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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 122nd Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, January 23 and 24, 2017 at the Pennsylvania Fish and Boat Commission headquarters, Harrisburg, PA 17110.

Commission committees met on January 23 beginning at approximately 9:55 a.m. and on January 24 beginning at approximately 8:35 a.m. The public session for review of this agenda began on or about 11:55 a.m. on January 24.

Call to Order

The meeting was called to order by Commission President Rocco S. Ali and followed by the Pledge of Allegiance to the Flag.

Roll Call

Members Present

Rocco S. Ali, President
Eric C. Hussar, Vice-President
Steven M. Ketterer
Leonard L. Lichvar
Edward P. Mascharka III
William J. Sabatose

Members Not Present

G. Warren Elliott
Norman R. Gavlick

Review and Approval of Minutes from the September 27, 2016 Meeting and the November 18, 2016 Special Meeting

A motion was made by Commissioner Sabatose and seconded by Commissioner Ketterer to approve the September 27, 2016 and the November 18, 2016 minutes as written. Motion carried.

Awards and Presentations

The Resource First Award was presented to Bob Clouser. Bob Clouser has served as a staunch ambassador for smallmouth and largemouth bass, focusing on bass fishing in the Susquehanna River. Renowned worldwide for the development of innovative fly-fishing patterns, most notably the “Clouser Minnow,” Bob has enabled countless anglers the opportunity to catch (and release) many trophy fish. And, with his many years of guide service and instructional presentations, he is a mentor to many and an inspiration that sparks and keeps alive the future of fishing in Pennsylvania. Reaching millions over the years, his creativity as an author and outdoor photographer continue to herald what is the best about fishing and the need to maintain the recreational resource in balance with conservation ethics. As a result of Bob’s life-long advocacy and enthusiasm for the Susquehanna River and quality angling experiences everywhere, he has and continues to be a leader in defending and protecting our aquatic resources.

The “Wave of Excellence” Award was presented to Pat McClenahan, Electrician Foreman, Bureau of Engineering. In keeping with Executive Director Arway’s interest in recognizing a job well done, the Commission implemented an employee recognition program entitled the “Wave of Excellence” Award program. The concept is for Commission employees to recognize other Commission employees who have gone above and beyond the call of duty in performing their work or who have provided extraordinary customer service. Pat McClenahan is the tenth recipient to receive the “Wave of Excellence” Award or the “WE” Award. Pat was nominated by a fellow co-worker and the ninth recipient of the award, Dan Donato. Pat is known to put “we” (the Commission) above “me.” As winner of the “Wave of Excellence” Award, Pat will be permitted to keep the award for six months before passing it on.

Commissioner Leonard Lichvar presented a copy of the book entitled *Keystone Fly Fishing: The Ultimate Guide to Pennsylvania’s Best Waters* to the Commissioners and to Executive Director Arway. The book, which he co-authored, is an up-to-date guide to Pennsylvania’s best fly fishing by regional experts and guides. It includes over 200 rivers and streams across the Commonwealth as well as information on where to fish for trout, smallmouth bass and other game fish species.

Executive Director’s Report

The “October – December 2016 Quarterly Report” (Exhibit A) was provided to Commissioners. Executive Director spoke on the status of the Commission and the troubled financial times and shortages. He read an address from 1962 which was given by former Executive Director Albert Day. Operation bootstrap was in effect at that time. The Commission is now in Bootstrap #2, and we need to reconnect and use the modern day tools such as social media to continue to send our message.

Announcement of Executive Session

An executive session was not held.

Reports of Commissioner Committees

Executive and Administrative (Commissioner Ali) –

The Executive and Administrative Committee met on Monday, January 23, at approximately 9:55 a.m. and reconvened on Tuesday, January 24, at approximately 9:30 a.m. Agenda items were discussed. Bernie Matscavage provided a license sales and boat registration sales update. A report was provided on the Commission's vehicle reduction initiative. Steve Kralik gave an update on the discounted fishing licenses offer that commenced on October 1, 2016 and continued through December 31, 2016. Michele Jacoby provided an engineering update. Judd Michael of Pennsylvania State University spoke about the Commission's business plan.

Boating (Commissioner Ketterer) –

The Boating Committee met on Tuesday, January 24, at approximately 9:20 a.m. It was announced that a Boating Advisory Board meeting will be held on February 23, 2017. The snow date is February 28, 2017. Ryan Walt provided a 2016 boating review and 2016 water rescue review.

Fisheries (Commissioner Mascharka) –

The Fisheries Committee met on Monday, January 23, at approximately 2:00 p.m. Agenda items were discussed. Jason Detar gave a presentation on the addition of new waters to the Keystone Select Program. Rob Wnuk provided a presentation on the North Branch Susquehanna River musky reproduction evaluation. It was announced that a Wild Trout Summit is planned for this summer.

Habitat and Environmental (Commissioner Lichvar) –

The Habitat and Environmental Committee met on Monday, January 23, at approximately 10:55 a.m. One agenda item was discussed. Tyler Neimond provided a presentation on the Save Our Susquehanna/Limestone Run stream habitat project. Eric Wright from Geisinger Medical Center gave a presentation on the medication take back program. A viewing of the Save our Susquehanna video followed.

Hatcheries (Commissioner Ali) –

The Hatcheries Committee met on Monday, January 23, at approximately 1:00 p.m. Brian Wisner provided an update on hatchery programs and on hatchery infrastructure projects. Jim Wetherill gave a presentation on the Huntsdale State Fish Hatchery, and Allen Keim provided an update on the cooperative nursery unit.

Law Enforcement (Commissioner Sabatose) –

The Law Enforcement Committee met on Tuesday, January 24, at approximately 8:35 a.m. Updates were given on the Fishkil hotline, Operation Dry Water, and the Special Investigation Unit activities.

The Committee also acted upon proposed revocations. The Committee revoked the fishing privileges of one individual for a period of one year, one individual for a period of two years, one individual for a period of three years, and one individual for a period of four years. The Committee also revoked the boating privileges of one individual for one year and directed him to successfully complete a boating safety education course; one individual for one year and directed

him to successfully complete a classroom boating safety education course; one individual for two years; two individuals for four years and directed them to successfully complete a classroom boating safety education course; and one individual for five years or until he successfully completes a boating safety education course, whichever comes first. In addition, the Committee revoked the venomous snake permit of one individual for three years.

Legislation and Public Outreach (Commissioner Mascharka) –

The Legislation and Public Outreach Committee met on Tuesday, January 24, at approximately 10:10 a.m. Tim Schaeffer provided a legislative update on the license fee delegation authority and increase bills. It was announced that the Annual Report to the House Game and Fisheries Committee has been scheduled for February 15, 2017. Sean Saville, Association of Fish and Wildlife Agencies, provided a presentation on the Blue Ribbon Panel campaign. Marel King, Pennsylvania Director for the Chesapeake Bay Commission, spoke on the Clean Water Fund for Pennsylvania. Amidea Daniel gave an update on her role as the Commission's youth and women's program coordinator and on the recruitment, retention and reactivation of female anglers.

Public Comment to Commissioners and Staff

Bob Pennell, of the Doc Fritchey Chapter of Trout Unlimited, provided comment on the agenda item regarding the Tulpehocken and Quittapahilla Creek Watershed Enhancement Grant Program and the grant to the Doc Fritchey Chapter of Trout Unlimited for habitat restoration on the Lower Snitz Creek-Hershey property.

Chris Shank, Chesapeake Bay Yacht Clubs Association, sought clarification regarding the new Coast Guard requirements for numbering of undocumented vessels and the reporting of boat accidents.

EXECUTIVE AND ADMINISTRATIVE

A. Miczikus Property Rights Acquisition, Spring Township, Crawford 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 or to protect or improve fish habitat on or at Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries.” The funds generated through this program are deposited into the Lake Erie restricted account where they are restricted now and into the future for their legislatively intended purposes. *Pennsylvania’s Fishing and Boating Access Strategy* ranks this watershed as the top priority for access improvement statewide.

The Commission has been offered an easement on 1,050 linear feet along Conneaut Creek as it flows across a parcel of property in Spring Township, Crawford County, for \$20,000. The easement will be for public fishing, boating, and riparian and fishery management and will include the stream corridor and extend at least 35 feet back from the top of the bank to the extent of the ownership of the seller. The easement area is located off of Fisher Road. A map depicting the subject parcel is attached as Exhibit B.

Conneaut Creek provides significant steelhead and trout fishing opportunities in the area. *Pennsylvania’s Fishing and Boating Access Strategy* indicates a need for more access on this section of Conneaut Creek. The Commission’s regional Law Enforcement and Fisheries staff have recommended that the easement be acquired.

The seller and the Commission have signed an option agreement that will allow staff to perform its due diligence. The Commission’s exercise of the option agreement 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 the seller. The Commission may, at its sole discretion, pay for the costs to obtain and record a subordination of lien for the property.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the acquisition of an easement along Conneaut Creek in Spring Township, Crawford County, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Hussar to authorize the acquisition of an easement along Conneaut Creek in Spring Township, Crawford County, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account. Motion carried.

B. Carter Property Rights Acquisition, Fairview 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 or to protect or improve fish habitat on or at Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries.” The funds generated through this program are deposited into the Lake Erie restricted account where they are restricted now and into the future for their legislatively intended purposes. *Pennsylvania’s Fishing and Boating Access Strategy* ranks this watershed as the top priority for access improvement statewide.

The Commission has been offered an easement on 250 linear feet along Elk Creek as it flows across a parcel of property in Fairview Township, Erie County, for \$3,750. The easement will be for public fishing, boating, and riparian and fishery management and will include the stream corridor and extend at least 35 feet back from the top of the bank to the extent of the ownership of the seller. The easement area is located off of Luther Road across the stream from Folly’s End Campground. A map depicting the subject parcel is attached as Exhibit C.

Elk Creek provides significant steelhead and trout fishing opportunities in the area. *Pennsylvania’s Fishing and Boating Access Strategy* indicates a need for more access on this section of Elk Creek. The Commission’s regional Law Enforcement and Fisheries staff have recommended that the easement be acquired.

The seller and the Commission have signed an option agreement that will allow staff to perform its due diligence. The Commission’s exercise of the option agreement 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 the seller. The Commission may, at its sole discretion, pay for the costs to obtain and record a subordination of lien for the property.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the acquisition of an easement along Elk Creek in Fairview 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 Mascharka and seconded by Commissioner Hussar to authorize the acquisition of an easement along Elk Creek in Fairview Township, Erie County, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account. Motion carried.

C. Erie Access Improvement Program Grant to 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 or to protect or improve fish habitat on or at Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries.” The funds generated through this program are deposited into the Lake Erie restricted account where they are restricted now and into the future for their legislatively intended purposes. *Pennsylvania’s Fishing and Boating Access Strategy* ranks this watershed as the top priority for access improvement statewide.

McKean Township in cooperation with the Lake Erie Region Conservancy (LERC) submitted a grant application to the Erie Access Improvement Program to make improvements to their adjoining properties along Elk Creek in McKean and Fairview Townships. These properties total approximately 88 acres and are located off of West and Peffer Roads near the Sterrettania access on Elk Creek as depicted on Exhibit D. The Township and LERC recently partnered to complete a Conservation Master Plan for the properties.

According to the Master Plan, the properties are to be improved and used as a conservation area. The goal is to enhance the ecology of the site and to add recreation and nature education opportunities. The improvements are expected to encourage year-round recreation for local residents and visitors to the area and to improve access for anglers. The Master Plan is broken down into six phases of development. McKean Township applied for grant funding to complete Phases 1 and 2 of the Master Plan.

Phases 1 and 2 of the Master Plan call for the following:

- creation of a safe and accessible parking area
- erection of a shelter building with comfort station
- ADA access to an accessible fishing platform on Elk Creek
- construction of 1.11 miles of new trails on the property that will improve access for anglers and other trail users

Most of the development that will improve angler access is contained in Phases 1 and 2 of the project. Erie funds will not be used for the shelter development, picnic tables or any other amenities not related to improving public fishing access.

The total estimated cost for Phases 1 and 2 of the project is \$392,653. McKean Township has requested \$154,903 from the Commission’s Erie Access Improvement Program for these Phases. The Township applied for additional funding from the Pennsylvania Department of Conservation and Natural Resources (\$191,326) and the Erie County Greenways Program (\$21,424), and the Township plans to contribute \$25,000 towards the development of Phases 1 and 2.

Recommendation:

Staff recommend that the Commission authorize a grant in the amount of \$154,903 for the implementation of Phases 1 and 2 of the Master Plan utilizing monies in the Lake Erie restricted account, as more fully described in the Commentary.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Hussar to authorize a grant in the amount of \$154,903 for the implementation of Phases 1 and 2 of the Master Plan utilizing monies in the Lake Erie restricted account, as more fully described in the Commentary. Motion carried.

D. Office Space Lease for Fisheries Management Area #6 at Nockamixon State Park, Bucks County.

Commentary:

Nockamixon State Park in northern Bucks County is a 5,286-acre state park owned and administered by the Department of Conservation and Natural Resources (DCNR). The Nockamixon State Park contains a 1,450-acre lake with six public launch sites and marina with facilities for 648 boats. The lake is a warm water fishery and classified as a Big Bass Lake.

DCNR is offering to lease the “St. John’s School Building” (Lease Area) to the Commission, which is located at the upper reaches of the lake, at the northeast corner of the state park. The previous lease with DCNR for the Lease Area expired in December 2015. The Commission is currently in possession of Lease Area, by mutual agreement, as a holdover tenant on a year-to-year basis. The Parties wish to enter into a new lease agreement consistent with the original lease.

The Lease Area, which will be used by the Fisheries Management Area #6 staff, consists of a building, a parking lot and a small area of land surrounding the building, as depicted on Exhibit E. The building consists of a 2,800 square foot first floor containing a lab, an office, two storage rooms and a bathroom. The Commission has utilized this site since 1973.

The initial term of the lease will be for one year and will renew annually for nine additional terms. The Commission may terminate the lease at the end of any term by giving DCNR at least 60 days prior written notice. There will be no monetary consideration for the lease due to the services that the Commission provides to DCNR. The services provided include fisheries management, fish stocking and fish habitat construction at the lake. The Commission will be required to maintain and make repairs to the Lease Area at its own expense.

The new lease agreement will allow the Commission to continue to use the Lease Area consistent with its historical use. Staff will adhere to the Commission’s standard practices for leasing property.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the Executive Director to enter into a new lease with the Department of Conservation and Natural Resources for the office space at Nockamixon State Park, Bucks County, as described in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Hussar to authorize the Executive Director to enter into a new lease with the Department of Conservation and Natural Resources for the office space at Nockamixon State Park, Bucks County, as described in the Commentary. Motion carried.

FISHERIES **FINAL RULEMAKING**

A. Amendment to Section 65.24 (Miscellaneous Special Regulations): Glade Run Lake (20C), Butler County.

Commentary:

Glade Run Lake, a 52-acre impoundment owned by the Commonwealth and managed by the Commission, is located in Middlesex Township, Butler County, approximately ten miles south of the city of Butler and 20 miles northeast of Pittsburgh. The dam impounds Glade Run near its headwaters. This lake was completely dewatered in July of 2011 to make dam and spillway repairs and modifications per dam safety standards of the Pennsylvania Department of Environmental Protection. Following completion of the dam and spillway repairs and modifications as well as construction of numerous habitat enhancement devices, the impoundment will be refilled by the opening day of trout season in 2017. The Commission will begin to re-establish a high quality warm and coolwater fishery through plants of select forage fish species beginning in the spring of 2017 (if the lake is refilled to adequate levels) with gamefish and panfish fingerling plants later in 2017. This process will continue for several years. To allow Glade Run Lake's forage base and warm and coolwater fish communities to develop, the Commission proposed placing Glade Run Lake under a miscellaneous special regulation that allows for the harvest of trout under Commonwealth inland seasons, sizes, and creel limits but allows catch and release fishing only for all other fish species. The stocking of adult catchable trout will begin in spring of 2017.

The Commission proposed this approach to allow a balanced fishery to develop under protective regulations while offering acceptable levels of recreational angling opportunities. The Commission proposed that the miscellaneous special regulation be established in early 2017 and extend until the warmwater fish populations rebuild appropriate levels. Staff will continue to monitor the fish populations as they develop and make the necessary adjustments to the species being stocked and the regulations governing the fishery to continually provide high quality recreational angling opportunities at Glade Run Lake. Once the warmwater fishery has been re-established, staff will recommend removal of the miscellaneous special regulation on the lake and inclusion of the lake in one of the Commission's existing warmwater regulation programs.

A notice of proposed rulemaking containing this change was published at 46 Pa. B. 5736 (September 3, 2016) (Exhibit F). The Commission did not receive any public comments regarding the proposed amendment.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

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

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Lichvar to adopt the amendment as set forth in the notice of proposed rulemaking. This amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

B. 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 Commission proposed two changes to the miscellaneous special regulation, i.e., to open the lake to year-round fishing and prohibit the harvest of trout from March 1 to opening day of trout season.

A notice of proposed rulemaking containing these changes was published at 46 Pa. B. 7540 (December 3, 2016) (Exhibit G). The Commission did not receive any public comments regarding the proposed amendments.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

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

Action:

A motion was made by Commissioner Hussar and seconded by Commissioner Mascharka to adopt the amendments as set forth in the notice of proposed rulemaking. These amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

PROPOSED RULEMAKING

C. Amendment to Section 65.24 (Miscellaneous Special Regulations) to remove the Closed Bass Season from May 1 to mid-June on Portions of the Susquehanna River and Juniata River.

Commentary:

In 2011 and 2012, two black bass angling regulation changes were applied to the Susquehanna River from Sunbury downriver to York Haven (middle Susquehanna River), the Susquehanna River from York Haven downriver to Holtwood Dam (lower Susquehanna River), and the Juniata River from Port Royal downriver to the mouth (lower Juniata River). In 2011, these river sections were removed from the Big Bass Program and a year-round catch-and-immediate-release regulation was enacted. In 2012, this regulation was adjusted to include a closed season for black bass from May 1 to the opening day of bass season in mid-June, with a catch and immediate release regulation remaining for the rest of the year. Bass tournaments were limited to catch-measure-immediate release only, with no weigh-in tournaments allowed.

The regulations implemented during 2011 and 2012 to protect Smallmouth Bass residing in the middle and lower Susquehanna River and the lower Juniata River were not intended to be permanent. Additionally, the Commission has received a number of complaints since these regulations went into effect stating that anglers are violating the closed season and the regulation is largely unenforceable. Further, recent changes in population characteristics of Smallmouth Bass at the middle Susquehanna River, lower Susquehanna River and lower Juniata River warranted a review of the current regulations to determine whether they are continuing to serve their intended role as part of managing this fishery.

As such, staff propose an adaptive management approach to remove and reinstitute, if necessary, closed season regulations currently applied to these river reaches. By establishing a set of population recovery benchmarks, staff developed guidance on when to remove current closed season regulations as well as when to reinstitute them should conditions change negatively in the future. A secondary benefit of this approach is public transparency as benchmark values for different metrics will be disseminated and annual evaluations will allow for up-to-date comparisons against benchmarks. This approach may streamline and expedite future regulatory action.

Staff developed a series of metrics to assess changes to the Smallmouth Bass population that could warrant removal as well as the application of closed season regulations based upon population characteristics. These data and literature-derived values set benchmarks for changing existing regulations as well as provide guidance for reinstatement should conditions change negatively in the future. These benchmarks are scientifically-based using available data and literature and are set at a standard to reflect the world-class fishery for which these waters are renowned. The application of the benchmarks will be similar to adaptive management strategies utilized by the Atlantic States Marine Fisheries Commission and the Great Lakes Fishery Commission. These metrics focus on a combination of measures of relative abundance and size composition of the population.

Staff recommend a review period of at least five years be used for evaluation based on the inherent variability in the factors controlling the population, variability in data collection, and longevity of Smallmouth Bass. For these same reasons, staff propose that benchmarks must be met for minimum time periods (e.g., three of five years) rather than for definitive time periods (e.g., consecutive years) given natural variability in healthy fish populations. Additionally, staff suggest that benchmarks be achieved for two of the three metrics for each reach for a five-survey evaluation period.

Review of the most contemporary survey data revealed that all three of the subject reaches met the recovery benchmarks to allow removal of closed season regulations beginning in the 2017 season. Staff will continue to survey population characteristics moving forward to guide future regulatory actions should population characteristics change.

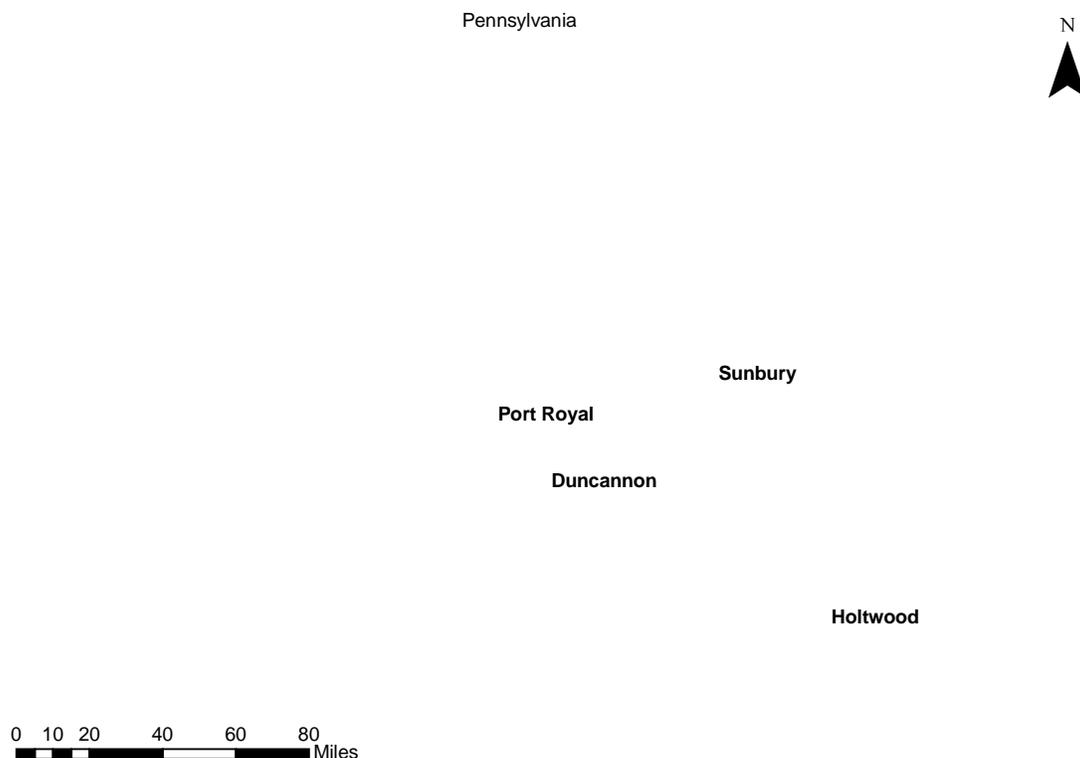


Figure 1. Location on the lower Susquehanna River and lower Juniata River where a closed bass season with no tournaments permitted will be removed. Year-round black bass catch and immediate release regulations will continue to apply to these locations. No tournaments will be permitted during the mid-April to mid-June closed season consistent with other waters in the Commonwealth. Catch-measure-immediate release tournaments will be permitted at other times of year.

Staff recommend that the closed bass (Smallmouth Bass and Largemouth Bass) season be removed from May 1 to mid-June (with dates described by the usual formula) and no tournaments be permitted during this period. Catch and release restrictions will continue to be applied to those portions of the Susquehanna River and Juniata River currently included under this miscellaneous special regulation (Figure 1). Bass tournaments occurring outside of the mid-April to mid-June period will continue to be restricted to catch-measure-immediate release only as will all bass angling.

Staff also recommend that in the future, the lower Susquehanna River reach be treated independently while the middle Susquehanna River and lower Juniata River reaches be treated jointly for removal or application of closed season regulations. Unrestricted movement of fish between the two systems would complicate treatment of each exclusively. The joint treatment of those reaches would defer to the most conservative option for either reach based upon their data relative to benchmarks.

Staff propose that §65.24 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> |
|--|--|--|
| *** | *** | *** |
| Cumberland, Dauphin, Juniata, Lancaster, Northumberland, Perry, Snyder, York | Susquehanna River (98.0 miles) from the inflatable dam near Sunbury downstream to Holtwood Dam, including all tributaries to a point ½ mile upstream from the confluence | <p>[Bass (smallmouth and largemouth)—From May 1 to 12:01 a.m. the first Saturday after June 11—Closed season; no tournaments. During the closed season, it is unlawful to target or attempt to catch a bass. A bass that is accidentally caught during the closed season must be immediately released unharmed without being removed from the water. It is unlawful to possess bass in, on or along these waters. Remainder of the year—No harvest—Catch and immediate release only; catch-measure-immediate release tournaments only.]</p> <p><u>Bass (Smallmouth and Largemouth) – No harvest year-round – catch and immediate release only.</u></p> <p><u>From 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11 – no Bass tournaments.</u></p> <p><u>Remainder of the year – Catch-measure-immediate release tournaments only.</u></p> |

| <i>County</i> | <i>Name of Water</i> | <i>Special Regulations</i> |
|-------------------------|---|---|
| Dauphin, Juniata, Perry | Juniata River (31.7 miles) from SR0075 bridge at Port Royal downstream to the mouth, including all tributaries to a point ½ mile upstream from the confluence | <p>[Bass (smallmouth and largemouth)—From May 1 to 12:01 a.m. the first Saturday after June 11—Closed season; no tournaments. During the closed season, it is unlawful to target or attempt to catch a bass. A bass that is accidentally caught during the closed season must be immediately released unharmed without being removed from the water. It is unlawful to possess bass in, on or along these waters. Remainder of the year—No harvest—Catch and immediate release only; catch-measure-immediate release tournaments only.]</p> <p><u>Bass (Smallmouth and Largemouth – No harvest year-round – catch and immediate release only.</u></p> <p><u>From 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11 – no Bass tournaments.</u></p> <p><u>Remainder of the year – Catch-measure-immediate release tournaments only.</u></p> |
| *** | *** | *** |

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 amendments described in the Commentary. If approved on final rulemaking, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Mascharka to approve the publication of a notice of proposed rulemaking containing the amendments described in the Commentary with an extended public comment period of 60 days and three public meetings. If approved on final rulemaking, these amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

DESIGNATIONS

D. Classification of Wild Trout Streams: Proposed Additions, Revisions and Removals.

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, revisions to the section limits of seven waters, and the removal of one water from the list. These changes are the result of recent surveys conducted on these waters. Exhibit H 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. 7413 (November 19, 2016) (Exhibit I). The Commission received a total of 54 public comments regarding the proposed designations – 52 comments were received during the formal comment period, and two were received after the comment period. Of the 54 comments, 48 support all of the proposed designations and six support the designation of specific waters. Attached to one of the letters were comments from 3780 of the organization's members. 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 add 99 new waters to the Commission's list of wild trout streams, revise the section limits of seven waters and remove one water from

the list as set forth in the notice of proposed designations. If approved, these additions, revisions and removal will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Mascharka to add 99 new waters to the Commission's list of wild trout streams, revise the section limits of seven waters and remove one water from the list as set forth in the notice of proposed designations. These additions, revisions and removal will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

E. 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 26 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 J 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. 7418 (November 19, 2016) (Exhibit K). The Commission received a total of 47 public comments regarding the proposed designations – 45 comments were received during the formal comment period, and two were received after the comment period. Of the 47 comments, 45 support all of the proposed designations and two support the designation of specific waters. Attached to one of the letters were comments from 3780 of the organization's members. In addition, one commenter offered its conditional support of the designation of Bald Eagle Creek. This support is contingent upon the Commission not stocking the stream. The comment states that if the Commission intends to continue stocking the stream section, the commenter rescinds its support of the Class A designation and abstains from any comment regarding the Class A suitability of Bald Eagle Creek. 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 add 26 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 Sabatose and seconded by Commissioner Hussar to add 26 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.

OTHER MATTERS

F. Proposal to Continue Stocking Class A Wild Trout Streams under Section 57.8a.

Commentary:

Under 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 fisheries. The policy provides that with rare exceptions, these stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking. However, there may be circumstances that justify stocking a Class A wild trout stream. Prior to granting permission to stock a Class A wild trout stream under § 71.4 (relating to stocking of designated waters), the Executive Director will obtain the approval of the Commission.

In a separate agenda item, staff recommend the addition of 26 stream sections to the Commission's Class A wild trout streams list. Among these waters is Bald Eagle Creek Section 04, Centre County, from the confluence of Spring Creek to the inlet of Foster Joseph Sayers Lake. This water has been stocked prior to 2014. The 5.72-mile Section 04 begins in the Borough of Milesburg and is extremely popular during the traditional spring stocked trout season. It also receives a significant volume of cold water from Spring Creek and therefore supports a robust wild Brown Trout population and year-round fishing opportunities for wild Brown Trout and stocked fingerling and adult Rainbow Trout. The stream was surveyed in both 2015 and 2016. Results of both surveys showed the presence of a Class A wild Brown Trout population. The 2015 and 2016 surveys indicated that the stream section supported 76.3 kg/ha and 52.8 kg/ha of wild Brown Trout, respectively. Additionally, during 2016, fisheries management staff conducted opening day angler use counts. Results of the angler counts indicated very high use, falling into the top 91st percentile of angler use for all the stocked stream sections that have been evaluated by Commission staff statewide.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

If the Commission adds Bald Eagle Creek, Section 04 to its Class A wild trout streams list, staff recommend the continued stocking with hatchery Rainbow Trout due to the stream's high angler use levels while also maintaining a Class A biomass wild Brown Trout fishery.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Sabatose to continue to stock Bald Eagle Creek, Section 04 with hatchery Rainbow Trout due to the stream's high angler use levels while also maintaining a Class A biomass wild Brown Trout fishery. Motion carried. (Commissioner Lichvar opposed.)

HABITAT AND ENVIRONMENTAL

A. Tulpehocken and Quittapahilla Creek Watershed Enhancement Grant Program: Grant to Doc Fritchey Chapter of Trout Unlimited for Habitat Restoration on Lower Snitz Creek-Hershey Property.

Commentary:

In the spring of 1998, AES Ironwood, L.L.C. (AES), now PPL Ironwood, Inc., (PPL), began developing an electric generating facility in South Lebanon Township, Lebanon County, and received approval from the Delaware River Basin Commission and the Susquehanna River Basin Commission for the use of water from the Tulpehocken and Quittapahilla Creek watersheds. On June 25, 1998, the Commission entered into an agreement with AES pursuant to which AES agreed to provide an annual financial contribution of \$24,000 in 1998 dollars to be applied to projects to improve the aquatic habitat, water quality and recreational use in the Tulpehocken and Quittapahilla Creek watersheds. The agreement also provides that the annual contribution will be applied to projects such as fishery habitat restoration or enhancement, fish stocking, fishing access, maintenance or creation of facilities to encourage, improve or expand recreational use of the fishery or studies related to these issues.

Annual PPL contributions are placed in a restricted revenue account and are disbursed to deserving projects in a grant program administered by the Commission. At the April 2013 meeting, the Commission granted the Executive Director the authority to solicit applications and approve grants of up to \$100,000 per grantee each fiscal year for projects that will improve aquatic habitat, water quality and recreational access in the Tulpehocken and Quittapahilla Creek watersheds. Proposed grants in excess of \$100,000 per grantee are to be submitted to the Commission for prior approval.

In August and September 2016, the Commission conducted a 60-day public call-for-projects and received three grant applications. Following a thorough review, the application review committee recommended funding Project # 2016-01, entitled “Lower Snitz Creek Restoration: Hershey Property” submitted by the Doc Fritchey Chapter of Trout Unlimited.

Snitz Creek (Lebanon County) is a tributary of the Quittapahilla Creek with a drainage area of 12.4 square miles. Existing conditions in the stream reach proposed for this work include an overwide channel cross-section, bank erosion, undercut and falling trees, aggraded areas and heavy sedimentation with limited instream habitat for fish. The majority of the project area is composed of long, flat, featureless pools and glides. Few riffle habitats are found and often, as with pool habitats, are embedded with fine sediments. Unlimited livestock access has contributed to degraded streambanks with the stream wide and shallow. Native riparian vegetation is inhibited by invasive plants. The stream is typically stocked three times annually by the Commission, and in 2016 it was stocked with brook trout, brown trout and rainbow trout.

Proposed restoration activities for the 1200 linear feet of Snitz Creek are designed to stabilize streambanks to reduce erosion, reconstruct streambanks to protect sections with trees in jeopardy of uprooting, narrow bankfull and baseflow channel to increase sediment transport, stream depth and water velocity, install instream habitat structures that will provide cover and resting areas for trout, remove invasive plant species and provide long-term stream stabilization with native trees and shrubs, install or repair existing fencing to exclude livestock from the stream, and install a new stabilized livestock crossing. Landowners have indicated they will allow angler access to the stream reach on which this work will be conducted and will also allow Commission access for stocking.

On December 13, 2016, Commission staff conducted a site-visit to review the stream. Based upon this field review, staff recommend funding the project.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission approve a grant of up to \$115,000 to the Doc Fritchey Chapter of Trout Unlimited for the proposed Snitz Creek habitat restoration project as described in the Commentary.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Lichvar to approve a grant of up to \$115,000 to the Doc Fritchey Chapter of Trout Unlimited for the proposed Snitz Creek habitat restoration project as described in the Commentary. Motion carried.

Other New Business

None.

Time and Place of April 2017 Commission Meeting

The next meeting will be held on April 24-25, 2017 in Harrisburg.

Adjournment

A motion was made by Commissioner Mascharka and seconded by Commissioner Hussar to adjourn the meeting at approximately 12:55 p.m. Motion carried.