

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

AGENDA

142nd Meeting

Volume 72

**HARRISBURG, PENNSYLVANIA
April 12, 2021**

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Agenda

The 142nd Meeting of the Pennsylvania Fish and Boat Commission will be held on Monday, April 12, 2021, remotely, via web conference.

The public session for review of this agenda will begin on April 12, 2021 at approximately 9:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call

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

Public Comment to Commissioners and Staff

Review and Approval of Minutes from the January 25, 2021 Meeting

Awards and Presentations

Executive Director's Report

Reports of Commissioner Committees

Announcement of Executive Sessions

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

A. Piney Creek Springs Property Disposition for a Bridge Replacement on State Route 2020-02B over Piney Creek in Woodbury Township, Blair County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) owns +/-197 acres in fee title and easement known as Piney Creek Springs (Site) in Woodbury Township, Blair County. The Site contains multiple significant springs and +/-4,000 feet of frontage along Piney Creek, a Class A wild trout stream. Acreage was acquired to provide buffer for the springs and stream. The Site was acquired using Project 70 funding. It is located about five miles north of Williamsburg. The Pennsylvania Department of Transportation (PADOT) is proposing to address the Project 70 funding issue with a waiver letter. A drawing of the Site is enclosed as Exhibit A.

State Route 2020 crosses Piney Creek on the Site's west side. The bridge crossing and its approaches are deficient in structure and design and need to be replaced (Project). PADOT would like to perform the Project as soon as reasonably possible. The roadway around the bridge will remain on its existing alignment but will be improved by widening and stabilizing the banks of the creek and improving an existing field drive into Commission property. The Project will need property rights from the Commission.

The Project requires +/-0.09 acres of permanent slope right-of-way and +/-0.15 acres of temporary construction easement. These areas are shown on Exhibit B. The Temporary construction easement will revert to the Commission at the end of construction and portions of it may be used by the Commission and public for access during construction.

Legislation is usually required when property is acquired using Project 70 funding. However, since the take area is very small and the impact is not significant, the staff of both the Commission and PADOT have agreed to pursue a waiver of the legislation requirement through an established waiver process in place of legislation. This process is designed to save the Commonwealth time and effort in minor conveyances for the public good. The Commission's legal staff shall approve the process before there is any commitment to a conveyance.

The Project will not have a long-term adverse impact on the Site and will improve public safety. The Commission will receive fair market value for the rights it conveys and any impact on the Site. The Site will be restored to the Commission's satisfaction. This conveyance will be subject to staff performing the necessary due diligence.

Briefer:

Linda Adler, Chief, Property Services Section

Recommendation:

Staff recommends the Commission authorize the disposition of the property as described in the Commentary.

Action:

B. President Access Property Rights Exchange along the Allegheny River in President Township, Venango County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) owns +/-3.2 acres in fee title on the Allegheny River known as the President Access (Site) in President Township, Venango County. A drawing of the location map is labeled as Exhibit C. The Site receives very little use. The Site cannot be developed because of poor access, wetlands, a stream crossing, a manmade berm, encroachments, and poor depth along the shore. The Site was acquired in 1960 using 100% state fish funds. It is located on the border of Forest County and Venango County upriver from Oil City. A drawing of the Site is enclosed as Exhibit D.

The Site offers little value to the Commission and is very limited in what can be done with it. The downriver adjoining property owner has offered to acquire the Site from the Commission. Staff has determined disposing the Site to the adjoining property owner would be a better use of resources and would allow the proceeds to be redirected to better serve the public.

The offer would have the Commission convey the Site in return for \$5,000 and an easement on the adjoining property owner's property for Commission staff to use an existing boat ramp and for parking of two trucks with trailers. In the past, Fisheries Management Area 2 staff have utilized the Kibbe Island Campground boat ramp on an annual basis targeting the Smallmouth Bass population. The purpose of these surveys is to assess spawning activities, determine recruitment of young of the year fish and characterize the adult population for those interested anglers who frequent the area. Also noteworthy, these annual sites are historical in nature, dating back to the 1980's, and thus the sampling data we collect are used to compare trends in fish populations over time and for making future management decisions. Our Fisheries Management office anticipates utilizing this boat ramp on a more frequent basis in the near future to further assess Walleye (both young of the year and adult) and catfish (Channel and Flathead) populations that reside in this section of the river, specifically within President area. Law Enforcement currently does not use the boat ramp, but welcomes the opportunity should there be a need for future use.

A manmade berm that was built about 40 years ago along the shore of the Site has impacted it. A nonprofit group has secured grant money to remove the berm and restore the area to its natural state. The restoration project would require significant Commission staff time, and it would be beneficial to convey the Site and let the adjoining property owner complete the restoration project. The adjoining property owner supports the restoration project and has committed to allow work on his adjoining property.

The described disposition will not have an adverse impact on public fishing and boating and will allow for better use of an asset. The Commission will receive both fair market

value for the rights it conveys and an easement that will benefit it. This conveyance will be subject to staff performing the necessary due diligence.

Briefer:

Linda Adler, Chief, Property Services Section

Recommendation:

Staff recommends the Commission authorize the disposition of the property as described in the Commentary.

Action:

C. Olin Property Easement Acquisition, Springfield 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 from the sale of the combination trout permits and Lake Erie permits are to be deposited into a restricted account within the Fish Fund 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 may also be used for other projects that support public fishing on or at Lake Erie, Presque Isle Bay and their 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 Pennsylvania Fish and Boat Commission (Commission) has been offered an easement for \$30,000 on 1,675 linear feet along Crooked Creek as it flows across a parcel of property in Springfield Township, Erie County. A drawing of the location map is labeled as Exhibit E. 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 along Crooked Creek off Holliday Road in Springboro, PA. A map depicting the subject parcels is attached as Exhibit F.

The seller and the Commission have signed an option agreement that will allow staff to perform 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.

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

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

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

Action:

**EXECUTIVE AND ADMINISTRATIVE
OTHER MATTERS**

D. Erie Access Improvement Program: Grant to the Regional Science Consortium, Lake Erie, and Presque Isle Bay, 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 from the sale of the combination trout permits and Lake Erie permits are to be deposited into a restricted account within the Fish Fund 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 may also be used for other projects that support public fishing on or at Lake Erie, Presque Isle Bay and their 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 Regional Science Consortium initiated a buoy program in 2007 that has expanded to include the operation of four buoys in Lake Erie, including two off the beaches of Presque Isle State Park: the Nearshore Buoy, which is approximately 2 miles off the Presque Isle lighthouse, and the Walnut Creek Buoy, which is approximately 2.5 miles off the mouth of Walnut Creek. The buoys provide real-time information on wind, water, and wave conditions through the consortium’s smartphone application, its website, the NOAA National Data Buoy Center, and the Great Lakes Observing System. This information is used by federal, state, and local agencies, law enforcement agencies, local meteorologists, recreational boaters, charter boat captains, and many others.

The Regional Science Consortium requests funding to support deployment and retrieval, repairs, communications, calibrations, data checks, batteries, and equipment upgrades to maintain communication compatibilities relating to these buoys. The benefits include lake condition forecasting and the contribution to a long-term dataset that can provide information regarding the aquatic health and water quality of the lake over time.

The total estimated cost of the project is \$258,500. The Regional Science Consortium requests funding in the amount of \$200,500 from the Erie Access Improvement Program to support the buoy program for the remainder of 2021, 2022, and 2023. Matching funds in the amount of \$10,000 will be provided by the Great Lakes Observing System. In addition, the Regional Science Consortium will provide \$48,000 in matching funds for the project.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Pennsylvania Fish and Boat Commission authorize a grant not to exceed \$200,500 to the Regional Science Consortium to support the operation of the buoy program, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account.

Action:

E. Erie Access Improvement Program: Grant to the Erie-Western PA Port Authority, Holland Street Pier Improvements, Presque Isle Bay, 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 from the sale of the combination trout permits and Lake Erie permits are to be deposited into a restricted account within the Fish Fund 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 may also be used for other projects that support public fishing on or at Lake Erie, Presque Isle Bay and their 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.

In 2019, the Pennsylvania Fish and Boat Commission (Commission) approved a grant proposal and entered into an agreement with the Erie-Western PA Port Authority (Port Authority) to provide \$382,400 for the construction of a 130-foot handicapped accessible fishing platform at the end of the Holland Street Pier. That project came in well over budget, with the Port Authority making up the difference (\$193,000) to ensure the project was completed. The Port Authority now requests funds for Phase 2 of the Holland Street Pier project, which includes construction of a handicapped accessible fishing area roughly 510 feet in length along the side of the pier.

This is the final piece of the Holland Street Pier project and will connect with the 2019 project that was constructed at the end of the pier. The project area has free public parking as well as bus service and is also connected to the Bayfront bike and pedestrian paths.

The total estimated cost for the project is \$396,100. The Port Authority is requesting \$202,200 from the Erie Access Improvement Program to complete the handicapped accessible fishing area on the Holland Street Pier. The Port Authority is requesting to use the additional \$193,900 it paid to make up the difference for Phase 1 as match for Phase 2 of the project. The property is owned by the Port Authority and it will be responsible for the long-term operation and maintenance of the facility.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Commission approve amending its contract with Erie-Western PA Port Authority to provide an additional amount not to exceed \$202,200 to complete the handicapped accessible fishing area on the Holland Street Pier, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account.

Action

F. Erie Access Improvement Program: Grant to the Erie-Western PA Port Authority, Lampe Marina Fish Cleaning Station, Lake Erie, 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 from the sale of the combination trout permits and Lake Erie permits are to be deposited into a restricted account within the Fish Fund 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 may also be used for other projects that support public fishing on or at Lake Erie, Presque Isle Bay and their 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 Erie-Western PA Port Authority (Port Authority) requests funding for the design and construction of a refrigerated building for the storage of fish remains at Lampe Marina in Erie, PA, which the Port Authority owns. The Port Authority, along with recreational anglers and charter boat captains, has been struggling for years to manage the waste generated from cleaning fish. Historically, the Port Authority partnered with a local mink farmer who picked up the fish waste to use as feed. That mink farmer is now retired.

The Port Authority found an alternative way of disposing of the fish waste by providing it to the Dramm Corporation, to be used as a liquid fertilizer. In order for the Dramm Corporation to use the fish waste, the waste must be kept refrigerated. The Dramm Corporation began collecting fish waste in Erie in 2020 and collects it for free.

The Port Authority and the Pennsylvania Fish and Boat Commission (Commission) also want to include a fish cleaning station at this facility. The Commission estimates the total project cost for the refrigerated building with the fish cleaning station is approximately \$150,000. The property is owned by the Port Authority and they will be responsible for long term operation and maintenance of the facility.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Commission authorize a grant not to exceed \$150,000 to the Erie-Western PA Port Authority to construct a fish cleaning station and refrigerated building, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account.

Action:

**BOATING
OTHER MATTERS**

A. Boating Facility Grant Program: Grant to County of Carbon, Mauch Chunk Lake Park, Mauch Chunk Lake, Carbon County.

Commentary:

At its October 2012 meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the creation of the Statewide Public Access Grant Program providing funds to eligible applicants for the planning, acquisition, development, and expansion of public fishing and boating access facilities. The goal of the program is to ensure Pennsylvania’s recreational anglers and boaters, today and in the future, are provided with access to the highest quality facilities on the Commonwealth’s waterways. The program replaced the Commission’s Boating Facility Grant (BFG) Program, which was designed to only fund opportunities for boating access.

Prior to the Statewide Public Access Grant Program, the Commission’s BFG Program became well known as the primary mechanism for awarding funds for boating-related access improvements from 2005 through 2010. As such, and in keeping with the goals outlined in the Commission’s Strategic Plan 2020-2023, the BFG Program was administratively revitalized in 2019 under the established guidelines of the Statewide Public Access Grant Program to allow for the funding of both boating and fishing access improvements and additional access across the Commonwealth.

Funds for this program are derived primarily from boat registration fees, state motorboat fuels tax, and restricted revenue accounts, if applicable. In certain instances, federal aid is also used, if appropriate. Projects in the Pennsylvania portion of the Delaware River Watershed are eligible for funding through the National Fish and Wildlife Foundation’s grant to the Commission for improving public boating and fishing access. Grants exceeding \$100,000 require Commission approval. Staff therefore are seeking approval of the following grant:

Total Project Cost: \$311,000

Recommended Grant: \$155,500

Mauch Chunk Lake is owned by the Commission and leased to the County of Carbon for the development and operation of a county park which has undergone numerous improvements. In 2005, the County received Boating Facility Grant funds in the amount of \$55,000 to replace the old, dilapidated restrooms at Boat Launch A at Mauch Chunk Lake.

The County of Carbon requests funding to rehabilitate the boat launch area at Site B at the Mauch Chunk Lake Park, including replacing the old, deteriorated restroom with a new ADA accessible restroom. In addition, the County plans on repaving the parking area and access road and installing ADA accessible parking spaces.

The matching funds for the project will be provided by the County of Carbon in the amount of \$155,500. The closest public boat launch facilities are located 3 miles away at Owl Creek Reservoir and 4 miles away along the Lehigh River.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$155,500 to the County of Carbon, Carbon County, as more particularly described in the Commentary.

Action:

B. Boating Facility Grant Program: Grant to Natural Lands Trust, Stroud Preserve Boat Launch, East Branch of Brandywine Creek, Chester County.

Commentary:

At its October 2012 meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the creation of the Statewide Public Access Grant Program providing funds to eligible applicants for the planning, acquisition, development, and expansion of public fishing and boating access facilities. The goal of the program is to ensure Pennsylvania's recreational anglers and boaters, today and in the future, are provided with access to the highest quality facilities on the Commonwealth's waterways. The program replaced the Commission's Boating Facility Grant (BFG) Program which was designed to only fund opportunities for boating access.

Prior to the Statewide Public Access Grant Program, the Commission's BFG Program became well known as the primary mechanism for awarding funds for boating-related access improvements from 2005 through 2010. As such, and in keeping with the goals outlined in the Commission's Strategic Plan 2020-2023, the BFG Program was administratively revitalized in 2019 under the established guidelines of the Statewide Public Access Grant Program to allow for the funding of both boating and fishing access improvements and additional access across the Commonwealth.

Funds for this program are derived primarily from boat registration fees, state motorboat fuels tax, and restricted revenue accounts, if applicable. In certain instances, federal aid is also used, if appropriate. Projects in the Pennsylvania portion of the Delaware River Watershed are eligible for funding through the National Fish and Wildlife Foundation's grant to the Commission for improving public boating and fishing access. Grants exceeding \$100,000 require Commission approval. Staff therefore are seeking approval of the following grant:

Total Project Cost: \$471,600

Recommended Grant: \$210,800

In the 2020 round of the Boating Facility Grant Program, the Natural Lands Trust received a grant in the amount of \$50,000 to design and engineer the rehabilitation of its existing boat launch area along the East Branch of Brandywine Creek. The Natural Lands Trust is currently working on the design and engineering for the project.

In the 2021 round of the Boating Facility Grant Program, the Natural Lands Trust requests funding to complete the construction of the project. The project will include the construction of a concrete and stone boat launch for canoes and kayaks to replace the existing informal boat launch that is plagued by erosion issues due to excessive use. The project will also include the construction of a fishing dock and an ADA accessible pathway from the parking area to the launch ramp and the fishing dock. Work will include the construction of a coffer dam, construction and placement of a boulder-retaining structure, stairs, an ADA sloped path, the launch ramp, and revegetation of the site.

Matching funds have been secured from the Pennsylvania Department of Conservation and Natural Resources in the amount of \$260,800. The closest public boat launch facilities are located 4.5 miles upstream at the ChesLen Preserve and 2 miles downstream at the Shaw's Bridge Park access.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$210,800 to the Natural Lands Trust, Chester County, as more particularly described in the Commentary.

Action:

C. Boating Facility Grant Program: Grant to Wayne County, Industrial Point River Access, Lackawaxen River, Wayne County.

Commentary:

At its October 2012 meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the creation of the Statewide Public Access Grant Program providing funds to eligible applicants for the planning, acquisition, development, and expansion of public fishing and boating access facilities. The goal of the program is to ensure Pennsylvania's recreational anglers and boaters, today and in the future, are provided with access to the highest quality facilities on the Commonwealth's waterways. The program replaced the Commission's Boating Facility Grant (BFG) Program which was designed to only fund opportunities for boating access.

Prior to the Statewide Public Access Grant Program, the Commission's BFG Program became well known as the primary mechanism for awarding funds for boating-related access improvements from 2005 through 2010. As such, and in keeping with the goals outlined in the Commission's Strategic Plan 2020-2023, the BFG Program was administratively revitalized in 2019 under the established guidelines of the Statewide Public Access Grant Program to allow for the funding of both boating and fishing access improvements and additional access across the Commonwealth.

Funds for this program are derived primarily from boat registration fees, state motorboat fuels tax, and restricted revenue accounts, if applicable. In certain instances, federal aid is also used, if appropriate. Projects in the Pennsylvania portion of the Delaware River Watershed are eligible for funding through the National Fish and Wildlife Foundation's grant to the Commission for improving public boating and fishing access. Grants exceeding \$100,000 require Commission approval. Staff therefore are seeking approval of the following grant:

Total Project Cost: \$437,364

Recommended Grant: \$193,682

In May of 2020, Wayne County, in partnership with the Wayne Pike Trails and Waterways Alliance, completed a trail feasibility study which identified the need for a water trail along the Lackawaxen River from Honesdale to Hawley, a stretch of approximately 10 miles. Wayne County is currently working to establish a new water trail on the Lackawaxen River, and the Industrial Point River Access project will serve as the uppermost access point for the proposed water trail.

Wayne County requests funds to design and construct a new canoe/kayak access along the Lackawaxen River in Honesdale, PA. The County owns five parcels of land near the confluence of Dyberry Creek and the Lackawaxen River, and plans to use the properties to provide river access and parking for County employees and for visitors to the river access. The County proposes to construct a 20-foot wide concrete ramp for canoe/kayak access, a parking area with ADA accessible parking spaces, a dry composting restroom, an ADA-compliant river walk from Twelfth Street to the river, signage, benches, and picnic areas.

Matching funds for the project have been secured through the Villaume Foundation (\$20,000), challenge donations (\$20,000), Honesdale Borough (\$5,000), a donation from a private individual (\$5,000), and in-kind services (\$4,500). The applicant plans to apply to the Department of Conservation and Natural Resources for the remainder of the project costs. The only public boat launch facility on the Lackawaxen River is located approximately 7 miles downriver at the recently completed Hawley Access.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$193,682 to Wayne County, as more particularly described in the Commentary.

Action:

D. Boating Facility Grant Program: Grant to Wayne County, White Mills Access, Lackawaxen River, Wayne County.

Commentary:

At its October 2012 meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the creation of the Statewide Public Access Grant Program providing funds to eligible applicants for the planning, acquisition, development, and expansion of public fishing and boating access facilities. The goal of the program is to ensure Pennsylvania’s recreational anglers and boaters, today and in the future, are provided with access to the highest quality facilities on the Commonwealth’s waterways. The program replaced the Commission’s Boating Facility Grant (BFG) Program which was designed to only fund opportunities for boating access.

Prior to the Statewide Public Access Grant Program, the Commission’s BFG Program became well known as the primary mechanism for awarding funds for boating-related access improvements from 2005 through 2010. As such, and in keeping with the goals outlined in the Commission’s Strategic Plan 2020-2023, the BFG Program was administratively revitalized in 2019 under the established guidelines of the Statewide Public Access Grant Program to allow for the funding of both boating and fishing access improvements and additional access across the Commonwealth.

Funds for this program are derived primarily from boat registration fees, state motorboat fuels tax, and restricted revenue accounts, if applicable. In certain instances, federal aid is also used, if appropriate. Projects in the Pennsylvania portion of the Delaware River Watershed are eligible for funding through the National Fish and Wildlife Foundation’s grant to the Commission for improving public boating and fishing access. Grants exceeding \$100,000 require Commission approval. Staff therefore are seeking approval of the following grant:

Total Project Cost: \$290,580	Recommended Grant: \$120,290
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In May of 2020, Wayne County, in partnership with the Wayne Pike Trails and Waterways Alliance, completed a trail feasibility study which identified the need for a water trail along the Lackawaxen River from Honesdale to Hawley, a stretch of approximately 10 miles. Wayne County is trying to establish a new water trail on the Lackawaxen River. The application for the White Mills River Access will serve as the mid-point for the Lackawaxen River water trail.

Wayne County requests funding to design and construct a new canoe/kayak access along the Lackawaxen river near White Mills, PA. The property consists of about 1.3 acres and provides a level area near the river. The County plans to purchase the property and construct a parking area with two ADA accessible parking spaces, an ADA accessible paved pathway from the parking area to the boat launch ramp, a concrete canoe/kayak access ramp, a fence to separate the boat access from the sports fields, a dry composting restroom, trash cans, benches, and signs.

Matching funds for the project will be provided through the Villaume Foundation that has committed \$40,000. In addition, the Wayne Bank has committed \$15,000 and the Borough of Honesdale will provide \$10,000 in addition to \$4,000 of in-kind services. The County will pursue additional donations of cash and materials for the project. The applicant also plans to apply to the Department of Conservation and Natural Resources for the remainder of the project costs. The only public boat launch facility on the Lackawaxen River is located approximately 5 miles downriver at the recently completed Hawley Access.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$120,290 to Wayne County, as more particularly described in the Commentary.

Action:

E. Boating Facility Grant Program: Grant to Pennsylvania Organization for Watersheds and Rivers, Improving Public Access to Western Pennsylvania Rivers and Streams Mini Grant Program, Ohio and Western Susquehanna River Watersheds.

Commentary:

At its October 2012 meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the creation of the Statewide Public Access Grant Program providing funds to eligible applicants for the planning, acquisition, development, and expansion of public fishing and boating access facilities. The goal of the program is to ensure Pennsylvania's recreational anglers and boaters, today and in the future, are provided with access to the highest quality facilities on the Commonwealth's waterways. The program replaced the Commission's Boating Facility Grant (BFG) Program which was designed to only fund opportunities for boating access.

Prior to the Statewide Public Access Grant Program, the Commission's BFG Program became well known as the primary mechanism for awarding funds for boating-related access improvements from 2005 through 2010. As such, and in keeping with the goals outlined in the Commission's Strategic Plan 2020-2023, the BFG Program was administratively revitalized in 2019 under the established guidelines of the Statewide Public Access Grant Program to allow for the funding of both boating and fishing access improvements and additional access across the Commonwealth.

Funds for this program are derived primarily from boat registration fees, state motorboat fuels tax, and restricted revenue accounts, if applicable. In certain instances, federal aid is also used if appropriate. Grants exceeding \$100,000 require Commission approval. Staff therefore are seeking approval of the following grant:

Total Project Cost: \$630,000

Recommended Grant: \$165,000

The Pennsylvania Organization for Watersheds and Rivers (POWR) advocates for the protection, restoration, and enjoyment of our wealth of water resources, via programs that foster stewardship, communication, leadership, and action. POWR fulfills its mission through key initiatives including the PA River of the Year, the River Sojourn Mini Grant Program, organizing and convening regional capacity-building workshops for community watershed organizations, and hosting a statewide watershed group technical conference every other year. Additionally, its parent organization, the Pennsylvania Environmental Council (PEC), is the external lead for the PA Water Trails Partnership, providing coordination and technical assistance to the 27 designated Water Trails throughout the state. Both POWR and PEC see recreational enjoyment on the waterways as a means to engage citizens in the protection and stewardship of our shared water assets.

POWR requests funding to administer a focused mini grant program to improve public access and recreation on rivers and streams in Western Pennsylvania, specifically those in the Ohio River Watershed and the western portions of the Susquehanna River Watershed. The mini grant program will be available to local government entities and non-profit groups for the construction of new, or improvement of existing, public non-motorized

boating facilities. POWR will work with the Commission and PEC to create the mini grant program. POWR will model the mini grant program after the Commission's Boating Facility Grant Program and the PA Water Trails mini grant program, and it will complement both programs.

The total estimated cost to establish the mini grant program is \$630,000. POWR is requesting \$165,000 from the Boating Facility Grant Program. Matching funds in the amount of \$165,000 will be provided through a private foundation. The grant program will require applicants to provide a 50% match, which will further leverage the Commission's contribution to the program.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$165,000 to the Pennsylvania Organization for Watersheds and Rivers to develop and administer a focused mini grant program to improve public access and recreation on rivers and streams located in Western Pennsylvania, as more particularly described in the Commentary.

Action:

F. Boating Facility Grant Program: Grant to Lawrence Park Township, Lakeside Boat Launch Ramp, Lake Erie, Erie County.

Commentary:

At its October 2012 meeting, the Commission approved the creation of the Statewide Public Access Grant Program providing funds to eligible applicants for the planning, acquisition, development, and expansion of public fishing and boating access facilities. The goal of the program is to ensure Pennsylvania's recreational anglers and boaters, today and in the future, are provided with access to the highest quality facilities on the Commonwealth's waterways. The program replaced the Commission's Boating Facility Grant (BFG) Program which was designed to only fund opportunities for boating access.

Prior to the Statewide Public Access Grant Program, the Commission's BFG Program became well known as the primary mechanism for awarding funds for boating-related access improvements from 2005 through 2010. As such, and in keeping with the goals outlined in the Commission's Strategic Plan 2020-2023, the BFG Program was administratively revitalized in 2019 under the established guidelines of the Statewide Public Access Grant Program to allow for the funding of both boating and fishing access improvements and additional access across the Commonwealth.

Funds for this program are derived primarily from boat registration fees, state motorboat fuels tax, and restricted revenue accounts, if applicable. In certain instances, federal aid is also used if appropriate. Grants exceeding \$100,000 require Commission approval. Staff therefore are seeking approval of the following grant:

Total Project Cost: \$250,000

Recommended Grant: \$155,900

In 2010, Lawrence Park Township (Township) received a Boating Facility Grant (\$86,000) to extend the boat launch ramp to eliminate a drop off at the end of the ramp and to install armoring along the east side of the extension to protect against wave damage. Since then, record high water levels in Lake Erie have damaged the upper portion of the boat launch ramp and have undermined it during severe storm events. As a result, large voids under the boat ramp have created large cracks and splits in the surface of the ramp.

The Township requests \$155,900 to replace and redesign the Lakeside boat launch ramp along the Lake Erie shoreline in Erie, PA. The Township plans to remove the existing deteriorated launch ramp and replace it with a new, single lane, concrete boat launch ramp. The township also plans to install cutoff walls and place armor stone along the sides of the launch ramp to reduce erosion caused by wave action. The total estimated project cost is \$250,000.

Matching funds in the amount of \$45,300 were secured from the National Oceanic and Atmospheric Administration through their Coastal Zone Management Program. In addition, the Township will provide funding in the amount of \$48,800. The closest

public boat launch facilities are located 5 miles to the east at Shades Beach and 1.5 miles to the west at the East Avenue Boat Launch.

Briefer:

Scott Bollinger, Statewide Public Access Program Manager

Recommendations:

Staff recommend that the Commission approve a grant not to exceed \$155,900 to Lawrence Park Township, Erie County, as more particularly described in the Commentary.

Action:

FISHERIES
PROPOSED RULEMAKING

A. Amendment to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations): remove Leaser Lake, Lehigh County.

Commentary:

Leaser Lake, a 117-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (Commission), is located in Lynn Township, Lehigh County, approximately 20 miles west-northwest of the City of Allentown. The dam impounds two unnamed tributaries to Ontelaunee Creek at river mile 0.38 upstream from its confluence with Ontelaunee Creek. This reservoir was completely dewatered in 2009 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection Dam Safety standards. Following completion of these repairs and modifications, refill occurred in 2013 and the Commission resumed annual adult trout stocking to provide immediate angling opportunities. Additionally, the Commission stocked the lake from 2013 through 2020 with select fish species to establish a high-quality, warm-water and cool-water fishery.

Since 2013, Leaser Lake has been managed with Miscellaneous Special Regulations (58 Pa. Code § 65.24) that allow for the harvest of trout under Commonwealth Inland Waters angling regulations, but no harvest of other fish species. The intent of these temporary regulations is to facilitate rapid development of the warm-water and cool-water fish populations in the absence of harvest and, once re-established, the lake would be recommended for removal from the special regulation and moved to one or more of the Commission's existing regulation programs.

The black bass and panfish populations were evaluated from 2016 through 2020 to monitor progress towards development of a high-quality, warm-water and cool-water fishery. Sportfish abundance and population size structure have steadily improved to levels where populations can now sustain limited harvest. As such, it is recommended that Leaser Lake be removed from Miscellaneous Special Regulations in favor of management with the Commission's existing warm-water regulation programs that allow for limited harvest of warm-water and cool-water fish. Upon removal of this regulation, Leaser Lake may be proposed for designation into the Big Bass (58 Pa. Code § 65.9) and/or the Panfish Enhancement (58 Pa. Code § 65.11) programs. Additionally, Leaser Lake may be considered for the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code § 65.19). To facilitate transition of Leaser Lake to the Big Bass, Panfish Enhancement, and/or Stocked Trout Waters Open to Year-round Fishing programs, this water must first be removed from Miscellaneous Special Regulations. All other fish species will be managed with Commonwealth Inland Waters angling regulations (58 Pa. Code § 61.1).

Staff propose the following amendment to 58 Pa. Code § 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>
***	***	***
[Lehigh]	[Leaser Lake]	[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.]
***	***	***

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

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 January 1, 2022.

Action:

FISHERIES DESIGNATIONS

B. Addition of Meadow Grounds Lake, Fulton County, to the Catch and Release Lakes program (58 Pa. Code § 65.17).

Commentary:

Meadow Grounds Lake, a 204-acre impoundment owned by the Commonwealth of Pennsylvania and leased to the Pennsylvania Fish and Boat Commission (Commission) by the Pennsylvania Game Commission for management of the fishery, is located within State Game Lands 53 in Ayr Township, Fulton County, approximately nine miles southwest of the Borough of McConnellsburg. This reservoir was completely dewatered in 2013 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam impounds Roaring Run at river mile (RM) 3.5 upstream from its confluence with Big Cove Creek at RM 7.7. Prior to the drawdown in 2013, the lake offered angling opportunities for multiple warm-water and cool-water fish species. Rehabilitation of the dam and spillway was completed in late 2020, with the reservoir expected to be refilled by late summer 2021, weather permitting.

The Commission plans to initiate stocking the lake beginning early summer 2021, 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 fish community, staff propose to temporarily open the lake to angling under the Catch and Release Lakes program which allows only catch-and-release fishing for all fish species. Staff believe 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 Division 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 Meadow Grounds Lake. Once the fish populations can sustain limited harvest, the lake will be recommended for removal from the Catch and Release Lakes program and inclusion in one or more of the Commission's existing warm-water regulation programs that accommodate appropriate fish harvest while maintaining high-quality recreational angling opportunities.

A notice of proposed designation was published at 51 Pa. B. 1285 (March 6, 2021) (Exhibit G). The open public comment period for this proposal was ongoing when this agenda was finalized; therefore, a final comment summary is not provided here. A summary of all public comments will be communicated during the Commission meeting. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend the Commission add Meadow Grounds Lake, Fulton County, to the Catch and Release Lakes program (58 Pa. Code § 65.17). If approved, the designation will go into effect January 1, 2022.

Action:

C. Addition of Somerset Lake, Somerset County, to the Catch and Release Lakes program (58 Pa. Code § 65.17).

Commentary:

Somerset Lake, a 253-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (Commission), is located in Somerset Township, Somerset County, approximately one mile northeast of the Borough of Somerset. This reservoir was completely dewatered in 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 Branch Coxes Creek at river mile (RM) 4.9 upstream from its confluence with Coxes Creek at RM 6.4. Prior to the drawdown in 2017, the lake offered angling opportunities for multiple warm-water and cool-water fish species. Rehabilitation of the dam and spillway is expected to be complete during fall 2021, with refilling initiated soon after.

The Commission plans to initiate stocking the lake beginning in fall 2021, 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 fish community, staff propose to temporarily open the lake to angling under the Catch and Release Lakes program which allows only catch-and-release fishing for all fish species. Staff believe 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 Division 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 Somerset Lake. Once the fish populations can sustain limited harvest, the lake will be recommended for removal from the Catch and Release Lakes program and inclusion in one or more of the Commission's existing warm-water regulation programs that accommodate appropriate fish harvest while maintaining high-quality recreational angling opportunities.

A notice of proposed designation was published at 51 Pa. B. 1285 (March 6, 2021) (Exhibit G). The open public comment period for this proposal was ongoing when this agenda was finalized; therefore, a final comment summary is not provided here. A summary of all public comments will be communicated during the Commission meeting. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend the Commission add Somerset Lake, Somerset County, to the Catch and Release Lakes program (58 Pa. Code § 65.17). If approved, the designation will go into effect January 1, 2022.

Action:

FISHERIES
PROPOSED RULEMAKING

D. Amendment to 58 Pa. Code § 65.26 (Extended Trout Season).

Commentary:

In the Pennsylvania Fish and Boat Commission's (Commission) *Strategic Plan for the Management of Trout Fisheries in Pennsylvania 2020-2024*, staff identified the Stocked Trout Waters (STW) program as one of the Commission's most popular programs. As such, the Commission must work to improve stocked trout stream angling opportunities and experiences to best meet the preferences of anglers. Most stocked trout streams are not stocked throughout their entire length and many of these streams also have sections that are managed for wild trout. Adding the section limits for stocked trout streams to the Commission's *Fishing Summary/Boating Handbook* (Handbook) will: 1) clearly identify where stocking occurs to increase angler participation, especially for anglers unfamiliar with a stream; 2) provide increased protection to the stream sections managed for wild trout during the extended season; 3) increase angling opportunities for wild trout in sections that are open to year-round fishing; 4) increase angling opportunities downstream of STW sections; and 5) simplify regulations.

Fishing in Stocked Trout Waters (58 Pa. Code § 63.3) states that waters stocked with adult trout by the Commission must be published in the Handbook. However, most STWs listed in the Handbook do not detail the specific stream section that is stocked, but rather list only the stream name. This lack of detail provides inadequate information to anglers fishing these waters. Additionally, STW limits are defined on the Commission's website and the FishBoatPA mobile application. Defining the limits in the Handbook would provide consistent STW information for anglers who use various sources to identify where to fish for stocked trout.

In addition to defining the stocked stream section limits in the Handbook, an amendment to 58 Pa. Code § 65.26 (Extended Trout Season) is necessary to improve trout stream angling opportunities and experiences to best meet the preferences of anglers while providing additional protection to wild trout during the extended season. An amendment to the Extended Trout Season regulation would provide increased protection and additional angling opportunities in stream sections managed for wild trout that are downstream from STWs. Currently, STWs and all waters downstream from STWs have a creel limit of three trout per day from the day after Labor Day until the last day of February and are closed to fishing from March 1st until 8 a.m. on the opening day of trout season. By amending the Extended Trout Season regulation to exclude all waters downstream of a STW, thousands of additional stream miles would be opened to fishing on a year-round basis during the current closed season and harvest of trout would be prohibited during the extended season downstream from STWs.

Staff propose that 58 Pa. Code § 65.26 be amended as follows:

§ 65.26. Extended Trout Season.

* * * * *

- (a) *General rule.* – The extended trout season is in effect from the day after Labor Day until the last day of February of the following year on stocked trout waters [**and all waters downstream of stocked trout waters**]. The creel limit of three trout per day and a minimum size limit of 7 inches apply during this season [(**except Class A wild trout streams where the creel limit is 0 and areas with special regulations.**)].

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend the Commission approve the publication of a notice of proposed rulemaking containing the amendments described in the Commentary. If approved on final rulemaking, the amendment will go into effect January 1, 2022.

Action:

E. Establish trout slot limit programs (All-Tackle Trout Slot Limit and Artificial Lures Only Trout Slot Limit) under 58 Pa. Code Chapter 65.

Commentary:

To address landowner and angler feedback, increase the abundance of large wild Brown Trout in the population, and provide the opportunity to use all tackle types and harvest some trout, a new Miscellaneous Special Regulation (58 Pa. Code § 65.24; slot limit) was established on Penns Creek, Section 03, beginning January 1, 2014. The slot limit regulation allows for year-round fishing, use of all tackle types, and the harvest of two trout per day that are at least seven inches but less than 12 inches in length, from the opening day of trout season through Labor Day, with no harvest permitted the remainder of the year.

Penns Creek, Section 03, provided a unique opportunity to evaluate a new special regulation on a productive limestone stream. The Penns Creek trout population was monitored before and after implementation of the slot limit regulation. Results of the monitoring revealed a substantial increase in the electrofishing catch rates of larger Brown Trout (greater than or equal to 16 inches in length) during the slot limit regulation implementation period (2014-2019). These results suggest that the slot limit regulation likely played an important role in the increased electrofishing catch of large Brown Trout in Section 03. In addition to fishery independent monitoring, staff conducted an angler use, harvest, and opinion survey to evaluate the social aspects of the regulation change and estimate angler harvest in 2019. Results documented low harvest of trout during the survey and high angler support for continuance of the slot limit regulation. Despite low angler harvest under the current slot limit regulation, this regulation provides the opportunity for anglers to harvest intermediate-sized trout if desired, which was an important social consideration when the regulation was originally implemented.

Given the success of the experimental slot limit regulation program on Penns Creek, Section 03, and potential opportunities to utilize this regulation at other suitable wild trout waters in the future, staff recommend that the Commission establish a new special regulation program for trout management titled Trout Slot Limit. The Trout Slot Limit will have two subprograms: All-Tackle Trout Slot Limit and Artificial Lures Only Trout Slot Limit. These subprograms will provide the Commission with the ability to select the most appropriate tackle option to achieve biological and social objectives for each water considered for inclusion in the program and provide an opportunity to evaluate the effects of different terminal tackle types.

Staff propose that the new sections be defined as follows:

§ 65.4c. All-Tackle Trout Slot Limit.

(a) The Executive Director, with the approval of the Commission, may designate waters as all-tackle trout slot limit. The designation of waters as all-tackle trout slot limit shall be effective when the waters are so posted after publication of a notice of such designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in designated and posted all-tackle trout slot limit areas except in compliance with the following requirements.

(1) Open to fishing year-round.

(2) All tackle types are permitted.

(3) From 8 a.m. on the opening day of trout season through Labor Day, the daily creel limit of trout is 2 (combined species). Trout must be at least 7 inches but less than 12 inches in length to be killed or possessed.

(4) From the day after Labor Day until 8 a.m. on the opening day of trout season, no trout may be killed or possessed.

(5) A current trout permit is required.

(c) This section applies to trout only. Inland regulations apply to all other species.

§ 65.4d. Artificial Lures Only Trout Slot Limit.

(a) The Executive Director, with the approval of the Commission, may designate waters as artificial lures only trout slot limit. The designation of waters as artificial lures only trout slot limit shall be effective when the waters are so posted after publication of a notice of such designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in designated and posted artificial lures only trout slot limit areas except in compliance with the following requirements.

(1) Open to fishing year-round.

(2) Fishing may be done with artificial lures only; constructed of metal, plastic, rubber, or wood; or with flies and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly-fishing gear. Use or possession of other lures or substances is prohibited.

(3) From 8 a.m. on the opening day of trout season through Labor Day, the daily creel limit of trout is 2 (combined species). Trout must be at least 7 inches but less than 12 inches in length to be killed or possessed.

(4) From the day after Labor Day until 8 a.m. on the opening day of trout season, no trout may be killed or possessed.

(5) Taking of baitfish or fishbait is prohibited.

(6) A current trout permit is required.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler

floats through the artificial lures only trout slot limit area without stopping or engaging in the act of fishing or the boat angler puts in or takes out his boat at an access point within the artificial lures only trout slot limit area.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

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

Action:

FISHERIES DESIGNATIONS

F. Proposed changes to the 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 Pennsylvania Fish and Boat Commission's (Commission) 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 Trout and Brown Trout, wild Rainbow Trout, mixed wild Brook Trout and Rainbow Trout, and mixed wild Brown Trout and Rainbow Trout populations.

Staff recommend the addition of 28 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 and subsequent data review. Exhibit H provides information on the locations and a data summary for each of these waters.

A notice of proposed designations was published at 51 Pa. B. 755 (February 6, 2021) (Exhibit I). The Commission received a total of 177 public comments regarding the proposed designations: all support the proposed designations. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add 28 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:

G. 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 (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 22 new waters to the Commission's list of wild trout streams and revision to the section limits of three waters currently listed. 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. 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 51 Pa. B. 753 (February 6, 2021) (Exhibit K). The Commission received a total of 177 public comments regarding the proposed designations: 176 support the proposed designations and one comment supports the proposed designation of a specific water. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add 22 new waters to the Commission's list of wild trout streams and revise the section limits of three waters currently listed as set forth in the notice of proposed designations. If approved, these additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

**LAW ENFORCEMENT
PROPOSED RULEMAKING**

A. Amendments to 58 Pa. Code § 63.10 Ice Fishing and § 63.6 Authorized Devices for Game Fish, Baitfish, and Fishbait.

Commentary:

Over the past two ice fishing seasons, anglers have asked the Pennsylvania Fish and Boat Commission (Commission) whether devices such as the JawJacker, Automatic Fisherman, Easy Set Hooksetter, Sure Shot Hooksetter, and Bro Craft Ice Fishing Tip-up are legal devices for use upon Commonwealth waters. These devices consist of a rodholder, which allows anglers to put a bend in the fishing rod and pre-load it with the aid of a triggering device. When a fish takes the lure or bait, tension on the fishing line causes the trigger mechanism to release the rod which, being pre-loaded, automatically sets the hook without additional assistance by the angler. The angler is then free to fight the fish with a normal fishing rod and reel. In addition to commercially made devices, there are many do-it-yourself versions of these devices which can be found online and fabricated at home. As the hookset is rapid, fish are typically hooked in the lip or jaw and not deeply, thereby improving fish survival if intended for release.

Current interpretation of “immediate control” under § 63.6 suggests that the angler must set the hook and that no mechanical device could be substituted. This interpretation has carried over to other regulations, unless specifically mentioned in those regulations. Thus, the regulations found in § 63.10 Ice Fishing also make it unlawful to utilize such mechanical devices to set the hook.

Staff from the Bureaus of Law Enforcement and Fisheries have conferred and support a clarification of regulations which would permit these ice fishing hook setting devices to be legally used.

Staff propose that 58 Pa. Code §§ 63.6 and 63.10 be amended as follows:

* * * * *

§ 63.6. Authorized Devices for Game Fish, Bait Fish, and Fish Bait.

- (a) It is unlawful to fish for game fish with more than three lines of any description, whether fished by rod or by hand, at one time except while ice fishing in accordance with §63.10 (relating to ice fishing). There is not a restriction on the number of hooks used for fishing for game fish, except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing. Rods, lines, and hooks shall be under the immediate control of the person using them. **[A fishing device shall be deemed to be under the immediate control of the person using it if, when the terminal device (hook, bait, or lure) is taken by a fish, the person using the device has direct control over it and it is not connected at that point to a casting or depth placement aid such as a casting**

boat or downrigger. Casting or depth placement aids such as downriggers or small remote controlled boats are not prohibited by this chapter.] For purposes of this chapter, an authorized device shall be deemed under the immediate control of a person if it is within reasonable reach and can be adjusted, manipulated, or brought to hand quickly and the person is nearby. Downriggers, planer boards, depth control devices, pre-loaded rod holders, and/or hook setting devices are authorized devices. Drones and other remote controlled devices are not authorized.

* * * * *

§ 63.10. Ice Fishing.

* * * * *

- (b) It is unlawful while ice fishing to use more than five **authorized** fishing devices[,]. **Authorized fishing devices include [which may consist of] rods, hand lines, tip ups, rod holders that provide for a loaded rod and/or a triggering device (with or without mechanically induced jigging motion),** or any combination thereof. Each device shall contain a single fishing line. There is not a restriction on the number of hooks that may be used for ice fishing, except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing.
- (c) **[All rods, lines and tip-ups used by persons engaged in ice fishing shall be under the immediate control of the person using the same.**
- (d) It is unlawful to fish through holes in the ice that measure more than 10 inches between the farthest points as measured in any direction.

Briefer:

Colonel Clyde Warner, Director, Bureau of Law Enforcement

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:

Other New Business

Time and Place of July 2021 Commission Meeting

Adjournment