

**Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission
Harrisburg, Pennsylvania**

MINUTES

134th Meeting

Volume 70

**HARRISBURG, PENNSYLVANIA
July 16, 2019**

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 134th Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, July 15-16, 2019 at the Pennsylvania Fish and Boat Commission headquarters, Harrisburg, PA 17110.

Commission committees met on July 15, beginning at approximately 11:00 a.m., and on July 16, beginning at approximately 8:00 a.m. The public session for review of this agenda began on or about 9:45 a.m. July 16.

Call to Order

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

Roll Call

Members Present

Eric C. Hussar, President
Richard Lewis, Vice President
Rocco S. Ali
Donald K. Anderson
William C. Brock
Charles J. Charlesworth
William J. Gibney
Richard S. Kauffman
Daniel J. Pastore
Robert B.J. Small

Review and Approval of Minutes from the April 30, and May 20, 2019 Meetings

A motion was made by Commissioner Lewis and seconded by Commissioner Small to approve the April 30 and May 20, 2019 minutes as written. Motion carried.

Awards and Presentations

The "Swiftwater Rescue Incident Award" was presented to the PAHART team consisting of: Ryan Walt, Oren "Bud" Kauffman, George Drees, Darrin Kephart, Emmett Kyler, Daryl Tripp, Len Basara, Michael McCarthy, Major George Giles, 1st LT Matthew Groff, SGT Donald Mackenzie and SFC Michael Moy.

The “Program Development Award” was presented to the PFBC SWERT team consisting of: Colonel Corey Britcher, LTC Larry Furlong, LTC Thomas Burrell, Jeremiah Allen, Len Basara, Anthony Beers, Chris Calhoun, Richard Doug Daniels, Eric Davis, Chad Doyle, George Drees, Jeff Giardina, Scott Grahn, SGT John Hopkins, Darrin Kephart, Joel Koricich, Michael Kurtz, Emmett Kyler, Aaron Lupacchini, Michael McCarthy, Captain Anthony Quarracino, Chase Rhoades, Jeffrey Sabo, Jeremy Speakes, Kadin Thompson, Brad Tracey, and Ryan Walt.

Dee Fisher, our last “Wave of Excellence” winner, nominated Tim Klinger as the next recipient of the award. Tim’s Commonwealth career began in 1989 as a Data Analyst. He then worked as a Purchasing Officer, and in 1992, Tim came to the Fish and Boat Commission as a Management Analyst. In 2001, until the present, he’s been our Telecommunications Specialist.

Not only is Tim the Commission’s Telecom “go-to” person, he is also our Webmaster; our liaison for our mobile app; an IT help-desk services person; and he’s Dee’s TK, or Twitter King, because he assists us in monitoring the constant feed on our Twitter account. Tim’s subtle affability makes him very approachable by everyone who goes to Tim with a suggestion, correction, addition, or update to our website.

Election of Commission President and Vice-President

Commission President Hussar presided over the elections. He called for nominations for the office of President, Commissioner Kauffman nominated Commissioner Hussar for president, and Commissioner Small seconded the nomination. The Commission elected Commissioner Hussar to serve as President of the Commission for 2019-2020.

Commission President Hussar then called for nominations for the office of Vice President, Commissioner Small nominated Commissioner Lewis for vice president, and Commissioner Kauffman seconded the nomination. The Commission elected Commissioner Lewis to serve as Vice-President of the Commission for 2019-2020.

Executive Director’s Report

The “April-June 2019 Quarterly Report” was provided to Commissioners (Exhibit A). Executive Director Timothy Schaeffer discussed numerous projects and programs that staff are currently focused on.

Announcement of Executive Sessions

Commissioner Hussar announced that an executive session was held on Monday, July 15 at approximately 10:30 a.m. and Tuesday, July 16 at approximately 8:00 a.m. to discuss personnel matters, potential real estate acquisitions, and pending litigations.

Announcement of Notational Vote

The Commission voted on one item by notational vote since the April 2019 meeting. On July 9, 2019 the Commission, in an 8-0 vote, approved a motion to elect Commissioner Eric Hussar to fill the vacant office of Board President until the formal election of officers on July 16, 2019.

Reports of Commissioner Committees

Executive and Administrative (Commissioner Hussar)

The Executive and Administrative Committee met on Monday, July 15, at approximately 11:15 p.m. Agenda items were discussed. Doug Hatcher from the Department of General Services provided a GESA Projects presentation. A Strategic Planning update was provided by Sean Gimbel. Bernie Matscavage presented information on the potential for an Out of State Student Fishing License.

Boating (Commissioner Lewis)

The Boating Committee met on Tuesday, July 16, at approximately 8:45 a.m. Agenda items were discussed. Ryan Walt discussed the Higgin and Laney awards that his staff received for their hard work in water rescue.

Fisheries and Hatcheries (Commissioner Kauffman)

The Fisheries and Hatcheries Committee met on Monday, July 15, at approximately 1:30 p.m. Agenda items were discussed. Richard Marther presented an overview on the Oswayo State Fish Hatchery. Aimee Nungesser presented a Benner Spring Water Quality Lab overview. Daryl Pierce gave an Upper Delaware River Joint Fishery Management Plan update.

Habitat and Environmental (Commissioner Small)

The Habitat and Environmental Committee met on Monday, July 15, at approximately 12:30 p.m. Several members of the Northcentral Stream Restoration Partnership presented “A partnership to Improve Local Water Quality.”

Law Enforcement (Commissioner Ali)

The Law Enforcement Committee met on Tuesday, July 16 at approximately 9:00 a.m. Colonel Corey Britcher presented on Operation Dry Water 2019.

Legislation and Public Outreach (Commissioner Brock)

The Legislation and Public Outreach Committee met on Tuesday, July 16, at approximately 8:20 a.m. Julie Carraghan provided a Legislative update. Amidea Daniel provided a Women and Youth Fishing Programs update.

Public Comment to Commissioners and Staff

There were no comments or questions from the public.

**EXECUTIVE AND ADMINISTRATIVE
PUBLIC ACCESS AND REAL ESTATE MATTERS**

A. Jarrett Property Acquisition on the West Branch of the Susquehanna River, Muncy Creek Township, Lycoming County.

Commentary:

The Commission has been offered a fee title to ±3-acre parcel, being a portion of undeveloped land owned by Roger D. and Denise L. Jarrett, on the West Branch of the Susquehanna River in Muncy Creek Township, Lycoming County, for the development of a new access site. The property is located adjacent to and on the downriver side of the Commission's Muncy Access, as depicted on Exhibit B. The Muncy Access was closed in July 2016 due to unsafe conditions caused by the accumulation of sediment from the Muncy Creek creating a sandbar at the boat launch.

The West Branch of the Susquehanna River provides significant boating and fishing opportunities. This area of the West Branch of the Susquehanna River is without a designated public access, with the nearest being 8 miles upriver at the Montoursville Access, and 5 miles downriver at the Montgomery Access. Local legislators were able to secure \$250,000 in Capital funding to assist in the acquisition and development of the new access site.

The Commission and seller have agreed on an acquisition price of \$71,500 for the ±3-acre parcel. As part of the transaction, the seller will retain a ± 0.3-acre access easement on a portion of the ±3-acres parcel for ingress, egress and regress to the seller's residual property for recreational use of the seller residual property. Additionally, the Commission shall convey to the seller a ±0.3-acre access easement on a portion of the Commission's Muncy Access for ingress, egress and regress to the above described access easement for recreational use of the seller residual property. An approved subdivision plan will determine the final configuration, dimension and area of the new access site and access easements.

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 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 taxes that are normally shared between the buyer and seller.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the acquisition of the +/-3 acres of land and disposition of access easements in Muncy Creek Township, Lycoming County, as more particularly described in the Commentary.

Action:

A motion was made by Commissioner Anderson and seconded by Commissioner Brock to authorize the acquisition of the +/-3 acres of land and disposition of access easements in Muncy Creek Township, Lycoming County, as more described in the Commentary.
Motion carried.

BOATING FINAL RULEMAKING

A. Amendment to Section 111.2 Allegheny County.

Commentary:

The area known as the Point in Pittsburgh is where the Monongahela and Allegheny rivers come together to form the Ohio River. This busy boating destination is regulated specifically by 58 Pa. Code § 111.2. During the busy boating season, a No Wake Zone is enforced from the Fort Pitt Bridge over the Monongahela River and the 9th Street Bridge over the Allegheny River to the West End Bridge on the Ohio River. This zone is in effect on weekends from May 1 to October 1 each year as well as on the three summer holidays.

Recently, several entities including the City of Pittsburgh, Pittsburgh Safe Boating Council, 3 Rivers Rowing Association and the Pittsburgh Downtown Community Development Corporation have requested that the Commission consider extending the zone on the Allegheny River to the Veterans Bridge and keeping it in effect through November 1 of each year. This change is needed due to increased boating traffic in the fall for various events in the area. Additionally, the zone would create safer conditions for mooring vessels along the Riverwalk. This amendment was approved by the Boating Advisory Board at their recent meeting on January 8, 2019.

A notice of proposed rulemaking was published at 49 Pa. B. 1152 (March 16, 2019) (Exhibit C). The Commission did not receive any public comments regarding the proposal.

Staff propose the following amendment:

§ 111.2. Allegheny County.

(c) *Allegheny, Monongahela and Ohio Rivers (City of Pittsburgh)*. Boats are limited to slow, no-wake speed from the Fort Pitt Bridge over the Monongahela River and the **[9th Street Bridge] Veterans Bridge** over the Allegheny River to the West End Bridge over the Ohio River. This zone shall be in effect on weekends from May 1 to **[October] November** 1 from 3 p.m. Friday until midnight Sunday and from 3 p.m. on the day preceding Memorial Day, July 4 and Labor Day until midnight of the holiday.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Recommendation:

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

Action:

A motion was made by Commissioner Kauffman and seconded by Commissioner Lewis to adopt the amendments as set forth in the notice of the proposed rulemaking. If adopted on final rulemaking, these amendments will go into effect upon publication in the Pennsylvania Bulletin. Motion carried.

BOATING PROPOSED RULEMAKING

B. Amendment to Section 119.8 Enforcement (Motorboat Noise Control).

Commentary:

Over the last several boating seasons the Commission has received multiple complaints about motor boat noise levels and a request for more enforcement. Under Title 58, Chapter 119, Motorboat Noise Control, regulations requiring mufflers and various noise levels for motorboats were established in June 1994. This regulation package was based on a model act provided by the National Association of State Boating Law Administrators (NASBLA). Even though the Commission adopted most of the recommendations from NASBLA, when it comes to determining if a boat is in violation, the regulation is very subjective. Additionally, standards adopted have never truly been enforceable due to the lack of training and device guidelines.

Starting in 2018, staff began exploring the standards used and regulations in place in other states. It is believed that with a few minor language adjustments, the Commission would be able to establish a training program utilizing recognized devices and be able to better address the complaints from around the Commonwealth's waterways. This amendment was vetted and approved by the Boating Advisory Board on June 27.

Staff propose that §119.8 Enforcement be amended as follows:

(a.) An officer authorized to enforce this chapter who has reason to believe that a [vessel] **motorboat** is being operated in excess of the noise levels established in this chapter may direct the operator of the [vessel] **motorboat** to submit the [vessel] **motorboat** to an onsite test to measure noise levels. If the [vessel] **motorboat** exceeds the decibel levels established by this chapter, the officer may direct the operator to take immediate and reasonable measures to correct the violation, including returning the [vessel] **motorboat** to a mooring and keeping the [vessel] **motorboat** at the mooring until the violation is corrected or ceases.

(b.) Any law enforcement officer who conducts motorboat noise level tests as provided in this chapter shall be qualified in motorboat noise testing by the Commission. Such qualifications shall include but are not limited to the selection of the measurement site and the calibration and use of noise testing equipment.

(c.) Measurements for either a Stationary or Pass-by Test will be made by a sound level meter which satisfies ANSI-S 1.4-1983, Type 2 or equivalent.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Recommendation:

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

Action:

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

FISHERIES

PROPOSED RULEMAKING

A. Amendment to Section 65.24 (Miscellaneous Special Regulations): Minsi Lake, Northampton County.

Commentary:

Minsi Lake, a 122-acre fertile impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission, is located in Upper Mount Bethel Township in Northampton County, approximately 3.1 miles northeast of the Borough of Bangor. This reservoir was completely dewatered in June 2017 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam impounds the East Fork Martins Creek at river-mile 2.3 upstream from its confluence with the West Fork Martins Creek. Prior to the drawdown in 2017, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Commission. Dam and spillway repairs are expected to be completed by early-winter 2019 with re-filling initiated soon after.

The Commission plans to initiate stocking the lake beginning in spring 2020 or as soon as refilling conditions allow with fingerling plants of select fish species to establish a high quality warm-water and cool-water fishery. Immediately upon refilling of the lake, staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth Inland Waters angling regulations but allow only catch and release fishing for all other fish species. Staff believe that this approach will allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Minsi Lake. Once the warm-water fishery has been reestablished, the lake will be recommended for removal from the miscellaneous special regulation and inclusion in one of the Commission's existing warm-water regulation programs.

Staff propose the following amendment:

§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>
***	***	***
<u>Northampton</u>	<u>Minsi Lake</u>	<u>All species except trout – catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed. Trout – inland regulations apply. See §61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until further notice.</u>
***	***	***

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

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

Action:

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

B. Amendment to Section 65.24 (Miscellaneous Special Regulations): Donegal Lake, Westmoreland County.

Commentary:

Donegal Lake, a 90-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission, is located in Donegal Township, Westmoreland County, approximately 1.2 miles northeast of the Borough of Donegal. This reservoir was completely dewatered during fall 2016 to complete control tower, dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam, constructed in 1967, impounds Fourmile Run at river-mile 13.0 upstream from its confluence with Loyalhanna Creek at river-mile 32.7. Prior to the drawdown in 2016, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Commission. Dam and spillway repairs are expected to be completed by early-winter 2019 with re-filling initiated soon after.

The Commission plans to initiate stocking the lake beginning in spring 2020 or as soon as refilling conditions allow with fingerling plants of select fish species to establish a high quality warm-water fishery. Immediately upon refilling of the lake, staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth Inland Waters angling regulations but allow only catch and release fishing for all other fish species. Staff believe that this approach will allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Donegal Lake. Once the warm-water fishery has been reestablished, the lake will be recommended for removal from the miscellaneous special regulation and inclusion in one of the Commission's existing warm-water regulation programs.

Staff propose the following amendment:

§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>
***	***	***
<u>Westmoreland</u>	<u>Donegal Lake</u>	<u>All species except trout – catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed. Trout – inland regulations apply. See §61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until further notice.</u>
***	***	***

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

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

Action:

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

DESIGNATIONS

C. 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 three 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 D provides information on the locations and a data summary for each of these waters.

A notice of proposed designations was published at 49 Pa. B. 2441 (May 11, 2019) (Exhibit E). The Commission received a total of 101 public comments regarding the proposed designations – 98 support the proposed designations, two comments opposed the proposed designations, and one comment support a specific water. Copies of all public comments have been provided to the Commissioners.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend that the Commission add three 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 Kauffman and seconded by Commissioner Lewis to add three sections to its 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.

D. 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 67 new waters to the Commission's list of wild trout streams and revise the section limits of one water. These changes are the result of recent surveys conducted on these waters. Exhibit F 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 49 Pa. B. 2438 (May 11, 2019) (Exhibit G). The Commission received a total of 94 public comments regarding the proposed designations – 93 support the proposed designations and one comment supported a specific water. Copies of all public comments have been provided to the Commissioners.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend that the Commission add 67 new waters to the Commission's list of wild trout streams and revise the section limits of one water as set forth in the notice of proposed designations. 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 Charlesworth and Seconded by Commissioner Gibney to add 67 new waters to the Commission's list of wild trout streams and revise the section limits of one water as set forth in the notice of proposed designations. These additions and revision will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

E. Addition of Spruce Creek, Section 03, Huntingdon County, to the Catch-and-Release All-Tackle Program (58 Pa. Code §65.15).

Commentary:

Spruce Creek arises from springs located on Tussey Mountain near the Village of Rockspring in Centre County and flows southwest 16.5 miles to its confluence with the Little Juniata River at the Village of Spruce Creek in Huntingdon County. This stream flows through hardwood-dominated riparian woodlands intermixed with agricultural lands and private residences. The water quality of Spruce Creek is primarily influenced by limestone springs throughout the basin that supply cold and fertile water to the stream and its tributaries.

Historically, Spruce Creek was partitioned into four stream sections for fisheries management purposes, and approximately 87 percent of the stream was closed to public angling. The portion of Spruce Creek from the headwaters downstream to the lower limit of the Pennsylvania State University (PSU) Experimental Fisheries Area is designated as a wild trout stream. Additionally, two stream sections, Section 01 (2.24 river-miles from the headwaters downstream to the Centre/Huntingdon County line) and Section 04 (the 0.79-river-mile PSU Experimental Fisheries Area) are designated as Class A wild trout stream sections. Section 01 is managed with Commonwealth Inland Waters angling regulations, while Section 04, is managed with Catch-and-Release Artificial Lures Only angling regulations.

Recently, the 13-acre Indian Caverns property in the vicinity of the Village of Franklinville was acquired by the Western Pennsylvania Conservancy (WPC) for conservation purposes to include conveyance of the riparian land to the Pennsylvania Fish and Boat Commission (PFBC) for public fishing access to the portion of Spruce Creek flowing through the property. This portion of the stream was formerly closed to public angling when privately owned and operated as a commercial limestone cave attraction; however, it now provides approximately 0.15 river-miles of new public fishing access to Spruce Creek. As such, Spruce Creek, Section 03, was established and extends approximately 800 linear stream feet upstream from the vehicle access bridge to Indian Caverns located along State Route 45. Section 03 is currently managed with Commonwealth Inland Waters angling regulations.

Historically, the PFBC has surveyed the Spruce Creek fishery at very few locations along its length primarily due to the stream's private nature. However, with the recent acquisition of the Indian Caverns property by the WPC and subsequent provision of public fishing access, Section 03 was examined during July 2018 to evaluate the status of the naturally reproducing Brown Trout population to determine if this stream section warrants designation as a Class A wild Brown Trout water. Section 03 Brown Trout biomass was estimated to be 451.97 kg/ha during the July 2018 investigation, far exceeding the PFBC's minimum biomass criterion of 40.00 kg/ha required for a Class A wild Brown Trout population, as outlined in 58 PA Code §57.8a., Class A Wild Trout Streams.

Pursuant to 58 PA Code §57.8a (Class A Wild Trout Streams), it is the Commission's policy to recognize self-sustaining Class A wild trout populations as renewable natural resources meriting special consideration in development of fisheries management plans and water quality and habitat protection. Class A wild trout populations represent the best of Pennsylvania's naturally reproducing trout populations. The vast majority of these stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking of

hatchery trout. Based on the results of the 2018 investigation, Spruce Creek, Section 03, was added to PFBC's list of Class A Wild Trout Streams at the January 2019 quarterly Commission meeting.

Subsequently, staff recommended the Commission add Spruce Creek, Section 03, to the Catch-and-Release Artificial Lures Only Program (58 Pa. Code §65.6) at the April 2019 quarterly Commission meeting. The intent of this management strategy is to provide anglers with a unique opportunity to fish over an exceptionally high-quality wild trout population where fishing mortality would not be a major factor determining population structure. It is anticipated that angler use in Section 03 will be high and warrant harvest and terminal tackle restrictions to adequately protect the trout population and provide greater sustainability of the quality of the fishery than would be provided under less restrictive angling regulations. Furthermore, application of Catch-and-Release Artificial Lures Only angling regulations would provide for consistent management with Spruce Creek, Section 04 (PSU Experimental Fisheries Area), currently managed with these regulations. This proposal, however, was tabled and staff were directed to solicit public comments regarding an alternate regulation, Catch-and-Release All-Tackle regulations (58 Pa. Code §65.15), so that the Board could consider both regulation options.

A notice of the proposed designation for the staff recommendation of Catch-and-Release Artificial Lures Only Program (58 Pa. Code §65.6) was published at 49 Pa. B. 1244 (March 16, 2019) (Exhibit H). The Commission received two public comments, both in support of the proposed designation. Copies of all public comments were provided to the Commissioners.

A notice of the designation for Catch-and-Release All-Tackle Program (58 Pa. Code §65.15) was published at 49 Pa. B. 2688 (May 25, 2019) (Exhibit I). The Commission received a total of 212 public comments regarding the proposed designation: 125 support the proposed designation, 48 opposes the proposed designation, and 39 comments were placed in the other category. Copies of all public comments were provided to the Commissioners.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend the Commission add Spruce Creek, Section 03, Huntingdon County, to the Catch-and-Release Artificial Lures Only Program (58 Pa. Code §65.6). If approved, the designation will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Kauffman and seconded by Commissioner Lewis to add Spruce Creek, Section 03, Huntingdon County, to the Catch-and-Release Artificial Lures Only Program (58 Pa. Code §65.6). The designation will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

F. Addition of Little Mud Pond, Pike County, to the Stocked Trout Waters Open to Year-round Fishing Program (58 Pa. Code §65.19).

Commentary:

Little Mud Pond, a 26-acre glacial pond owned by the Pennsylvania Department of Conservation and Natural Resources, is located in the Delaware State Forest in Porter Township, Pike County. In 2003, the Pennsylvania Fish and Boat Commission added Little Mud Pond to the Stocked Trout Waters Program to provide seasonal recreational trout angling opportunities for adult hatchery-reared trout. Stocked Trout Waters are closed to all fishing from March 1st to 8:00 a.m. on the opening day of trout season and Commonwealth Inland Waters angling regulations apply for the remainder of the year. Ice fishing and boating (electric motors only) are permitted.

In addition to hatchery trout, Little Mud Pond supports popular warm-water and cool-water fisheries for Yellow Perch, Bluegill, and Black Crappie. A designation of Stocked Trout Waters Open to Year-round Fishing would allow for trout angling on a catch-and-release basis as well as angling for resident warm-water and cool-water species during the current closed period, thus substantially increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters angling regulations for the remainder of the year. Application of the Stocked Trout Waters Open to Year-round Fishing regulation to Little Mud Pond is supported by the Pennsylvania Department of Conservation and Natural Resources.

A notice of the proposed designation was published at 49 Pa. B. 2688 (May 25, 2019) (Exhibit I). The Commission did not receive any public comments regarding the proposal.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend the Commission add Little Mud Pond, Pike County, to the Stocked Trout Waters Open to Year-round Fishing Program (58 Pa. Code §65.19). If approved, the designation will go into effect on January 1, 2020.

Action:

A motion was made by Commissioner Lewis and seconded by Commissioner Anderson to add Little Mud Pond, Pike County, to the Stocked Trout Waters Open to Year-round Fishing Program (58 Pa. Code §65.19). The designation will go into effect on January 1, 2020. Motion carried.

G. Addition of Lily Pond, Pike County, to the Stocked Trout Waters Open to Year-round Fishing Program (58 Pa. Code §65.19).

Commentary:

Lily Pond, a 23-acre impoundment owned by the Pennsylvania Department of Conservation and Natural Resources, is located in the Delaware State Forest in Milford Township, Pike County. In 2003, the Pennsylvania Fish and Boat Commission added Lily Pond to the Stocked Trout Waters Program to provide seasonal recreational trout angling opportunities for adult hatchery-reared trout. Stocked trout waters are closed to all fishing from March 1st to 8:00 a.m. on the opening day of trout season and Commonwealth Inland Waters angling regulations apply for the remainder of the year. Ice fishing and boating (electric motors only) are permitted.

In addition to hatchery trout, Lily Pond supports popular warm-water and cool-water fisheries for Yellow Perch, Bluegill, and Black Crappie. A designation of Stocked Trout Waters Open to Year-round Fishing would allow for trout angling on a catch-and-release basis as well as angling for resident warm-water and cool-water species during the current closed period, thus substantially increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters angling regulations for the remainder of the year. Application of the Stocked Trout Waters Open to Year-round Fishing regulation to Lily Pond is supported by the Pennsylvania Department of Conservation and Natural Resources.

A notice of the proposed designation was published at 49 Pa. B. 2688 (May 25, 2019) (Exhibit I). The Commission did not receive any public comments regarding the proposal.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend the Commission add Lily Pond, Pike County, to the Stocked Trout Waters Open to Year-round Fishing Program (58 Pa. Code §65.19). If approved, the designation will go into effect on January 1, 2020.

Action:

A motion was made by Commissioner Anderson and seconded by Commissioner Lewis to add Lily Pond, Pike County, to the Stocked Trout Waters Open to Year-round Fishing Program (58 Pa. Code §65.19). The designation will go into effect on January 1, 2020. Motion carried.

H. Removal of Minsi Lake, Northampton County, from the Big Bass Program (58 Pa. Code §65.9).

Commentary:

Minsi Lake, a 122-acre fertile impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission, is located in Upper Mount Bethel Township in Northampton County, approximately 3.1 miles northeast of the Borough of Bangor. This reservoir was completely dewatered in June 2017 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam impounds the East Fork Martins Creek at river-mile 2.3 upstream from its confluence with the West Fork Martins Creek. Prior to the drawdown in 2017, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Commission. Dam and spillway repairs are expected to be completed by early-winter 2019 with re-filling initiated soon after.

The Commission plans to initiate stocking the lake beginning in spring 2020 or as soon as refilling conditions allow with fingerling plants of select fish species to establish a high quality warm-water and cool-water fishery. Immediately upon refilling of the lake, staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth Inland Waters angling regulations but allow only catch and release fishing for all other fish species. Staff believe that this approach will allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Minsi Lake. Once the warm-water fishery has been reestablished, the lake will be recommended for removal from the miscellaneous special regulation and inclusion in one of the Commission's existing warm-water regulation programs. To facilitate transition of Minsi Lake to temporary management under the miscellaneous special regulation described above, this water must first be removed from the Big Bass Program.

A notice of the proposed designation was published at 49 Pa. B. 2688 (May 25, 2019) (Exhibit I). The Commission did not receive any public comments regarding the proposal.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend the Commission remove Minsi Lake, Northampton County, from the Big Bass Program. If approved, the designation will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Lewis and was seconded by Commissioner Anderson to remove Minsi Lake, Northampton County, from the Big Bass Program. The designation will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

I. Removal of Bradys Lake, Monroe County, from the Big Bass Program (58 Pa. Code §65.9).

Commentary:

Bradys Lake, a 229-acre infertile impoundment owned by the Pennsylvania Game Commission, is located in State Game Lands (SGL) 127 in Coolbaugh Township in Monroe County. Access to the lake is provided by a 3.3-mile semi-paved road in SGL 127 off State Road 940 near Pocono Lake Preserve. This reservoir was completely dewatered in 2003 to rebuild the dam and refill occurred by 2008. The Pennsylvania Fish and Boat Commission stocked the lake from 2008 through 2013 with select fish species to establish a high quality warm-water and cool-water fishery. Since 2009, Bradys Lake black bass and panfish fisheries are managed with Big Bass (58 Pa. Code §65.9) and Panfish Enhancement (58 Pa. Code §65.11) special regulations while all other species are managed with Commonwealth Inland Waters angling regulations.

The black bass and panfish populations were evaluated during 2012, 2015, and 2018 to monitor progress towards development of a high quality warm-water and cool-water fishery and determine efficacy of the of the special regulation programs. Total catch per hour of Largemouth Bass during nighttime boat electrofishing surveys did not meet the minimum recommended program criteria for waters managed with Big Bass regulations during any of the survey years, and inconsistently met catch per hour program criteria for bass greater or equal to 12 inches and bass greater than or equal to 15 inches. Big Bass angling regulations failed to produce the desired results at Bradys Lake; therefore, staff recommend removal from the program in favor of Commonwealth Inland Waters angling regulations. The removal of Bradys Lake from the Big Bass program is supported by the owner of the impoundment; the Pennsylvania Game Commission.

A notice of the proposed designation was published at 49 Pa. B. 2688 (May 25, 2019) (Exhibit I). The Commission did not receive any public comments regarding the proposal.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend the Commission remove Bradys Lake, Monroe County, from the Big Bass Program (58 Pa. Code §65.9). If approved, Bradys Lake will revert to Commonwealth Inland Waters angling regulations (58 Pa. Code §61.1) on January 1, 2020.

Action:

A motion was made by Commissioner Kauffman and seconded by Commissioner Anderson to remove Bradys Lake, Monroe County, from the Big Bass Program (58 Pa. Code §65.9). Bradys Lake will revert to Commonwealth Inland Waters angling regulations (58 Pa. Code §61.1) on January 1, 2020. Motion carried.

J. Removal of Bradys Lake, Monroe County, from the Panfish Enhancement Program (58 Pa. Code §65.11).

Commentary:

Bradys Lake, a 229-acre infertile impoundment owned by the Pennsylvania Game Commission, is located in State Game Lands (SGL) 127 in Coolbaugh Township in Monroe County. Access to the lake is provided by a 3.3-mile semi-paved road in SGL 127 off State Road 940 near Pocono Lake Preserve. This reservoir was completely dewatered in 2003 to rebuild the dam and refill occurred by 2008. The Pennsylvania Fish and Boat Commission stocked the lake from 2008 through 2013 with select fish species to establish a high quality warm-water and cool-water fishery. Since 2009, Bradys Lake black bass and panfish fisheries are managed with Big Bass (58 Pa. Code §65.9) and Panfish Enhancement (58 Pa. Code §65.11) special regulations while all other species are managed with Commonwealth Inland Waters angling regulations.

The black bass and panfish populations were evaluated during 2012, 2015, and 2018 to monitor progress towards development of a high quality warm-water and cool-water fishery and determine efficacy of the special regulation programs. Panfish populations in Bradys Lake (Yellow Perch, Black Crappie, Bluegill), provided consistently marginal to good angling opportunities, and occasionally very good fishing for Yellow Perch and Bluegill. However, assessment trap net catch rates did not meet the minimum recommended program criteria for waters managed with Panfish Enhancement regulations throughout the assessment period and overall results suggested poor recruitment to the panfish fishery. Overall, the panfish fishery was driven by the occasional strong year class that provided anglers with brief periods of good fishing opportunities. Panfish Enhancement angling regulations failed to produce the desired results at Bradys Lake; therefore, staff recommend removal from the program in favor of Commonwealth Inland Waters angling regulations. The removal of Bradys Lake from the Panfish Enhancement Program is supported by the owner of the impoundment, the Pennsylvania Game Commission.

A notice of the proposed designation was published at 49 Pa. B. 2688 (May 25, 2019) (Exhibit I). The Commission did not receive any public comments regarding the proposal.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend the Commission remove Bradys Lake, Monroe County, from the Panfish Enhancement Program (58 Pa. Code §65.11). If approved, Bradys Lake will revert to Commonwealth Inland Waters angling regulations (58 Pa. Code §61.1) on January 1, 2020.

Action:

A motion was made by Commissioner Lewis and seconded by Commissioner Brock to remove Bradys Lake, Monroe County, from the Panfish Enhancement Program (58 Pa. Code §65.11). Bradys Lake will revert to Commonwealth Inland Waters angling regulations (58 Pa. Code §61.1) on January 1, 2020. Motion carried.

K. Addition of Pecks Pond, Pike County, to the Catch-and-Release Lakes Program (58 Pa. Code §65.17).

Commentary:

Pecks Pond, a 300-acre impoundment owned by the Pennsylvania Department of Conservation and Natural Resources, is located in the Delaware State Forest in Blooming Grove and Porter townships in Pike County, approximately six miles south of the I-84 Porters Lake exit. This reservoir was completely dewatered in September 2016 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The concrete dam impounds the Bush Kill at river-mile 35.1 upstream from its confluence with the Delaware River at river-mile 219.1. Prior to the drawdown in 2017, the lake offered angling opportunities for multiple warm-water and cool-water fish species. Dam and spillway repairs are expected to be completed by during winter 2019/20 with re-filling initiated soon after.

The Commission plans to initiate stocking the lake beginning in the spring of 2020 or as soon as refilling conditions allow with fingerling plants of select fish species to establish a high-quality warm-water and cool-water fishery. During the process of rebuilding the fishery, staff propose to open the reservoir to fishing under the Catch-and-Release Lakes Program on a temporary basis. Lakes managed in this program are regulated year-round for catch-and-release angling for all fish species. This approach will allow for the most rapid development of a balanced warm-water fish community, while offering acceptable levels of recreational angling opportunities. This management strategy is supported by the Pennsylvania Department of Conservation and Natural Resources. Fisheries Management staff will monitor the fish populations as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high-quality recreational angling opportunities at Pecks Pond. It is anticipated that once the warm-water fishery has been reestablished, the lake will be recommended for removal from the Catch-and-Release Lakes Program and included in program(s) that accommodate appropriate fish harvest while maintaining high-quality recreational angling opportunities.

A notice of the proposed designation was published at 49 Pa. B. 2688 (May 25, 2019) (Exhibit I). The Commission did not receive any public comments regarding the proposal.

Briefer:

Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:

Staff recommend the Commission add Pecks Pond, Pike County, to the Catch and Release Lakes Program (58 Pa. Code 65.17). If approved, the designation will go into effect on January 1, 2020.

Action:

A motion was made by Commissioner Lewis and seconded by Commissioner Kauffman to add Pecks Pond, Pike County, to the Catch and Release Lakes Program (58 Pa. Code 65.17). The designation will go into effect on January 1, 2020. Motion carried.

Other New Business

None.

Time and Place of October 2019 Commission Meeting

The next meeting will be held on October 21-22, 2019 in Harrisburg.

Adjournment

A motion was made by Commissioner Hussar to adjourn the meeting at approximately 10:36 a.m. Motion carried.