



PRESS RELEASE

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DEP, DCNR AND PFBC FILE SUIT TO CLARIFY PUBLIC ACCESS TO THE LITTLE JUNIATA RIVER IN HUNTINGDON COUNTY

Case Would Settle a Dispute Over Public Ownership of the River

HARRISBURG (June 11, 2003) - The Department of Environmental Protection (DEP), the Department of Conservation and Natural Resources (DCNR) and the Pennsylvania Fish and Boat Commission (PFBC) today filed suit in Huntingdon County Common Pleas Court to clarify the public's right to fish, boat and recreate on a 1.3-mile section of the Little Juniata River. The agencies believe the Little Juniata River should be open to the public for fishing, boating and other recreation.

The Commonwealth's complaint alleges that since early 2000, Donald Beaver, one of the defendants in case, has been operating various exclusive fly fishing services on the Little Juniata River at and below its confluence with Spruce Creek in Huntingdon County, and that Beaver and his employees have excluded the public from the river, posting "no trespassing" signs and erecting cables across the waterway at both the upper and lower ends of the stretch. According to the complaint, Beaver has a contractual arrangement with Connie Espy to use property she owns adjacent the river on the eastern side. Espy also is named as a defendant.

The agencies' complaint asks the court to enjoin Beaver and his employees and other defendants from interfering with the public's right to use the 1.3-mile section of the Little Juniata River and confirm the long-standing position of the agencies that the Little Juniata is a navigable water of the Commonwealth, held in trust by the state for the benefit of the public.

"The public is being denied an opportunity to enjoy one of the countless natural resources that this state is obligated to protect on behalf of its 13 million residents. There is no legal basis for any individual to be excluded from the lawful use of this stretch of the Little Juniata River," DEP Secretary Kathleen A. McGinty said. "This case is about protecting the rights of the public to use and enjoy what rightfully belongs to them."

DCNR Secretary Michael DiBerardinis noted outdoor recreation brings billions of dollars to Pennsylvania's economy each year. A survey based on 1997 travel indicated nearly one-fifth of Pennsylvania's tourists are traveling primarily for outdoor recreation activities such as sightseeing, camping or hiking. Direct expenditures for that travel were \$4.03 billion, or 33 percent of the state's leisure travel spending.

"Our rivers, streams, forests and parks offer prized outdoor recreation opportunities for both travelers and local residents," Secretary DiBerardinis said. "The Commonwealth has a constitutional responsibility to ensure the public resources stay available to the public. Limiting lawful access to a river is no different than someone blocking access to one of our state parks or forests."

DCNR's Rothrock State Forest, which straddles the Little Juniata River below the Espy property, provides several miles of public access to the Little Juniata River for fishing and boating.

"I have fished the Little Juniata many times, so I can tell you first hand what a tremendous trout water it is. I always considered the Little Juniata to be public water, so I am glad to see the state take action that makes it clear that Pennsylvania's anglers and boaters still have the right to enjoy one of the state's true natural treasures," said Pennsylvania Fish and Boat Commissioner Rozell Stidd of Huntingdon. Stidd represents the Commission's Fourth District.

In March 2002, DEP informed Beaver in writing of the state's claim of ownership of the Little Juniata River bed, and invited him to provide information supporting his claim of private ownership. Beaver instead appealed the notification to the Environmental Hearing Board (EHB), which dismissed his appeal in September 2002 for lack of jurisdiction.

Beaver has not taken further legal action to formally clarify the legal status of the Little Juniata River, nor has he provided the Commonwealth with any information or documentation supporting his claims of private ownership. The dispute remains unresolved, and DEP, DCNR and PFBC continue to receive complaints from the public about efforts to exclude them from this section of the river.

"The state and the taxpayers of Pennsylvania restored this water to what it is today. It should be public, it belongs to the public and they have a right to it," said local businessman Allan Bright, owner of Spruce Creek Outfitters.

According to Pennsylvania Federation of Sportsmen's Clubs Executive Director Melody Zullinger: "The Federation led the court fight to protect public fishing rights on the Lehigh River, and we strongly support the state's action to settle, once and for all, the rights of the public to fish and boat in the Little Juniata River. Pennsylvania sportsmen applaud the Commonwealth's efforts to make it clear that the Little Juniata River should be open to free public fishing and boating."

State ownership is based upon the historical navigability of the Little Juniata River. The Commonwealth agencies believe there is ample evidence of the use of the Little Juniata to transport goods downriver in the late 1700s and early 1800s. Additionally, there are three statutory public highway designations for the Little Juniata dating back to 1794, 1808 and 1822.
