

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

MINUTES

151st Meeting

Volume 74

HARRISBURG, PENNSYLVANIA

January 23, 2023

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 151st Meeting of the Pennsylvania Fish and Boat Commission was held on Monday, January 23 at the Pennsylvania Fish and Boat Commission headquarters, 1601 Elmerton Avenue, Harrisburg, PA 17110.

The public session for review of this agenda began on January 23, 2023, at approximately 1:45 p.m.

Call to Order

This meeting was called to order by the Commission President Robert B.J. Small and was followed by the Pledge of Allegiance.

Roll Call

Robert B.J. Small, President
William J. Gibney, Vice President
Donald K. Anderson
William C. Brock
Eric C. Hussar
Richard S. Kauffman
Richard Lewis
John E. Mahn, Jr.
Daniel J. Pastore

Public Comments to Commissioners and Staff

Dave Rothrock, Trout Policy Committee Chair for PATU (PA Chapter of Trout Unlimited) commented on the Commission's Chapter 71a proposed rule and is in support of better fisheries management, although concerned with the removal of all stocking authorization language. He encourages the Commission to move forward and adopt language similar to surrounding states for effective management.

Staff and Partner Recognition

The Commission recognized Mike Swartz with the Friends of Reservoirs Award for his continued effort to improve the habitat of Pennsylvania's Lakes and Reservoirs.

Sharon Meyers, the Executive Director of the Pennsylvania Farm Show awarded the Commission the Best Hospitality Award for its booth's fresh look, engagement of staff, and the willingness to educate people.

The Commission recognized Michelle Patel-Connelly from the Wildlife Leadership Academy for being an inspiration for the next generation of conservation leaders.

Review and Approval of Minutes from the October 24, 2022 Meeting

A motion was made by Commissioner Hussar and seconded by Commissioner Brock to approve the October 24, 2022 minutes as written. Motion carried by unanimous vote.

Executive Director's Report

Executive Director Timothy Schaeffer discussed numerous programs and projects staff are currently focused on.

Reports of Commissioner Committees

Boating Committee (Commissioner Mahn)

The Boating Committee met on January 23, 2023 in person, to discuss updates to §§ 93.1, 93.3, and 93.5.

Fisheries and Hatcheries (Commissioner Lewis)

The Fisheries and Hatcheries Committee met on January 4, 2023, both in-person and virtually, to discuss aquatic invasive species prevention, fish health, stocking fish in waters of the Commonwealth, as well as the Unassessed Waters Initiative, the Three Rivers Blue Catfish Restoration Plan, and the Strategic Plan for Management of Trout Fisheries in Pennsylvania: 2020-2024.

Announcement of Executive Session

Commission President Robert B.J. Small announced that an executive session was held on December 20, 2022 at approximately 8:00 a.m. to discuss personnel matters and on January 23, 2023 at approximately 7:30 a.m. to discuss personnel matters, real estate matters, and pending litigation.

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

A. Property Acquisition along the Allegheny River, Hickory Township, Forest County.

Commentary:

In April 1973, the Pennsylvania Fish and Boat Commission (Commission) entered into a 30-year agreement with the Pennsylvania Department of Transportation (PennDOT) to allow the Commission to develop, maintain, and operate a public fishing and boating access area on PennDOT property, known as the West Hickory Access. The property is located on the Allegheny River, seven miles north of Tionesta at the junction of Routes 62 and 127, in Hickory Township, Forest County, as shown on Exhibit A (Location Map). In April 2006, PennDOT terminated the agreement and took over management of the site to facilitate the replacement of the State Route 127 bridge over the Allegheny River. With the bridge replacement project being complete, PennDOT has offered to transfer the property to the Commission, as shown on Exhibit B (Site Map).

This is a very well-known and heavily used access area on the Allegheny River Trail. If acquired, it will provide Commission-managed access to the Allegheny River for fishing and boating. Additionally, it will allow Commission staff to utilize the property as a training location for mussel identification workshops due to the significant mussel populations that reside in this portion of the Allegheny River.

To facilitate the transfer, PennDOT has offered to enter into an interagency agreement for the interdepartmental land transfer to the Commission of a +/- 3-acre parcel of land containing a paved access drive, paved parking area, concrete boat launch ramp, and informational signage. With the transfer, the Commission will have control and jurisdiction of the property. The acquisition will be contingent upon staff performing the necessary due diligence and addressing any issues that may arise from that process. PennDOT has also agreed to remove improvements, such as the pavilion and picnic tables prior to the Commission taking ownership.

Briefer:

Mackenzie Hogan, Chief of Real Estate, Property Services Section

Recommendation:

Staff recommend that the Commission authorize the acquisition of the +/-3-acre parcel along the Allegheny River, Hickory Township, Forest County, as more particularly described in the Commentary.

Action:

A motion was made by Commissioner Mahn and seconded by Commissioner Anderson to authorize the acquisition of the +/-3-acre parcel along the Allegheny River, Hickory Township, Forest County, as more particularly described in the Commentary. Motion carried by unanimous vote.

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

B. Lease of Damascus Access, Damascus Township, Wayne County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) owns a +/- 1.05-acre property which includes a public fishing and boating access area in Damascus Township, Wayne County, known as Damascus Access. The Damascus Access is located on the western side of the Delaware River in the village of Damascus as depicted on Exhibit C (Location Map). This property was acquired in 1968.

During development of the Damascus Access, a septic tank belonging to a neighboring property was discovered on Commission property. Commission records show that staff may have been informed by the neighboring property owner (Liss) during construction that a 100-year lease had been established with a prior owner of the property. A copy of the lease cannot be located for review, but according to information available today, the intent of the lease was to allow for inspection and maintenance of the septic tank. As a result of the previous lease and the ongoing need to maintain the septic system, the Commission and Liss wish to enter into a 25-year lease agreement to allow for future inspections and maintenance of the septic tank.

The Commission and Liss have agreed to lease approximately 500-square feet of the property where the septic tank and drain field are located for maintenance and inspection purposes, as depicted on Exhibit D (Site Map). Commission staff have evaluated the request and determined that it is in the best interest of both parties. Staff will adhere to the Commission's standard practices for leasing property.

Briefer:

Mackenzie Hogan, Chief of Real Estate, Property Services Section

Recommendation:

Staff recommend that the Commission authorize the leasing of a portion of the property located at the Damascus Access to the neighboring property owner (Liss) as more particularly described in the Commentary.

Action:

A motion was made by Commissioner Gibney and seconded by Commissioner Anderson to authorize the leasing of a portion of the property located at the Damascus Access to the neighboring property owner (Liss) as more particularly described in the Commentary. Motion carried by unanimous vote.

BOATING PROPOSED RULEMAKING

A. Amendments to 58 Pa. Code § 93.1 (Registration) and § 93.5 (Display of registration number and validation decal).

Commentary:

Act 28 of 2022 (Act 28), signed into law on June 27, 2022, amended section 5308 of Title 30 (Fish) of the Pennsylvania Consolidated Statutes, relating to registration and titling of boats. Act 28 establishes a calendar-year boat registration cycle that is valid from January 1 through December 31.

Act 28 requires the Pennsylvania Fish and Boat Commission (Commission) to promulgate final regulations to implement the amendments and publish them in the *Pennsylvania Bulletin* within 18 months of the effective date of the Act. Commission staff have identified two relevant sections of Title 58 Pa. Code that require amendments to be consistent with the Act.

Staff propose the following changes to 58 Pa. Code § 93.1 and § 93.5:

§ 93.1. Registration.

(a) With the exception of a “Manufacturer/Dealer/Jobber” registration certificate, which is valid for 1 year, and a “State Owned” registration certificate, which is valid until the removal of the property from inventory, all other boat registration certificates issued under this chapter are valid for a period not exceeding 2 years. The Commission will not issue 1-year registration certificates except to “Manufacturer/Dealer/Jobbers.” The registration period expires on **[March] December** 31 of the second year following issuance.

* * * * *

§ 93.5. Display of registration number and validation decal.

* * * * *

(b) A set of two color-coded validation decals will be issued for display with each registration number. The decal shall be displayed within 6 inches of the registration number and on a level with the number. The decals shall be approximately 3 inches by 3 inches and color-coded to indicate the registration period. Registration numbers and validation decals shall be displayed in the following manner: PA 12 AM or PA 12 AM. A validation decal may be displayed prior to **[April] January** 1 of the period for which it is issued.

* * * * *

On December 5, 2022, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendments.

Briefer:

Laurel L. Anders, Director, Bureau of Boating

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 Lewis and seconded by Commissioner Kauffman 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 by unanimous vote.

BOATING

PROPOSED RULEMAKING

B. Amendment to 58 Pa. Code § 93.3 (Application for boat registration).

Commentary:

Pennsylvania Fish and Boat Commission (Commission) regulations indicate the required documentation to support an application for boat registration. For boats previously registered, the Commission requires the last registered owner to sign the REV-336, *Application for Pennsylvania Boat Registration and/or Boat Title*. A bill of sale, signed by the last registered owner, may be substituted for the required signature on the REV-336. The Commission finds that a certificate of registration (also known as a boat registration card), signed by the last registered owner, is also sufficient documentation of ownership and consent to transfer registration to the purchaser of the boat. The addition of this documentation to Commission regulations is intended to simplify the boat registration process and provide better customer service.

Staff propose the following change to § 93.3:

§ 93.3. Application for boat registration.

* * * * *

(c) *Previously registered boats*. Application for a certificate of registration for a boat previously registered in this Commonwealth shall conform with the following:

- (1) Form REV-336 shall be completed by the purchaser and seller and signed by the last registered owner.
- (2) A bill of sale **or certificate of registration**, signed by the last registered owner, may be substituted for the required signature on REV-336.

* * * * *

On December 5, 2022, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendment.

Briefer:

Laurel L. Anders, Director, Bureau of Boating

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the amendment described in the Commentary. If adopted on final

rulemaking, this amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

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

FISHERIES
FINAL RULEMAKING

A. Amendment to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations): Add Sheppard-Meyers Reservoir, York County.

Commentary:

Sheppard-Meyers Reservoir, a 47-acre impoundment owned by the Borough of Hanover, is located in West Manheim Township, York County, approximately four miles south from the Borough of Hanover. This reservoir was completely dewatered during spring 2020 to upgrade the dam and spillway structures per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam, constructed in 1932, impounds the South Branch Conewago Creek at river mile (RM) 19.6 upstream from its confluence with Conewago Creek at RM 51.6. Prior to the drawdown in 2020, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Pennsylvania Fish and Boat Commission (Commission). Rehabilitation of the dam and spillway was completed in late 2022 with the reservoir expected to be refilled by spring 2023.

The Commission plans to initiate stocking the lake beginning in 2023 with fingerling plants of select fish species to establish a high-quality, warm-water and cool-water fishery. Immediately upon refilling 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 regulations (58 Pa. Code § 61.1) but allow only catch-and-release fishing for all other 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 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 opportunities at Sheppard-Meyers Reservoir. Once the warm-water fishery is re-established, 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 that 58 Pa. Code § 65.24 be amended as follows:

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * * * *		
<u>York</u>	<u>Sheppard-Meyers Reservoir</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.</u> <u>Trout—inland regulations apply. See § 61.1 (relating to Commonwealth inland waters).</u> <u>This miscellaneous special regulation will remain in effect until further notice.</u>
* * * * *		

A notice of proposed rulemaking was published at 52 Pa.B. 7388 (December 3, 2022) (Exhibit E). The Commission did not receive any public comments regarding the proposed rulemaking.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

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

Action:

A motion was made by Commissioner Mahn and seconded by Commissioner Gibney to adopt the amendment as set forth in the notice of proposed rulemaking. If adopted on final rulemaking, this amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried by unanimous vote.

FISHERIES DESIGNATIONS

A. Proposed changes to the list of Class A wild trout streams (58 Pa. Code § 57.8a).

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 16 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 F provides information on the locations and a data summary for each of these waters.

A notice of proposed designations was published at 52 Pa.B. 7232 (November 19, 2022) (Exhibit G). The Commission received a total of 74 public comments regarding the proposed designation: 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 16 stream sections to its Class A wild trout streams list 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:

A motion was made by Commissioner Brock and seconded by Commissioner Hussar to add 16 stream sections to its Class A wild trout streams list 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*. Motion carried by unanimous vote.

FISHERIES DESIGNATIONS

B. Classification of wild trout streams (58 Pa. Code § 57.11): Proposed additions and revisions.

Commentary:

The Pennsylvania 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 Pennsylvania 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 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 five new waters to the Commission's list of wild trout streams and the revision of the section limits of five waters currently listed. These changes are the result of recent surveys conducted on these waters. Exhibit H provides information on the locations and a data summary for each of these waters. Surveying unassessed waters and documenting wild trout populations are consistent with the Commission's Strategic Plan for Management of Trout Fisheries in Pennsylvania, the statewide Strategic Plan, and the agency's Resource First philosophy.

A notice of proposed designations was published at 52 Pa.B. 7231 (November 19, 2022) (Exhibit I). The Commission received a total of 74 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 five new waters to the Commission's list of wild trout streams and revise the section limits of five 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:

A motion was made by Commissioner Brock and seconded by Commissioner Kauffman to add five new waters to the Commission's list of wild trout streams and revise the section limits of five 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*. Motion carried by unanimous vote.

FISHERIES OTHER MATTERS

A. Proposed exemptions to 58 Pa. Code § 57.8a (Class A wild trout streams) to allow for the continued stocking of trout at three Class A stream sections.

Commentary:

On September 30, 2014 (effective January 1, 2015), the Statement of Policy at 58 Pa. Code § 57.8a (Class A wild trout streams) was amended to require the Executive Director to obtain approval from the Pennsylvania Fish and Boat Commission (Commission) prior to granting permission to stock a Class A wild trout stream section. Following the update to 58 Pa. Code § 57.8a, staff developed internal decision-making criteria to allow continued Commission stocking of a limited number of Class A wild trout stream sections. Subsequently, 13 stream sections that support strong Class A wild Brown Trout populations were officially designated as Class A wild trout streams during the 2015-2017 timeframe following updated wild trout surveys, and stocking was continued. All stream sections where stocking was continued are heavily fished waters, most located in high-density human population centers, of a size and character that can support a fishery featuring both stocked and wild trout components.

Historically, there have been very few streams where stocking of trout following Class A designation was considered and warranted; however, there are rare cases where a stocking exemption should be considered. To account for these rare circumstances, staff developed additional decision-making criteria to consider internal and external requests for continued stocking of newly designated Class A wild trout streams. These criteria provide staff direction to guide decisions when unusual situations arise but do not automatically result in continued stocking when criteria are met, as most Class A stream sections are best managed solely for wild trout with no stocking. They offer a mechanism for transparent, timely, and consistent consideration of requests to continue the stocking of newly designated Class A wild trout streams. These criteria, listed below, are detailed in the *Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters, 5th Edition* available at www.fishandboat.com. No exemptions will be granted for streams where a component of the wild trout fishery is comprised of wild Brook Trout.

1. Pre-existing youth fishing derbies and special use areas that were properly permitted by the Commission and have a history of more than one past occurrence.
2. Pre-existing private stockings on private property on recently designated (i.e., within one year of posting in the *Pennsylvania Bulletin*) Class A stream sections that have been closed to public angling at the time of Class A designation and at least since 2010. Historic stockings need to be verifiable by documentation, stocking records, and have a history of more than one past occurrence.

3. Stream sections stocked by the Commission, a cooperative nursery, and/or a private group or individual the year prior to Class A designation, have a history of more than one past occurrence, and meet the following sub-criteria.
 - a) The stream section was stocked with adult trout during the year immediately prior to its designation as a Class A wild trout stream.
 - b) Angler use (anglers/mile of stream) in the stream section equals or exceeds the statewide 50th percentile of angler use for the opening weekend of trout season as documented by Commission staff, or the stream section is a special regulation area under 58 Pa. Code Chapter 65 (relating to special fishing regulations) that was stocked by the Commission the year immediately prior to its designation as a Class A wild trout stream.
 - c) The trout species to be stocked are not the same species as the primary component of the wild trout population.
 - d) The stocking numbers and frequency will not exceed those of the year prior to the Class A designation.
 - e) Stream sections where a component of the wild trout population is comprised of wild Brook Trout will not be considered for stocking.
 - f) Prior to implementing a decision to stock a Class A wild trout stream, the Executive Director will obtain the approval of the Commission.

4. Previously received an exemption or a Special Activities Permit from the Commission between 2010 and the present to allow for continued stocking of a Class A wild trout stream section. If the exemption was time-limited and not renewed before expiration, it will be considered a new request and a determination will be made according to other exemption criteria.

Exemptions to the prohibition of stocking hatchery trout into Class A wild trout stream sections will be granted only under rare circumstances. Consideration is only given to requests for continued stocking in stream sections within one year of the section being designated as Class A and posted in the *Pennsylvania Bulletin*. However, entities that previously received an exemption or a Special Activities Permit from the Commission between 2010 and the effective date (April 3, 2021) of the amendment to the statement of policy at 58 Pa. Code § 57.8a (Class A wild trout streams) adopted at the January 2021 quarterly Commission meeting and published at 51 Pa.B. 1828 will be eligible for consideration

Should an exemption be granted, the Commission will determine the species of trout, number of trout, and frequency of stocking consistent with stocking strategies and historical stocking rates of the stream section to minimize impacts to the Class A wild trout population. All stocking provisions will be communicated in writing by the Commission to the entity receiving the exemption for continued stocking on Class A designated waters. Stocking exemptions will be valid for no more than five years at which time the need for continuance may be evaluated.

Commission staff have identified three potential exemptions to 58 Pa. Code § 57.8a (Class A wild trout streams) that meet the criteria to consider the continuance of trout

stocking at three Class A stream sections. It should be noted that the Executive Director previously obtained approval from the Board to continue Commission stockings at two of these stream sections (Little Lehigh Creek, sections 04 and 07) in 2015; however, this request is specific to the continuance of stocking by private entities and not the annual Commission stockings. The general exemption classification, stream name, stream section, and county are listed below.

Young fishing derbies

- Salt Run (Section 02), Cameron County

Prior history of stocking and meets the sub-criteria outlined under criterion 3 above

- Little Lehigh Creek (Section 04), Lehigh County
- Little Lehigh Creek (Section 07), Lehigh County

A notice of proposed exemptions was published at 52 Pa.B. 7572 (December 10, 2022) (Exhibit J). The Commission received a total of 12 public comments regarding the proposal: three oppose the proposed exemptions and nine oppose the proposed exemption 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 approve three exemptions to 58 Pa. Code § 57.8a (Class A wild trout streams) to allow for the continued stocking of trout at three Class A stream sections as described in the Commentary.

Action:

A motion was made by Commissioner Anderson and seconded by Commissioner Mahn to approve three exemptions to 58 Pa. Code § 57.8a (Class A wild trout streams) to allow for the continued stocking of trout at three Class A stream sections as described in the Commentary. Motion carried with one opposition (Commissioner Hussar).

FISHERIES
OTHER MATTERS

B. Fish Passage and Habitat Restoration Grant to the Pennsylvania Department of Conservation and Natural Resources for the removal of Spring Garden Dam on Neshaminy Creek, Bucks County.

Commentary:

At its October 2004 meeting, the Pennsylvania Fish and Boat Commission (Commission) established the statewide Consultation and Grant Program for Fish Passage and Habitat Restoration. The purpose of this grant program is to provide a mechanism for the Commission to pass federal, state, and other funding, as it becomes available, to dam owners throughout Pennsylvania who agree to provide fish passage and habitat restoration at their dams. The Commission authorized the Executive Director to approve individual pass-through grants up to and including \$100,000 to each dam owner and their designees for dam removal, fish passage, and habitat restoration projects statewide. For individual pass-through grants exceeding \$100,000, staff will seek separate Commission approval.

The Commission will receive \$750,000 from the National Fish and Wildlife Foundation's Delaware Watershed Conservation Fund for the removal of the Spring Garden Dam on Neshaminy Creek in Bucks County as it flows through Tyler State Park in Bucks County. In addition to this funding, the Pennsylvania Department of Conservation and Natural Resources (DCNR) is contributing \$500,000 towards the project, as well as in-kind services valued at \$50,000. Spring Garden Dam and Tyler State Park are owned and operated by the DCNR. Spring Garden Dam is a concrete run-of-river structure that is a barrier to aquatic organism passage for migratory and resident fishes and is also a substantial safety hazard to canoeists and kayakers who paddle this portion of Neshaminy Creek.

Staff propose to provide a pass-through grant of up to \$750,000 to the DCNR to administer and manage the removal of Spring Garden Dam. Division of Habitat Management staff will administer the funds on behalf of the Commission and will continue to provide technical assistance and coordination of the overall project.

Briefer:

Tyler F. Neimond, Chief, Division of Habitat Management

Recommendation:

Staff recommend that the Commission authorize a grant not to exceed \$750,000 to the Pennsylvania Department of Conservation and Natural Resources for the removal of Spring Garden Dam as described in the Commentary.

Action:

A motion was made by Commissioner Kauffman and seconded by Commissioner Lewis to authorize a grant not to exceed \$750,000 to the Pennsylvania Department of

Conservation and Natural Resources for the removal of Spring Garden Dam as described in the Commentary. Motion carried by unanimous vote.

HATCHERIES OTHER MATTERS

A. Cooperative Nursery Grant Program: Grant to the Potter County Anglers Club, Potter County.

Commentary:

At its October 2021 Commission Meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the removal of the annual funding limit for the Cooperative Nursery Grant Program and authorized the Executive Director to establish an annual funding level for the grant program that is based on the projected need of the program in conjunction with the annual budgeting process used to address all other agency priorities. The Commission authorized the Executive Director to approve individual grants of \$25,000 or less per cooperative nursery, per year. For grants in excess of \$25,000, staff will seek separate Commission approval.

The Potter County Anglers Club cooperative nursery stocks approximately 28,000 trout in Cameron, Elk, and Potter Counties, including the Genesee River drainage, which is located in the Great Lakes basin. As such, there are Great Lakes Fish Health Committee protocols that must be followed. To adhere to these protocols, improvements to the spring water source at the nursery are required. These include narrowing of the spring pond, spring pond bank stabilization, and enclosing the spring pond to prevent disease vectors from entering. Additionally, an updated and energy efficient aeration system is needed to maintain the daily trout rearing operation at the nursery. This will include the installation of a new blower motor, pipes, tubing, and air stones throughout the nursery. The Potter County Anglers Club is requesting \$65,500 to complete these projects.

Briefer:

Brian C. Niewinski, Chief, Division of Fish Production Services

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$65,500 to the Potter County Anglers Club, Potter County, as described in the Commentary.

Action:

A motion was made by Commissioner Brock and seconded by Commissioner Gibney to approve a grant not to exceed \$65,500 to the Potter County Anglers Club, Potter County, as described in the Commentary. Motion carried with one opposition (Commissioner Hussar), and one abstention (Commissioner Anderson).

Other New Business

Time and Place of April 2023 Commission Meeting

Announcement of the April 23-24, 2023 quarterly Commission Meeting in Harrisburg, PA at 10:00 a.m.

Adjournment

A motion was made by Commissioner Kauffman and seconded by Commissioner Anderson to adjourn the meeting at 2:54 p.m. Motion carried by unanimous vote.