based on New Jersey's decision and the fact that Pennsylvania has not enforced this regulation in recent history, the Commission proposed that it be deleted.

A notice of proposed rulemaking containing the deletion was published at 46 Pa. B. 2555 (May 21, 2016) (Exhibit B). The Commission did not receive any public comments regarding the proposed changes.

Briefer:

Colonel Corey L. Britcher, Director, Bureau of Law Enforcement

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 on January 1, 2017.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Ali to adopt the amendments as set forth in the notice of proposed rulemaking. These amendments will go into effect on January 1, 2017.

OTHER MATTERS

C. Additional Boating Infrastructure Grant to the Borough of Bristol, Delaware River, Bucks County.

Commentary:

In 2013, the Commission was awarded \$1,492,195 in federal funding through the Boating Infrastructure Grant (BIG) Tier Two Program administered by the United States Fish and Wildlife Service (USFWS). This funding was for a project located on the tidal section of the Delaware River between Philadelphia and Trenton, New Jersey, in historic Bristol, Pennsylvania. The main purpose of the project is to provide transient recreational boaters with access to the historic Bristol Borough waterfront. At its July 16, 2013 meeting, the Commission approved a grant to Bristol Borough in the amount of \$1,492,195 for the design and construction of 25 dock spaces for transient boaters and day dockage users with larger, non-trailerable boats (over 26 feet in length).

After receiving approval of the final engineering drawings, Bristol Borough released the project for bid. The Borough, upon receiving the bids, found that the low bid exceeded the grant amount by \$767,980. Commission staff encouraged Bristol Borough to find other sources of funding for the project, and the Borough applied for and received a grant from the Department of Community and Economic Development in the amount of \$700,784, leaving a budget shortfall of \$67,196. Bristol Borough again approached the Commission requesting additional funding. Commission staff reviewed the bids and found them to be in order. Staff also determined that the project cannot be scaled back without having an undesirable impact on the project as a whole.

Commission staff discussed the budget shortfall with a USFWS representative and proposed using up to \$100,000 of the Commission's annual allocation of BIG Tier One funding to supplement the 2013 Tier Two grant award. The additional grant will cover the costs associated with engineering design management and quality assurance which are eligible costs under the BIG Program and were not included in the original Tier Two funding request. Commission staff therefore propose using funding from the Tier One BIG program to assist Bristol Borough with its efforts to make up the budget shortfall.

Briefer:

Colonel Corey L. Britcher, Director, Bureau of Law Enforcement

Recommendation:

Staff recommend that the Commission approve an additional grant in the amount of up to \$100,000 to the Borough of Bristol as more fully described in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Hussar to approve an additional grant in the amount of up to \$100,000 to the Borough of Bristol as more fully described in the Commentary. Motion carried.

FISHERIES PROPOSED RULEMAKING

A. Amendment to Section 65.24 (Miscellaneous Special Regulation) – Trout at Harveys Lake, Luzerne County.

Commentary:

Harveys Lake is a 658-acre natural lake located in Luzerne County. It is one of the few lakes in Pennsylvania managed as a put, grow and take stocked trout fishery. Brown Trout survive year-round in Harveys Lake and commonly reach weights in excess of 10 pounds. The Commission established a miscellaneous special regulation to protect this fishery in 1998. Under this regulation, Harveys Lake is closed to all fishing for a two-week period from April 1 to the opening day of trout season. Trout harvest is permitted at all other times of the year. The creel limit is three trout per day, only one of which may exceed 18 inches in length.

Law enforcement personnel have received numerous requests to open Harveys Lake to year-round fishing. In addition to trout, Harveys Lake supports excellent fisheries for Black Bass, Walleye, Yellow Perch, Rock Bass and Bluegill. Bass anglers in particular would appreciate this change because Harveys Lake is one of the few lakes in the region large enough to support power boating.

Allowing year-round fishing will benefit Harveys Lake anglers. It also will benefit stream anglers because it will allow the Commission to stock Harveys Lake in March, thus freeing up a stocking trip closer to opening day for a stream that has trout residency problems. However, opening Harveys Lake to year-round fishing will also require a change in harvest dates. Currently, Harveys Lake is open to trout harvest from March 1 to March 31. Trout harvest should be prohibited from March 1 to opening day to make Harveys Lake consistent with other stocked trout waters that are open to year-round fishing. The closure to harvest is also necessary to allow recently stocked trout to avoid rapid harvest and grow to large sizes.

In summary, the two proposed changes to the miscellaneous special regulation are to open the lake to year-round fishing and prohibit the harvest of trout from March 1 to opening day of trout season. Staff propose that §65.25 be amended as follows:

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
***	***	***
Luzerne	Harveys Lake	During the period from the first Saturday after April 11 through midnight [March 31] last day of February , the daily creel limit for trout (combined species) is 3, only one of which may exceed 18 inches in length. [Fishing is prohibited from April 1 through 8 a.m. of the first Saturday after April 11.] Warmwater/coolwater species, except as provided in this section—Inland regulations apply.
***	***	***

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the proposed 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 Ali and seconded by Commissioner Mascharka to approve the publication of a notice of proposed rulemaking containing the proposed amendments described in the Commentary. If adopted on final rulemaking, the amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

DESIGNATIONS

B. Proposed Additions to List of Class A Wild Trout Streams.

Commentary:

Pursuant to 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of Pennsylvania's naturally reproducing trout populations. Criteria developed for Class A Wild Trout populations are species specific. Wild Trout Biomass Class Criteria include provisions for wild Brook Trout, wild Brown Trout, mixed wild Brook and Brown Trout, wild Rainbow Trout, mixed wild Brook and Rainbow Trout and mixed wild Brown and Rainbow Trout populations.

Staff recommend the addition of four stream sections to the Commission's list of Class A wild trout streams. These changes are the result of recent surveys conducted on these waters. Exhibit C provides information on the locations and a data summary for each of these waters.

A notice of proposed designations was published at 46 Pa. B. 4027 (July 23, 2016) (Exhibit D). The Commission received a total of 14 public comments supporting the proposed designations. Copies of all public comments have been provided to the Commissioners.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve the addition of four stream sections to its Class A wild trout streams list as described in the Commentary. If approved, these additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Hussar to approve the addition of four stream sections to the Commission's Class A wild trout streams list as described in the Commentary. These additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

C. Classification of Wild Trout Streams: Proposed Additions and Revisions.

Commentary:

The Department of Environmental Protection's regulations at 25 Pa. Code § 105.1 define the term "wild trout stream" as "a stream identified as supporting naturally reproducing trout populations by the Fish and Boat Commission under 58 Pa. Code § 57.11 (relating to listing of wild trout streams)." This term has regulatory significance because wetlands that are located in or along the floodplain of the reach of a wild trout stream and the floodplain of streams tributary thereto are considered "exceptional value" and are thus entitled to the highest level of protection.

The Commission adopted a statement of policy at 58 Pa. Code § 57.11 that sets forth the basis for the classification of streams supporting the natural reproduction of trout. Under § 57.11, it is the policy of the Commission to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The listing of a stream section as a wild trout stream is a biological designation that does not determine how the stream is managed. The statement of policy provides that the Commission's Fisheries Management Division will maintain the list of wild trout streams and that the Executive Director, with approval of the Commission, will from time to time publish the list of wild trout streams in the *Pennsylvania Bulletin* and solicit public comments.

Staff recommend the addition of 99 new waters to the Commission's list of wild trout streams and revisions to the section limits of one water. These changes are the result of recent surveys conducted on these waters. Exhibit E provides information on the locations and a data summary for each of these waters. Surveying unassessed waters and documenting wild trout populations are consistent with the Commission's Strategic Plan for Management of Trout Fisheries in Pennsylvania, the statewide Strategic Plan and the agency's Resource First philosophy.

A notice of proposed designations was published at 46 Pa. B. 4022 (July 23, 2016) (Exhibit F). The Commission received a total of 13 public comments regarding the proposed designations – 12 support all of the proposed designations and one supports the designation of a specific water. Copies of all public comments have been provided to the Commissioners.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve the addition of 99 new waters to its list of wild trout streams and the revision of the section limits of one water as described in the Commentary. If approved, these additions and revision will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Hussar to approve the addition of 99 new waters to the Commission's list of wild trout streams and the revision of the section limits of one water as described in the Commentary. These additions and revision will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

D. Designation of Pymatuning Reservoir as Panfish Enhancement under Section 65.11.

Commentary:

The fisheries in Pymatuning Reservoir are jointly managed by the Commission and the Ohio Division of Wildlife through the Pymatuning Compact. [In Pennsylvania through the act of June 5, 1937 (P.L.1664, No. 348) (amended) and in Ohio through Ohio Revised Code Chapter 1541.31].

Pymatuning Reservoir experienced a large increase in Crappie abundance and quality between 2001 and 2012. Increased density produced dramatic increases in angler effort, catch and harvest of Crappies in Pymatuning Reservoir. Since 2012, abundance of Crappies has decreased while angler effort directed at Crappies continued to increase, yielding a fishery unsatisfactory to anglers.

Pymatuning Reservoir is currently managed with no restrictions on the harvest of panfish, including Crappies. Based on the declines in the Crappie fishery, the Ohio Division of Wildlife approached the Commission regarding implementation of a more restrictive angling regulation.

Commission biologists considered several regulatory options and determined the best option is the Commission's panfish enhancement regulations for Crappie (20 fish/day and 9-inch minimum length limit). These regulations have been used to improve Crappie size structure and density in other Pennsylvania lakes where they have been applied and will likely have similar positive results in Pymatuning Reservoir. This regulation is also supported by the Ohio Division of Wildlife.

Growth rates for Crappies in Pymatuning Reservoir are well above the Pennsylvania state average, suggesting that the forage base is sufficient to support an increase in Crappie density. Historic Pymatuning Reservoir creel surveys show that anglers will harvest small Crappies (less than 9 inches), especially when large Crappies are not available. Meaning, a 9-inch minimum size limit will be effective in protecting small Crappies from harvest.

A 2014 Angler Opinion survey performed by the Ohio Division of Wildlife found that 88% of the anglers interviewed agreed with the implementation of harvest restrictions on Crappies on Pymatuning Reservoir. A public meeting was held in Linesville on April 19, 2016 to review the proposed regulation change. There were 46 attendees, and they were strongly in support of the proposed change.

A notice of proposed designation was published at 46 Pa. B. 5167 (August 20, 2016) (Exhibit G). The Commission did not receive any public comments regarding the proposed designation.

Based on the trapnet catch data, age and growth data and creel survey results, and public support, staff recommend that Pymatuning Reservoir be designated as panfish enhancement for Crappies. The regulation's effect on Crappies in Pymatuning Reservoir

will be closely monitored through annual trap net surveys at the lake. Age and growth statistics are also computed annually. Angler effort, catch and harvest are monitored during the Ohio Division of Wildlife's triannual creel survey.

If approved, this designation will not take effect until an identical regulation is adopted in Ohio. The projected implementation date in Ohio is March 1, 2017.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission designate Pymatuning Reservoir as panfish enhancement for Crappies under 58 Pa. Code § 65.11 as described in the Commentary. If approved, the designation will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*, which will coincide with the State of Ohio's adoption of an identical regulation.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Ali to designate Pymatuning Reservoir as panfish enhancement for Crappies under 58 Pa. Code § 65.11 as described in the Commentary. The designation will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*, which will coincide with the State of Ohio's adoption of an identical regulation. Motion carried.

E. Removal of Designation as Stocked Trout Waters Open to Year-round Fishing under Section 65.19.

Commentary:

The Early Season Stocked Trout Waters Program was dissolved in October 2012, and the waters that were previously managed under that program were regulated either as stocked trout waters open to year-round fishing or stocked trout waters under Commonwealth inland waters regulations. For lakes, the primary intent of the Stocked Trout Waters Open to Year-round Fishing Program is to provide angling opportunities during the March 1 to the opening day of trout season period for warm/coolwater species, such as bass and panfish. Trout may also be caught and released during this period. Waters managed as stocked trout waters under Commonwealth inland waters regulations are closed to all angling during the March 1 to the opening day of trout season period.

Over the past couple of years, concerns have been expressed by a number of anglers regarding the targeting of trout on stocked trout waters open to year-round fishing between the time of the preseason stocking and opening day. The primary concern is the negative impact this regulation may be having on the opening day angling success that anglers have become accustomed to on many of these waters. The concerns have primarily been focused on smaller lakes that receive high angler use and that have a higher potential for large numbers of stocked trout to be caught, especially in the western half of the state.

Staff reviewed the waters currently managed under the stocked trout waters open to year-round fishing regulations to determine which waters are better suited for management as stocked trout waters under Commonwealth inland waters regulations with a period of closure from March 1 until 8:00 a.m. on the opening day of trout season. The rationale for returning waters to management under Commonwealth inland waters regulations includes smaller lakes (less than 50 acres) where there is a limited to non-existent warm/coolwater fishery and where trout fishing is the primary focus of angling activity.

Staff recommend that the Commission remove the designation as stocked trout waters open to year-round fishing from the following waters:

County	Water
Butler	Harbar Acres Lake
Cambria	Duman Lake
Cambria	Lake Rowena
Cumberland	Laurel Lake
Erie	East Basin Pond
Erie	Upper Gravel Pit
Erie	West Basin Pond
Erie	Lake Pleasant
Fayette	Virgin Run Lake
Fulton	Cowans Gap Lake
Jefferson	Cloe Lake

County	Water
Lawrence	Bessemer Lake
McKean	Bradford City Number Three Reservoir
Potter	Lyman Run Reservoir
Westmoreland	Mammoth Lake

A notice of proposed designation was published at 46 Pa. B. 5167 (August 20, 2016) (Exhibit G). The Commission received one negative public comment regarding the proposed designations. Copies of all public comments were provided to the Commissioners.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission remove the designation as stocked trout waters open to year-round fishing from the 15 waters identified in the Commentary. If approved, the re-designations will go into effect on January 1, 2017.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Sabatose to remove the designation as stocked trout waters open to year-round fishing from the 15 waters identified in the Commentary. The re-designations will go into effect on January 1, 2017. Motion carried.

A motion was then made by Commissioner Ali and seconded by Commissioner Sabatose that consistent with the Fisheries Committee's recommendation, staff meet with PA B.A.S.S. Nation to consider the effects of spring tournaments on bass in Pennsylvania. Motion carried.

HATCHERIES

A. Grant to United States Fish and Wildlife Service for the Collection of American Shad Eggs from the Potomac River to Support American Shad Restoration in the Susquehanna River Basin.

Commentary:

This item seeks approval to establish a two year agreement with the United States Fish and Wildlife Service (FWS) for the collection of American Shad eggs from the Potomac River during the spring spawning runs of 2017 and 2018, with payment for services coming from a Commission restricted revenue account. Since 2006, the Commission has maintained a Memoranda of Agreement with FWS for the collection of fertilized American Shad eggs from the Potomac River for use in American Shad stock restoration efforts in the Susquehanna River.

The Potomac River is a significant source of American Shad eggs, both in terms of egg quantity and quality, for hatchery operations and ultimately shad restoration efforts on the Susquehanna River. Between 2006 and 2016, the Potomac River has provided some 78% of the viable eggs available for larval shad culture and ultimately restoration stockings into the Susquehanna Basin. Further, shad restoration initiatives/outcomes resulting from recent settlement negotiations through the Federal Energy Regulatory Commission re-licensing process at Conowingo, Muddy Run and York Haven hydroelectric projects on the Susquehanna River will likely not be initiated before 2019 and positive population-level outcomes not realized for some years beyond. The potential threat of losing the Potomac River egg source due to inadequate funding, compounded by delayed biological responses from protracted mitigation efforts at the hydroelectric facilities along with significant gaps in cohort strength will only hinder American Shad restoration efforts on the Susquehanna River.

Therefore, the Commission, through its membership in the Susquehanna River Anadromous Fish Restoration Cooperative (SRAFRC), sought and obtained approval from the SRAFRC Policy Board to use a portion of mitigation funds that are designated for migratory fish restoration in the Susquehanna River to fund American Shad egg collections from the Potomac River during the spring of 2017 and 2018. These mitigation funds are held in a restricted revenue account administered by the Commission and comprised of moneys paid or donated to the Commission by electric utility companies (that operate on the Susquehanna River) as result of settlement and permit conditions for in-river construction activities.

This project will use a total of up to \$240,000 (of the \$277,900 available balance) from the restricted revenue account to pay for two years of Potomac River American shad egg collection; that is, up to \$120,000 for each 2017 and 2018. Any unspent funds from each project year will remain in the account for future SRAFRC directed uses.

There are three primary objectives of this project:

- (1) *Collection & Delivery*: Collection of a maximum number of fertilized American Shad eggs (up to 10 million per year) from the Potomac River via gillnetting (or other collection methods mutually acceptable to the Commission and FWS) and strip spawning of ripe females and males. Fertilized and water hardened eggs are to be packaged and delivered to the Van Dyke Hatchery.
- (2) *Biological Sample Collection & Analysis*: (a) Collection of up to 60 adult American Shad for viral assays once each spring (assay work conducted by FWS staff at the Lamar National Fish Hatchery and Northeast Fishery Center); and (b) Collection of scales and otolith samples and sex and length data from a sub-set of fish used for spawning (as required by Potomac River Fisheries Commission collection permit).
- (3) *Daily & Final Reporting*: (a) Daily, oral reports filed by FWS field supervisor after each egg collection to update Van Dyke Hatchery staff on success of egg collection efforts, estimated time of arrival of eggs and prospects for egg collection efforts for the next nights' fishing; and (b) Draft final report filed by FWS by August 15 of each year of the agreement.

Briefer:

Brian Wisner, Director, Bureau of Hatcheries

Recommendation:

Staff recommend that the Commission authorize the Executive Director to enter into a two-year agreement with the United States Fish and Wildlife Service for the purposes described in the Commentary.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Lichvar to authorize the Executive Director to enter into a two-year agreement with the United States Fish and Wildlife Service for the purposes described in the Commentary. Motion carried.

LEGISLATION AND PUBLIC OUTREACH

A. Resolution on Recommendations of the Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources.

Commentary:

U.S. Representatives Don Young (AK) and Debbie Dingell (MI) introduced H.R. 5650, the bipartisan Recovering America's Wildlife Act of 2016, to help promote and enhance our nation's conservation efforts and ensure the long-term health of fish and wildlife throughout the country. The legislation, based on a recommendation from a panel of business and conservation leaders including the Association of Fish and Wildlife Agencies, would dedicate \$1.3 billion annually in existing revenue from oil and gas royalties to the Wildlife Conservation Restoration Program. The funding would provide states with new critically needed financial resources to effectively implement State Wildlife Action Plans to conserve 12,000 species in greatest need of conservation while providing the public with more access to open spaces.

Agencies from at least four other states, including Colorado, Montana, Nevada and North Carolina, have passed resolutions supporting the Blue Ribbon Panel recommendations. The Pennsylvania Game Commission unanimously passed a resolution on July 19, 2016.

Fish and Boat Commission staff recommend adoption of the following resolution:

RESOLUTION, made this 27th day of September, by the PENNSYLVANIA FISH AND BOAT COMMISSION, AN INDEPENDENT ADMINISTRATIVE AGENCY OF THE COMMONWEALTH OF PENNSYLVANIA (hereinafter referred to as PFBC), SUPPORTING THE *BLUE RIBBON PANEL ON SUSTAINING AMERICA'S DIVERSE FISH AND WILDLIFE RESOURCES* RECOMMENDATIONS TO CONGRESS DEDICATING TO STATES AND TERRITORIES 1.3 BILLION DOLLARS ANNUALLY IN EXISTING REVENUE TO DIVERSIFY FUNDING AND MANAGEMENT OF ALL WILDLIFE.

WHEREAS, section 321 of the Fish and Boat Code (Code), 30 Pa. C.S. § 321, grants authority to the PFBC for "the protection, propagation and distribution of fish," which includes all game fish, fish bait, bait fish, amphibians, reptiles and aquatic organisms under section 102 of the Code;

WHEREAS, in support of this legal authority, a keystone element of the PFBC's mission is to "protect, conserve, and enhance the Commonwealth's aquatic resources;"

WHEREAS, in the Pennsylvania Wildlife Action Plan, the 664 Species of Greatest Conservation Need (SGCN), including 65 fish, 18 amphibian, 22 reptile, 50 mussel, and 163 non-mussel aquatic invertebrate species, are prioritized and include habitat associations and conservation actions for supporting these species;

WHEREAS, dedicated and sustainable funding is required to support the diverse natural heritage of Pennsylvania as well as the United States;

WHEREAS, the recent *Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources*, composed of twenty-six business and conservation leaders, was convened to identify a new funding mechanism to support state fish and wildlife conservation and ensure the sustainability of all fish and wildlife for current and future generations;

WHEREAS, to diversify funding and management of all wildlife, the *Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources* has recommended that Congress dedicate to states and territories 1.3 billion dollars annually in existing revenue from the development of energy and mineral resources on federal lands and waters to the Wildlife Conservation and Restoration Program Subaccount of the Federal Aid to Wildlife Restoration Fund;

WHEREAS, on July 6, 2016, a bill, H.R. 5650, *Recovering America's Wildlife Act*, was submitted to the U.S. House of Representatives to amend the Pittman-Robertson Wildlife Restoration Act and would address the funding recommendations of the *Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources* by making funds available for management of fish and wildlife SGCN as determined by state fish and wildlife agencies in each state's State Wildlife Action Plan;

WHEREAS, securing dedicated federal funding will require a non-federal state match similar to that for the Dingell-Johnson Act for Sport Fish Restoration;

NOW THEREFORE, in furtherance of the PFBC's mission, be it

RESOLVED to support the recommendations of the *Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources*; and further, be it

RESOLVED to support broadening of dedicated, non-federal funding mechanisms to implement the Pennsylvania Wildlife Action Plan and to serve as the state's 25 percent match requirements in the event that new dedicated federal funding is secured.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend adoption of the Resolution in support of recommendations from the *Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources* as set forth in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Ali to adopt the Resolution in support of recommendations from the *Blue Ribbon Panel on Sustaining America's Diverse Fish and Wildlife Resources* as set forth in the Commentary. Motion carried.

Other New Business

None.

Time and Place of January 2017 Commission Meeting

The next meeting will be held on January 23-24, 2017 in Harrisburg.

Adjournment

A motion was made by Commissioner Sabatose and seconded by Commissioner Ali to adjourn the meeting at approximately 10:35 a.m. Motion carried.