

## Early Ruling in Little Juniata Case Favors DEP, DCNR and PFBC

The Department of Environmental Protection (DEP), the Department of Conservation and Natural Resources (DCNR), and the Pennsylvania Fish & Boat Commission (PFBC) scored an early victory in a landmark case that now moves forward to settle a dispute over the public's right to fish, boat and recreate on a 1.3-mile section of the Little Juniata River.

Huntingdon County Common Pleas Court issued an order January 13, 2004, denying preliminary objections by defendants attempting to have the Commonwealth's case dismissed. The

state's case asserts that the Little Juniata should be open to the public for fishing, boating and other recreation. The defendants seek to restrict public access to the river.

"The court's decision allows the Commonwealth to move ahead and demonstrate that 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 McGinty said.

"Making sure residents have access to public resources is a constitutional responsibility inherent in our efforts to

protect our rivers, streams, forests and state parks," DCNR Secretary Michael DiBerardinis said.

"Pennsylvania's anglers and boaters should watch with interest as this case could reaffirm their rights to enjoy the state's truest natural treasures," said PFBC Deputy Executive Director and Chief Counsel Dennis T. Guise.

The Commonwealth's complaint, filed in June, alleges that Donald Beaver, one of the defendants in the 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 to the river on the eastern side. Espy is also named as a defendant.

The state agencies' complaint asks the court to enjoin Beaver, 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.

State ownership is based on 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 declarations for the Little Juniata dating back to 1794, 1808 and 1822.

The court's decision to deny the preliminary objections is not a final decision on the case. The legal status of this stream remains in dispute, and anglers, boaters and other users should be mindful that this matter is not yet resolved.

### Trout Stuffed with Mushrooms and Spinach *by Wayne Phillips*



photo-Wayne Phillips

**It's difficult to top rainbow trout as table fare, especially when you stuff them with mushrooms and spinach.**

#### Ingredients

(for four servings)

**Four pan-sized rainbow trout**

**For the stuffing:**

- ✓ 2 cups mushrooms, diced
- ✓ 1 small onion, diced
- ✓ 2 cloves garlic, finely minced
- ✓ (1) 10-ounce package frozen spinach, thawed and drained
- ✓ 4-8 Tbsp. butter
- ✓ Salt and pepper

#### Procedure

Over medium heat, sauté the mushrooms, onion and garlic in butter until soft. Add spinach and

continue sautéing until ingredients have given up nearly all of their moisture. Season with salt and pepper. Allow mixture to cool. Pat inside of trout dry and season with salt and pepper. Place vegetable mixture inside the trout. Cook trout in butter on top of the stove or bake in the oven.

#### Serve

Serve rainbow trout with simple side dishes. Mashed potatoes with a steamed vegetable like broccoli, asparagus or cauliflower are perfect. If you prefer using fresh spinach, substitute it for the frozen spinach. Wash fresh spinach carefully. You will need to cook the fresh spinach longer to get rid of the moisture.