

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 868 Session of
1999

INTRODUCED BY S. H. SMITH, TANGRETTI, HERSHEY, ARGALL, CAWLEY,
GEIST, GEORGE, HALUSKA, HENNESSEY, HERMAN, LAUGHLIN, LEH,
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TIGUE, TRELLO, YOUNGBLOOD, LEVDANSKY, STEELMAN, RAMOS, MAHER,
COLAFELLA, LESCOVITZ, FARGO AND DeWEESE, MARCH 10, 1999

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, DECEMBER 7, 1999

AN ACT

1 ~~Providing immunity for certain persons who reclaim certain~~ <—
2 ~~abandoned lands or abate certain water pollution.~~

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4 AMENDING TITLE 27 (ENVIRONMENTAL RESOURCES) OF THE PENNSYLVANIA <—

5 CONSOLIDATED STATUTES, PROVIDING FOR WATERSHED PROTECTION AND

6 ENVIRONMENTAL STEWARDSHIP; ESTABLISHING THE ENVIRONMENTAL

7 STEWARDSHIP FUND; CONFERRING POWERS AND DUTIES ON THE

8 DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF CONSERVATION AND

9 NATURAL RESOURCES, THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

10 AND THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY;

11 IMPOSING A RECYCLING FEE; PROVIDING FOR USE OF SITE-SPECIFIC

12 POSTCLOSURE FUNDS AND FOR IMMUNITY FOR CERTAIN PERSONS WHO

13 RECLAIM ABANDONED LANDS OR ABATE CERTAIN WATER POLLUTION;

14 MAKING APPROPRIATIONS; AND MAKING REPEALS.

15 The General Assembly of the Commonwealth of Pennsylvania

16 hereby enacts as follows:

17 ~~Section 1. Short title.~~ <—

18 ~~This act shall be known and may be cited as the Environmental~~

19 ~~Good Samaritan Act.~~

20 ~~Section 2. Findings.~~

21 ~~The General Assembly finds and declares as follows:~~

22 ~~(1) This Commonwealth's long history of mining and the~~

23 ~~extraction of oil and gas has left some lands and waters~~

24 ~~unreclaimed and polluted.~~

25 ~~(2) These abandoned lands and polluted waters are~~

26 ~~unproductive, erode the tax base and are serious impediments~~

27 ~~to the economic welfare and growth of this Commonwealth.~~

28 ~~(3) The unreclaimed lands and polluted waters present a~~

29 ~~danger to the health, safety and welfare of the people and~~

30 ~~the environment.~~

1 ~~(4) This Commonwealth does not possess sufficient~~
2 ~~resources to reclaim all the abandoned lands and to abate the~~
3 ~~water pollution.~~

4 ~~(5) Numerous landowners, citizens, watershed~~
5 ~~associations, environmental organizations and governmental~~
6 ~~entities who do not have a legal responsibility to reclaim~~
7 ~~the abandoned lands or to abate the water pollution are~~
8 ~~interested in addressing these problems but are reluctant to~~
9 ~~engage in such reclamation and abatement activities because~~
10 ~~of potential liabilities associated with the reclamation and~~
11 ~~abatement activities.~~

12 ~~(6) It is in the best interest of the health, safety and~~
13 ~~welfare of the people of this Commonwealth and the~~
14 ~~environment to encourage reclamation of the abandoned lands~~
15 ~~and abatement of water pollution.~~

16 ~~Section 3. Purpose.~~

17 ~~This act is intended to encourage the improvement of land and~~
18 ~~water adversely affected by mining and oil and gas extraction,~~
19 ~~to aid in the protection of wildlife, to decrease soil erosion,~~
20 ~~to aid in the prevention and abatement of the pollution of~~
21 ~~rivers and streams, to protect and improve the environmental~~
22 ~~values of this Commonwealth and to eliminate or abate hazards to~~
23 ~~health and safety. It is the intent of the General Assembly to~~
24 ~~encourage voluntary reclamation of lands adversely affected by~~
25 ~~mining or oil or gas extraction. The purpose of this act is to~~
26 ~~improve water quality and to control and eliminate water~~
27 ~~pollution resulting from mining or oil or gas extraction or~~
28 ~~exploration by limiting the liability which could arise as a~~
29 ~~result of the voluntary reclamation of abandoned lands or the~~
30 ~~reduction and abatement of water pollution. This act is not~~

1 ~~intended to limit the liability of a person who under existing~~
2 ~~law is or may become responsible to reclaim the land or address~~
3 ~~the water pollution or anyone who by contract, order or~~
4 ~~otherwise is required to or agrees to perform the reclamation or~~
5 ~~abate the water pollution.~~

6 ~~Section 4. Definitions.~~

7 ~~The following words and phrases when used in this act shall~~
8 ~~have the meanings given to them in this section unless the~~
9 ~~context clearly indicates otherwise:~~

10 ~~"Approved project." A reclamation project or water pollution~~
11 ~~abatement project approved by the Department of Environmental~~
12 ~~Protection prior to completion.~~

13 ~~"ABANDONED LANDS." LAND ADVERSELY AFFECTED BY MINERAL OR OIL <—~~
14 ~~OR GAS EXTRACTION AND LEFT OR ABANDONED IN AN UNRECLAIMED OR~~
15 ~~INADEQUATELY RECLAIMED CONDITION.~~

16 ~~"Consideration." Something of value promised, given or~~
17 ~~performed in exchange for something which has the effect of~~
18 ~~making a legally enforceable contract. For the purpose of this~~
19 ~~act, the term does not include a promise to a landowner to~~
20 ~~repair damage caused by a reclamation project or water pollution~~
21 ~~abatement project when the promise is made in exchange for~~
22 ~~access to the land.~~

23 ~~"Department." The Department of Environmental Protection of~~
24 ~~the Commonwealth.~~

25 ~~"Eligible land and water." Land and water adversely affected~~
26 ~~by mining or oil or gas extraction and left or abandoned in an~~
27 ~~unreclaimed or inadequately reclaimed condition or left~~
28 ~~discharging water pollution and for which no person has a~~
29 ~~continuing reclamation or water pollution abatement obligation.~~

30 ~~The term shall also include land and water adversely affected by~~

~~mining or oil or gas extraction and left in an unreclaimed or inadequately reclaimed condition or left discharging water pollution for which the Department of Environmental Protection has forfeited and collected the operators bonds and there is no outstanding litigation concerning the bond forfeiture.~~

~~"Landowner."— A person who holds either legal or equitable interest in real property.~~

~~"Mineral."— Any aggregate or mass of mineral matter, whether or not coherent, which is extracted by mining, including, but not limited to, limestone, dolomite, sand, gravel, slate, argillite, diabase, gneiss, micaceous sandstone known as bluestone, rock, stone, earth, fill, slag, iron ore, zinc ore, vermiculite, clay and anthracite and bituminous coal.~~

~~"PERMITTED MINING ACTIVITY SITE."— A SITE PERMITTED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION PURSUANT TO ONE OR MORE OF THE FOLLOWING ACTS:~~

~~(1) THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW;~~

~~(2) THE ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS THE SURFACE MINING CONSERVATION AND RECLAMATION ACT;~~

~~(3) THE ACT OF APRIL 27, 1966 (1ST SP.SESS., P.L.31, NO.1), KNOWN AS THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT;~~

~~(4) THE ACT OF SEPTEMBER 24, 1968 (P.L.1040, NO.318), KNOWN AS THE COAL REFUSE DISPOSAL CONTROL ACT; OR~~

~~(5) THE ACT OF DECEMBER 19, 1984 (P.L.1093, NO.219), KNOWN AS THE NONCOAL SURFACE MINING CONSERVATION AND RECLAMATION ACT.~~

~~"Person."— A natural person, partnership, association, association members, corporation, political subdivision of the~~

1 ~~Commonwealth, an agency, instrumentality or entity of Federal or~~
2 ~~State Government or other legal entity recognized by law as the~~
3 ~~subject of rights and liabilities.~~

4 ~~"Project work area." That land necessary for a person to~~
5 ~~complete a reclamation project or a water pollution abatement~~
6 ~~project.~~

7 ~~"Reclamation project." The restoration of eligible lands and~~
8 ~~water to productive use by regrading and revegetating the land~~
9 ~~to stable contours that blend in and complement the drainage~~
10 ~~pattern of the surrounding terrain with no highwalls, spoil~~
11 ~~piles or depressions to accumulate water and by plugging~~
12 ~~abandoned oil or gas wells and removing production of OR storage <—~~
13 ~~facilities, supplies and equipment from areas disturbed in~~
14 ~~siting, drilling, completing and producing such wells.~~

15 ~~"WATER POLLUTION." POLLUTION OF THE WATERS OF THIS <—~~
16 ~~COMMONWEALTH AS DEFINED IN SECTION 1 OF THE ACT OF JUNE 22, 1937~~
17 ~~(P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, WHICH WAS~~
18 ~~CAUSED BY MINING ACTIVITIES OR OIL OR GAS EXTRACTION OR~~
19 ~~EXPLORATION FOR THESE RESOURCES.~~

20 ~~"Water pollution abatement facilities." The methods for~~
21 ~~treatment or abatement of water pollution located on eligible~~
22 ~~lands and water. These methods include, but are not limited to,~~
23 ~~a structure, system, practice, technique or method constructed,~~
24 ~~installed or followed to reduce, treat or abate such water~~
25 ~~pollution.~~

26 ~~"Water pollution abatement project." A plan for treatment or~~
27 ~~abatement of water pollution located on eligible lands and~~
28 ~~water. These plans include, but are not limited to, the~~
29 ~~practices to be followed and the installation, operation and~~
30 ~~maintenance of facilities to reduce, treat or abate such water~~

1 ~~pollution.~~

2 ~~Section 5.—Consultation with department.~~

3 ~~(a) General rule.—Landowners and persons planning a~~
4 ~~reclamation project or a water pollution abatement project may~~
5 ~~notify the department of their proposed project. If notified,~~
6 ~~the department shall review its files and advise whether any~~
7 ~~person is legally responsible for the unreclaimed land or the~~
8 ~~water pollution and whether the proposed project would be~~
9 ~~located on eligible lands and water.~~

10 ~~(b) Inventory of projects.—The department shall develop and~~
11 ~~maintain a system to inventory and record each water pollution~~
12 ~~abatement project and each reclamation project which is~~
13 ~~submitted in writing, reviewed and approved by the department~~
14 ~~before each project is completed. The approved project inventory~~
15 ~~shall identify the land containing the project work area and~~
16 ~~each landowner and each person who, through participation in the~~
17 ~~reclamation project or water pollution abatement project, is~~
18 ~~entitled to the protections and immunities provided by this act.~~

19 ~~(c) Nature of department approval and identification.—For~~
20 ~~the purposes of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice~~
21 ~~and procedure of Commonwealth agencies), the act of July 13,~~
22 ~~1988 (P.L.530, No.94), known as the Environmental Hearing Board~~
23 ~~Act, and the Environmental Hearing Board's regulation at 25 Pa.~~
24 ~~Code Ch. 1021 (relating to practice and procedures), the~~
25 ~~following shall not be an adjudication or an action:~~

26 ~~(1) The department's approval or disapproval of a~~
27 ~~reclamation project or a water pollution abatement project.~~

28 ~~(2) The department's identification or failure to~~
29 ~~identify in the approved project inventory land containing~~
30 ~~the project work area or a landowner or a person who~~

1 ~~participated in a reclamation project or in a water pollution~~
2 ~~abatement project.~~

3 ~~(d) Presumptions.—~~

4 ~~(1) Every landowner and person identified in the~~
5 ~~approved project inventory shall be presumed to be covered by~~
6 ~~the protections and immunities provided by this act. This~~
7 ~~presumption may be rebutted by clear and convincing evidence~~
8 ~~that the landowner or person did not participate in an~~
9 ~~approved reclamation project or water pollution abatement~~
10 ~~project.~~

11 ~~(2) A landowner or a person who participates in a~~
12 ~~reclamation project or a water pollution abatement project~~
13 ~~which is not an approved project is eligible for the~~
14 ~~protections and immunities provided by this act but shall not~~
15 ~~be entitled to the presumption provided by paragraph (1).~~

16 ~~SECTION 5.— ELIGIBILITY AND PROJECT INVENTORY.~~

<—

17 ~~(A) GENERAL RULE.— A LANDOWNER OR PERSON WHO VOLUNTARILY~~
18 ~~PROVIDES EQUIPMENT, MATERIALS OR SERVICES AT NO CHARGE OR AT~~
19 ~~COST FOR A RECLAMATION PROJECT OR A WATER POLLUTION ABATEMENT~~
20 ~~PROJECT IN ACCORDANCE WITH THIS ACT MAY BE IMMUNE FROM CIVIL~~
21 ~~LIABILITY, AND MAY RAISE THE PROTECTIONS AFFORDED BY THIS ACT IN~~
22 ~~ANY SUBSEQUENT LEGAL PROCEEDING WHICH IS BROUGHT TO ENFORCE~~
23 ~~ENVIRONMENTAL LAWS OR OTHERWISE IMPOSE LIABILITY. A LANDOWNER OR~~
24 ~~OTHER PERSON IS ONLY ELIGIBLE FOR THE PROTECTIONS AND IMMUNITIES~~
25 ~~PROVIDED BY SECTIONS 6 AND 7 IF A DETAILED WRITTEN PLAN OF THE~~
26 ~~PROPOSED RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT~~
27 ~~PROJECT IS SUBMITTED TO AND APPROVED BY THE DEPARTMENT. THE~~
28 ~~PROJECT PLAN SHALL INCLUDE THE OBJECTIVE OF THE PROJECT AND A~~
29 ~~DESCRIPTION OF THE WORK THAT WILL BE PERFORMED TO ACCOMPLISH THE~~
30 ~~OBJECTIVE AND MUST IDENTIFY THE PROJECT LOCATION, PROJECT~~

1 ~~BOUNDARIES, THE PROJECT PARTICIPANTS AND THE OWNERS OF THE LAND.~~

2 ~~(B) NOTICE. UPON RECEIPT OF EACH PROJECT PLAN THE~~
3 ~~DEPARTMENT SHALL EITHER GIVE WRITTEN NOTICE BY CERTIFIED MAIL TO~~
4 ~~ADJACENT PROPERTY OWNERS AND RIPARIAN LAND OWNERS LOCATED~~
5 ~~DOWNSTREAM OF THE PROPOSED PROJECT OR WILL PROVIDE PUBLIC NOTICE~~
6 ~~OF THE PROPOSED PROJECT IN A NEWSPAPER OF GENERAL CIRCULATION,~~
7 ~~PUBLISHED IN THE LOCALITY OF THE PROPOSED PROJECT, ONCE A WEEK~~
8 ~~FOR FOUR CONSECUTIVE WEEKS AND SHALL GIVE PUBLIC NOTICE IN THE~~
9 ~~PENNSYLVANIA BULLETIN. THE PERSON PROPOSING THE PROJECT MAY ALSO~~
10 ~~PROVIDE PUBLIC NOTICE. ANY PERSON HAVING AN INTEREST WHICH MAY~~
11 ~~BE ADVERSELY AFFECTED BY THE PROPOSED PROJECT HAS THE RIGHT TO~~
12 ~~FILE WITH THE DEPARTMENT WRITTEN OBJECTION TO THE PROPOSED~~
13 ~~PROJECT WITHIN 30 DAYS AFTER RECEIPT OF THE WRITTEN NOTICE OR~~
14 ~~THE LAST PUBLICATION OF THE ABOVE NOTICE WHICH SHALL CONCLUDE~~
15 ~~THE PUBLIC COMMENT PERIOD. THE DEPARTMENT SHALL PROVIDE TO THE~~
16 ~~PERSON PROPOSING THE PROJECT A COPY OF EACH WRITTEN OBJECTION~~
17 ~~RECEIVED DURING THE PUBLIC COMMENT PERIOD.~~

18 ~~(C) ADVICE. THE DEPARTMENT MAY PROVIDE ADVICE TO THE~~
19 ~~LANDOWNER OR OTHER INTERESTED PERSON BASED UPON THE DEPARTMENT'S~~
20 ~~KNOWLEDGE AND EXPERIENCE IN PERFORMING RECLAMATION PROJECTS AND~~
21 ~~WATER POLLUTION ABATEMENT PROJECTS.~~

22 ~~(D) DEPARTMENTAL REVIEW. THE DEPARTMENT SHALL REVIEW EACH~~
23 ~~PROPOSED RECLAMATION PROJECT AND APPROVE THE PROJECT IF THE~~
24 ~~DEPARTMENT DETERMINES THE PROPOSED PROJECT:~~

25 ~~(1) WILL RESULT IN THE REGRADING OF THE LAND TO STABLE~~
26 ~~CONTOURS THAT BLEND IN AND COMPLEMENT THE DRAINAGE PATTERN OF~~
27 ~~THE SURROUNDING TERRAIN WITH NO HIGHWALLS, SPOIL PILES OR~~
28 ~~DEPRESSIONS TO ACCUMULATE WATER;~~

29 ~~(2) WILL RESULT IN THE APPROPRIATE REVEGETATION OF THE~~
30 ~~SITE; AND~~

~~(3) IS NOT LIKELY TO RESULT IN WATER POLLUTION AS
DEFINED IN SECTION 1 OF THE ACT OF JUNE 22, 1937 (P.L.1987,
NO.394), KNOWN AS THE CLEAN STREAMS LAW.~~

~~THE DEPARTMENT SHALL REVIEW EACH PROPOSED WATER POLLUTION
ABATEMENT PROJECT AND APPROVE THE PROJECT IF THE DEPARTMENT
DETERMINES THE PROPOSED PROJECT IS LIKELY TO IMPROVE THE WATER
QUALITY AND IS NOT LIKELY TO MAKE THE WATER POLLUTION WORSE.~~

~~(E) ADDITIONAL REVIEW. THE DEPARTMENT SHALL REVIEW EACH
PROJECT PLAN IN ACCORDANCE WITH SECTION 11(B).~~

~~(F) PROJECT INVENTORY. THE DEPARTMENT SHALL DEVELOP AND
MAINTAIN A SYSTEM TO INVENTORY AND RECORD EACH PROJECT, THE
PROJECT LOCATION AND BOUNDARIES, EACH LANDOWNER AND EACH PERSON
IDENTIFIED IN A PROJECT PLAN PROVIDED TO THE DEPARTMENT. THE
INVENTORY SHALL INCLUDE THE RESULTS OF THE DEPARTMENT'S REVIEW
OF THE PROPOSED PROJECT AND, WHERE APPLICABLE, INCLUDE THE
DEPARTMENT'S FINDINGS UNDER SECTION 11(B).~~

~~(G) APPEAL. A PERSON AGGRIEVED BY A DEPARTMENT DECISION TO
APPROVE OR DISAPPROVE A RECLAMATION PROJECT OR A WATER POLLUTION
ABATEMENT PROJECT HAS THE RIGHT TO FILE AN APPEAL WITH THE
ENVIRONMENTAL HEARING BOARD IN ACCORDANCE WITH THE ACT OF JULY
13, 1988 (P.L.530, NO.94), KNOWN AS THE ENVIRONMENTAL HEARING
BOARD ACT, AND IN ACCORDANCE WITH THE ENVIRONMENTAL HEARING
BOARD'S RULES, 25 PA. CODE CH. 1021 (RELATING TO PRACTICE AND
PROCEDURES).~~

~~Section 6. Landowner liability limitation and exceptions.~~

~~(a) General rule. Except as specifically provided in
subsections (b) and (c), a landowner who provides access to the
land, without charge or other consideration, which results in
the implementation of a reclamation project or a water pollution
abatement project:~~

1 ~~(1) Shall be immune from liability for any injury or~~
2 ~~damage suffered by the person implementing the reclamation~~
3 ~~project or the water pollution abatement project while the~~
4 ~~person is within the project work area.~~

5 ~~(2) Shall be immune from liability for any injury to or~~
6 ~~damage suffered by a third party which arises out of or~~
7 ~~occurs as a result of an act or omission of a person~~
8 ~~implementing a reclamation project or water pollution~~
9 ~~abatement project which occurs during the implementation of~~
10 ~~the reclamation project or the water pollution abatement~~
11 ~~project.~~

12 ~~(3) Shall be immune from liability for any injury to or~~
13 ~~damage suffered by a third party which arises out of or~~
14 ~~occurs as a result of a reclamation project or a water~~
15 ~~pollution abatement project.~~

16 ~~(4) Shall not be deemed to assume legal responsibility~~
17 ~~for or incur liability for any pollution resulting from a~~
18 ~~reclamation project or water pollution abatement project.~~

19 ~~(5) Shall not be subject to a citizen suit filed~~
20 ~~pursuant to section 601 of the act of June 22, 1937~~
21 ~~(P.L.1987, No.394), known as The Clean Streams Law, for~~
22 ~~pollution resulting from a reclamation project or water~~
23 ~~pollution abatement project.~~

24 ~~(6) Shall be immune from liability for the operation,~~
25 ~~maintenance or repair of the water pollution abatement~~
26 ~~facilities constructed or installed during the project unless~~
27 ~~the landowner negligently damages or destroys the water~~
28 ~~pollution abatement facilities or denies access to those~~
29 ~~persons who operate, maintain or repair the water pollution~~
30 ~~abatement facilities.~~

~~(b) Duty to warn. A landowner shall warn a person implementing a reclamation project or water pollution abatement project of known, latent, dangerous conditions located on the project work area which known, latent, dangerous conditions are not the subject of the reclamation project or the water pollution abatement project. Nothing in this act shall limit in any way or affect a landowner's liability which results from the landowner's failure to warn of such known, latent, dangerous conditions.~~

~~(c) Exceptions to immunity. Nothing in this act shall limit in any way or affect a landowner's liability which results from a reclamation project or water pollution abatement project and which would otherwise exist:~~

~~(1) For injury or damage resulting from the landowner's acts or omissions which are reckless or constitute gross negligence or willful misconduct.~~

~~(2) Where the landowner charges an access fee or requires other consideration before allowing access to the land for the purpose of implementing a reclamation project or water pollution abatement project or to operate, maintain or repair water pollution abatement facilities constructed or installed during a water pollution abatement project.~~

~~(3) For the landowner's unlawful activities.~~

~~(4) FOR DAMAGE TO ADJACENT LANDOWNERS OR DOWNSTREAM RIPARIAN LANDOWNERS WHICH RESULTS FROM A RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT WHERE WRITTEN NOTICE OR PUBLIC NOTICE OF THE PROPOSED PROJECT WAS NOT PROVIDED.~~

~~Section 7. Project liability limitation and exceptions.~~

~~(a) General rule. Except as specifically provided in subsection (b), a person who implements or participates in~~

1 ~~PROVIDES EQUIPMENT, MATERIALS OR SERVICES AT NO COST OR AT COST~~ <—
2 ~~FOR a reclamation project or a water pollution abatement~~
3 ~~project.~~

4 ~~(1) Shall be immune from liability for any injury to or~~
5 ~~damage suffered by a person which arises out of or occurs as~~
6 ~~a result of the water pollution abatement facilities~~
7 ~~constructed or installed during the water pollution abatement~~
8 ~~project.~~

9 ~~(2) Shall be immune from liability for any pollution~~
10 ~~emanating from the water pollution abatement facilities~~
11 ~~constructed or installed during the water pollution abatement~~
12 ~~project unless the person affects an area that is~~
13 ~~hydrologically connected to the water pollution abatement~~
14 ~~project work area and causes increased pollution by~~
15 ~~activities which are unrelated to the implementation of a~~
16 ~~water pollution abatement project.~~

17 ~~(3) Shall not be deemed to assume responsibility for or~~
18 ~~incur liability for the operation, maintenance and repair of~~
19 ~~the water pollution abatement facilities constructed or~~
20 ~~installed during the water pollution abatement project.~~

21 ~~(4) Shall not be subject to a citizen suit under section~~
22 ~~601 of the act of June 22, 1937 (P.L.1987, No.394), known as~~
23 ~~The Clean Streams Law, for pollution emanating from the water~~
24 ~~pollution abatement facilities constructed or installed~~
25 ~~during the water pollution abatement project.~~

26 ~~(b) Exceptions.—~~

27 ~~(1) Nothing in this act shall limit in any way the~~
28 ~~liability of a person who implements or participates in a~~
29 ~~reclamation project or a water pollution abatement project~~
30 ~~which liability results from the reclamation project or the~~

~~water pollution abatement project and which would otherwise
exist:~~

~~(i) For injury or damage resulting from the person's
acts or omissions which are reckless or constitute gross
negligence or willful misconduct.~~

~~(ii) For the person's unlawful activities.~~

~~(III) FOR DAMAGES TO ADJACENT LANDOWNERS OR
DOWNSTREAM RIPARIAN LANDOWNERS WHICH RESULT FROM A
RECLAMATION PROJECT OR A WATER POLLUTION ABATEMENT
PROJECT WHERE WRITTEN NOTICE OR PUBLIC NOTICE OF THE
PROPOSED PROJECT WAS NOT PROVIDED.~~

~~(2) Nothing in this act shall limit in any way the
liability of a person who the department has found to be in
violation of any of the following acts:~~

~~(i) The act of May 31, 1945 (P.L.1198, No.418),
known as the Surface Mining Conservation and Reclamation
Act.~~

~~(ii) The act of April 27, 1966 (1st Sp.Sess.,
P.L.31, No.1), known as The Bituminous Mine Subsidence
and Land Conservation Act.~~

~~(iii) The act of July 7, 1980 (P.L.380, No.97),
known as the Solid Waste Management Act.~~

~~(iv) Any other Federal or State statute relating to
environmental protection or to the protection of the
public health, safety and welfare.~~

~~Section 8. Permits and zoning.~~

~~Nothing in this act shall be construed as waiving any
existing permit requirements or waiving any local zoning
requirements.~~

~~Section 9. Relationship to Federal and State programs.~~

~~The provisions of this act shall not prevent the Commonwealth from enforcing requirements necessary or imposed by the Federal Government as a condition to receiving or maintaining program authorization, delegation, primacy or Federal funds.~~

~~Section 10.— General permits.~~

~~If the department determines it will further the purposes of this act, the department may issue a general permit for each reclamation project or water pollution abatement project, which general permit shall:~~

~~(1) Encompass all of the activities included in that reclamation project or water pollution abatement project.~~

~~(2) Be issued in place of any required stream encroachment, earth disturbance or national pollution discharge elimination system permits.~~

~~Section 11.— Exceptions.~~

~~(a) General rule.— Any person who under existing law shall be or may become responsible to reclaim the land or treat or abate the water pollution or any person who for payment or consideration or who receives some other benefit through a contract, or any person who through a consent order and agreement or otherwise agrees or is ordered to perform or complete reclamation or treat or abate water pollution as well as a surety which provided a bond for the site shall not be eligible for nor shall that person receive the benefit of the protections and immunities available under this act.~~

~~(b) Projects near mining or coal refuse sites.— This act shall not apply to a reclamation project or a water pollution abatement project that is located adjacent to, hydrologically connected to or in close proximity to a site permitted under the act of May 31, 1945 (P.L.1198, No.418), known as the Surface~~

~~Mining Conservation and Reclamation Act, the act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as The Bituminous Mine Subsidence and Land Conservation Act, the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act, or the act of December 19, 1984 (P.L.1093, No.219), known as the Noncoal Surface Mining Conservation and Reclamation Act, unless:~~

~~(1) The reclamation project or water pollution abatement project is submitted to the department in writing before the project is started.~~

~~(2) The department finds:~~

~~(i) The reclamation project or the water pollution abatement project will not adversely affect the permittee's obligations under the permit and the applicable law.~~

~~(ii) The activities on the project work area cannot be used by the permittee to avoid the permittee's reclamation or water pollution treatment or abatement obligations.~~

~~(3) The department issues a written notice of its findings and the approval of the project.~~

~~(c) Projects in lieu of civil penalties. This act shall not apply to a reclamation project or a water pollution abatement project that is performed in lieu of paying civil penalties.~~

~~(d) Land Recycling and Environmental Remediation Standards Act. The act of May 19, 1995 (P.L.4, No.2), known as the Land Recycling and Environmental Remediation Standards Act, DOES NOT APPLY to reclamation projects or water pollution abatement projects implemented under this act.~~

~~SECTION 12. WATER SUPPLY REPLACEMENT.~~

~~A PUBLIC OR PRIVATE WATER SUPPLY AFFECTED BY CONTAMINATION OR THE DIMINUTION CAUSED BY THE IMPLEMENTATION OF A RECLAMATION PROJECT OR THE IMPLEMENTATION OF A WATER POLLUTION ABATEMENT PROJECT SHALL BE RESTORED OR REPLACED BY THE DEPARTMENT WITH AND ALTERNATE SOURCE OF WATER ADEQUATE IN QUANTITY AND QUALITY FOR THE PURPOSES SERVED BY THE WATER SUPPLY.~~

~~SECTION 13. ORPHAN OIL AND GAS WELLS.~~

~~A RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT SHALL NOT BE IMPLEMENTED IN A MANNER WHICH WILL LIMIT ACCESS TO AN ORPHAN GAS WELL OR AN ORPHAN OIL WELL.~~

~~Section 14. Regulations.~~

~~The department may promulgate rules and regulations necessary to implement the provisions of this act.~~

~~Section 15. Repeal.~~

~~All acts and parts of acts are repealed insofar as they are inconsistent with this act.~~

~~Section 16. Effective date.~~

~~This act shall take effect in 60 days.~~

SECTION 1. TITLE 27 OF THE PENNSYLVANIA CONSOLIDATED
STATUTES IS AMENDED BY ADDING PARTS TO READ:

TITLE 27

ENVIRONMENTAL PROTECTION

PART

I. PRELIMINARY PROVISIONS (RESERVED)

II. ADMINISTRATIVE PROVISIONS (RESERVED)

III. CONSERVATION AND NATURAL RESOURCES (RESERVED)

IV. ENVIRONMENTAL PROTECTION (RESERVED)

V. SPECIAL PROGRAMS

VI. SANCTIONS AND REMEDIES

VII. MISCELLANEOUS PROVISIONS (RESERVED)

1 PART I
2 PRELIMINARY PROVISIONS
3 (RESERVED)
4 PART II
5 ADMINISTRATIVE PROVISIONS
6 (RESERVED)
7 PART III
8 CONSERVATION AND NATURAL RESOURCES
9 (RESERVED)
10 PART IV
11 ENVIRONMENTAL PROTECTION
12 (RESERVED)
13 PART V
14 SPECIAL PROGRAMS
15 CHAPTER
16 61. WATERSHED PROTECTION.
17 CHAPTER 61
18 ENVIRONMENTAL STEWARDSHIP
19 SEC.
20 6101. SHORT TITLE OF CHAPTER.
21 6102. LEGISLATIVE FINDINGS.
22 6103. DEFINITIONS.
23 6104. FUND.
24 6105. AGENCIES.
25 6106. PROPERTY AND EQUIPMENT RESTRICTIONS.
26 6107. FEDERAL PROGRAMS.
27 6108. WILD RESOURCE CONSERVATION FUND; DUTIES OF DEPARTMENT OF
28 CONSERVATION AND NATURAL RESOURCES.
29 6109. SEWAGE CONSTRUCTION PAYMENTS TO MUNICIPALITIES.
30 6110. ENVIRONMENTAL INFRASTRUCTURE GRANTS TO WATER AND

1 WASTEWATER TREATMENT FACILITIES.

2 6111. PROTECTION OF RECYCLING FUND.

3 6112. EXTENSION OF FEES.

4 6113. EFFECT OF REPEAL OF SITE-SPECIFIC POSTCLOSURE FUND
5 PROVISIONS.

6 § 6101. SHORT TITLE OF CHAPTER.

7 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
8 ENVIRONMENTAL STEWARDSHIP AND WATERSHED PROTECTION ACT.

9 § 6102. LEGISLATIVE FINDINGS.

10 THE GENERAL ASSEMBLY HEREBY DETERMINES, DECLARES AND FINDS AS
11 FOLLOWS:

12 (1) NINETY-SIX PERCENT OF THE WATER-QUALITY-IMPAIRED
13 WATERSHEDS IN THIS COMMONWEALTH ARE POLLUTED BECAUSE OF
14 NONPOINT SOURCES OF POLLUTION SUCH AS PAST MINING ACTIVITIES,
15 URBAN AND AGRICULTURAL RUNOFF, ATMOSPHERIC DEPOSITION, ON-LOT
16 SEWAGE SYSTEMS AND EARTHMOVING.

17 (2) THE COMMONWEALTH CONTINUES TO HAVE UNMET NEEDS IN
18 THE AREA OF WATER AND SEWER INFRASTRUCTURE. NEW AND IMPROVED
19 WATER SOURCES, TREATMENT AND DISTRIBUTION SYSTEMS ARE
20 NECESSARY FOR PUBLIC DRINKING WATER SUPPLIES.

21 (3) THE COMMONWEALTH OWNS APPROXIMATELY 2.4 MILLION
22 ACRES OF STATE PARK AND STATE FOREST LANDS AND MANY OF THESE
23 LANDS SUFFER FROM PAST ENVIRONMENTAL PROBLEMS INCLUDING
24 UNRECLAIMED MINES, ACID MINE DRAINAGE AND ABANDONED OIL AND
25 GAS WELLS.

26 (4) OPEN SPACE, GREENWAYS, RECREATIONAL TRAILS, RIVER
27 CORRIDORS, FISH AND WILDLIFE HABITATS, PARKS AND RECREATION
28 AREAS AND SCENIC ENVIRONMENTS PROTECT THE ENVIRONMENT,
29 CONSERVE NATURAL RESOURCES AND ADD VALUE TO COMMUNITIES.

30 (5) STATE PROGRAMS AND STATE FUNDING SHOULD PROVIDE

1 MAXIMUM FLEXIBILITY FOR ELECTED COUNTY AND MUNICIPAL
2 GOVERNMENTAL OFFICIALS TO IDENTIFY, PRIORITIZE AND ADDRESS
3 LOCAL ENVIRONMENTAL CONCERNS INCLUDING ODOR ABATEMENT
4 PROBLEMS AT SEWAGE TREATMENT PLANTS.

5 § 6103. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
7 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "ACQUISITION." THE PURCHASE, OR LEASE WITH AN OPTION TO
10 PURCHASE, OF LAND, EASEMENTS OR BUILDINGS FOR PUBLIC PARKS,
11 CONSERVATION, HISTORICAL OR RECREATION USES.

12 "AUTHORITY." THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT
13 AUTHORITY.

14 "AUTHORIZED ORGANIZATION." AN ENTITY INVOLVED IN RESEARCH,
15 RESTORATION, REHABILITATION, PLANNING, ACQUISITION, DEVELOPMENT,
16 EDUCATION OR OTHER ACTIVITIES, WHICH FURTHERS THE PROTECTION,
17 ENHANCEMENT, CONSERVATION, PRESERVATION OR ENJOYMENT OF THIS
18 COMMONWEALTH'S ENVIRONMENTAL, CONSERVATION, RECREATION OR
19 SIMILAR RESOURCES. THE ORGANIZATION MUST BE A TAX-EXEMPT
20 INSTITUTION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE
21 OF 1986 (PUBLIC LAW 99-154, 26 U.S.C. § 501(C)(3)) AND
22 REGISTERED WITH THE BUREAU OF CHARITABLE ORGANIZATIONS OR AN
23 EDUCATIONAL INSTITUTION INVOLVED IN THESE AUTHORIZED ACTIVITIES
24 OR A MUNICIPAL AUTHORITY.

25 "DEPARTMENTS." THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT
26 OF CONSERVATION AND NATURAL RESOURCES AND THE DEPARTMENT OF
27 ENVIRONMENTAL PROTECTION OF THE COMMONWEALTH.

28 "DEVELOPMENT." NEW CONSTRUCTION, IMPROVEMENT, ALTERATION OR
29 RENOVATION REQUIRED FOR AND COMPATIBLE WITH THE PHYSICAL
30 DEVELOPMENT OR IMPROVEMENT OF LAND OR BUILDINGS.

1 "FUND." THE ENVIRONMENTAL STEWARDSHIP FUND ESTABLISHED IN
2 SECTION 6104 (RELATING TO FUND).

3 "INTERIOR LAND." LAND THAT HAS AT LEAST 65% OF ITS BOUNDARY
4 LINES IMMEDIATELY BORDERED BY EITHER STATE FOREST OR STATE PARK
5 LANDS.

6 "PLANNING." THE PREPARATION OF PARK, RECREATION AND OPEN
7 SPACE PLANS, RIVER CORRIDOR AND WATERSHED PLANS, MASTER SITE
8 DEVELOPMENT PLANS, FEASIBILITY STUDIES, NATURAL AREAS STUDIES
9 AND INVENTORIES, GREENWAYS AND RECREATIONAL TRAIL PLANS,
10 MAINTENANCE MANAGEMENT PLANS, CONSERVATION PLANS, ZONING PLANS,
11 LAND USE PLANS, ENVIRONMENTAL MANAGEMENT PLANS AND RESEARCH OR
12 EDUCATION DOCUMENTS, USEFUL IN ASSISTING MUNICIPALITIES,
13 COMMONWEALTH AGENCIES, CONSERVATION DISTRICTS, WATERSHED
14 ORGANIZATIONS AND AUTHORIZED ORGANIZATIONS TO ADDRESS
15 ENVIRONMENTAL IMPROVEMENT, NATURAL RESOURCE MANAGEMENT, PARK AND
16 RECREATION DEVELOPMENT AND LAND CONSERVATION.

17 "RECREATIONAL TRAIL." A THOROUGHFARE OR TRACK ACROSS WATER,
18 LAND OR SNOW USED FOR MOTORIZED AND/OR NONMOTORIZED RECREATIONAL
19 PURPOSES.

20 "REHABILITATION AND REPAIR." RESTORATION OR RENOVATION OF
21 FACILITIES OR CONDITIONS OF EXISTING PUBLIC CONSERVATION AND
22 RECREATION RESOURCES. THE TERM EXCLUDES ROUTINE MAINTENANCE.

23 "TECHNICAL ASSISTANCE." PROVISION OF FINANCIAL GRANTS AND
24 PROFESSIONAL SERVICES. THE TERM INCLUDES PUBLICATIONS, RESEARCH,
25 VIDEO TAPES, WORKSHOPS, MEETINGS, PHONE CONSULTATION AND WRITTEN
26 AND ELECTRONIC COMMUNICATION.

27 "WATERSHED ORGANIZATION." AN ENTITY RECOGNIZED BY EITHER OR
28 BOTH THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES AND
29 THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ESTABLISHED TO
30 PROMOTE LOCAL WATERSHED CONSERVATION EFFORTS IN AN IDENTIFIED

1 WATERSHED.

2 § 6104. FUND.

3 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A SPECIAL FUND IN
4 THE STATE TREASURY, TO BE KNOWN AS THE ENVIRONMENTAL STEWARDSHIP
5 FUND.

6 (B) SOURCES.--

7 (1) MONEY APPROPRIATED BY THE GENERAL ASSEMBLY, INTEREST
8 EARNED BY THE FUND, PENALTIES, MONEY RECEIVED FROM THE
9 FEDERAL GOVERNMENT OR OTHER SOURCES AND MONEY RECEIVED FROM
10 THE FEE ESTABLISHED UNDER SECTION 6112(B) (RELATING TO
11 EXTENSION OF FEES) SHALL BE DEPOSITED IN THE FUND. MONEYS
12 APPROPRIATED BY THE GENERAL ASSEMBLY TO THE FUND SHALL BE
13 TRANSFERRED ON A QUARTERLY BASIS IN INCREMENTS OF AT LEAST
14 20%.

15 (2) FOR FISCAL YEARS 1999-2000 THROUGH 2003-2004, THE
16 FUND MAY RECEIVE MONEY, UPON APPROVAL OF THE GOVERNOR, FROM
17 THE RECYCLING FUND AND THE HAZARDOUS SITES CLEANUP FUND. THE
18 COMBINED TOTAL OF APPROPRIATIONS FROM THESE TWO FUNDS FOR THE
19 PROGRAM SHALL NOT EXCEED \$30,000,000 ANNUALLY.

20 (3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT
21 \$100,000,000 PER FISCAL YEAR BE APPROPRIATED FROM THE GENERAL
22 FUND FOR FISCAL YEARS 2000-2001 THROUGH 2003-2004 TO THE
23 FUND. THE GOVERNOR'S ANNUAL BUDGET SUBMISSION FOR FISCAL
24 YEARS 2000-2001 THROUGH 2003-2004 SHALL INCLUDE THE SUM OF
25 \$100,000,000 PER FISCAL YEAR FOR ALLOCATION IN ACCORDANCE
26 WITH THIS SECTION.

27 (C) APPROPRIATION.--THE MONEY IN THE FUND IS HEREBY
28 APPROPRIATED, UPON APPROVAL OF THE GOVERNOR, TO THE DEPARTMENTS
29 AND THE AUTHORITY FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS
30 OF THIS CHAPTER.

1 (D) ALLOCATION.--IT IS THE INTENT OF THE GENERAL ASSEMBLY
2 THAT THE MONEY APPROPRIATED IN SUBSECTION (C) BE ALLOCATED
3 ANNUALLY AS FOLLOWS:

4 (1) FOR FISCAL YEAR 1999-2000, 28.4% TO THE DEPARTMENT
5 OF CONSERVATION AND NATURAL RESOURCES; 43.7% TO THE
6 DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND 27.9% TO THE
7 AUTHORITY.

8 (2) FOR FISCAL YEARS 2000-2001 THROUGH 2003-2004, 24.1%
9 TO THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES;
10 37.4% TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION; 14.8% TO
11 THE DEPARTMENT OF AGRICULTURE; AND 23.7% TO THE AUTHORITY.

12 (3) FOR FISCAL YEAR 2004-2005 AND EACH YEAR THEREAFTER,
13 MONEYS IN THE FUND SHALL BE ALLOCATED IN ACCORDANCE WITH
14 PARAGRAPH (1).

15 (E) LEGISLATIVE OVERSIGHT.--

16 (1) AN ANNUAL EXPENDITURE PLAN FOR THE FUND SHALL BE
17 SUBMITTED BY THE GOVERNOR TO THE GENERAL ASSEMBLY AS PART OF
18 THE GOVERNOR'S ANNUAL BUDGET SUBMISSION. THE EXPENDITURE PLAN
19 SHALL BE OPEN FOR REVIEW AND COMMENT BY THE MEMBERS OF THE
20 GENERAL ASSEMBLY AND SHALL INCLUDE A DETAILED LISTING OF THE
21 TYPES OF PROGRAMS FOR THE ACTUAL YEAR, CURRENT YEAR AND
22 PROPOSED BUDGET YEAR.

23 (2) THE SECRETARY OF THE BUDGET SHALL PROVIDE QUARTERLY
24 FINANCIAL STATEMENTS SHOWING THE STATUS OF THE RECYCLING
25 FUND, THE HAZARDOUS SITES CLEANUP FUND AND THE ENVIRONMENTAL
26 STEWARDSHIP FUND TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
27 APPROPRIATIONS COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
28 MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE
29 HOUSE OF REPRESENTATIVES. SUCH STATEMENTS SHALL BE PROVIDED
30 WITHIN 30 DAYS OF THE CLOSE OF EACH QUARTER OF THE FISCAL

1 YEAR AND SHALL COMMENCE WITH THE QUARTER ENDING MARCH 31,
2 2000.

3 § 6105. AGENCIES.

4 (A) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.--

5 (1) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
6 SHALL UTILIZE MONEY IT RECEIVES FROM THE FUND FOR THE
7 FOLLOWING PURPOSES:

8 (I) TO REHABILITATE, REPAIR AND DEVELOP STATE PARK
9 AND STATE FOREST LANDS AND FACILITIES AND THE ACQUISITION
10 OF INTERIOR LANDS WITHIN STATE PARKS AND STATE FORESTS.

11 (II) TO PROVIDE GRANTS TO A COUNTY OR OTHER
12 MUNICIPALITY, CONSERVATION DISTRICTS AND AUTHORIZED
13 ORGANIZATIONS FOR THE PURPOSE OF PLANNING, EDUCATION,
14 ACQUISITION, DEVELOPMENT, REHABILITATION AND REPAIR OF
15 GREENWAYS, RECREATIONAL TRAILS, OPEN SPACE, NATURAL
16 AREAS, RIVER CORRIDORS, WATERSHEDS, COMMUNITY AND
17 HERITAGE PARKS AND RECREATION FACILITIES; COMMUNITY
18 CONSERVATION AND BEAUTIFICATION PROJECTS; FOREST
19 CONSERVATION; AND OTHER CONSERVATION PURPOSES. GRANTS
20 UNDER THIS PARAGRAPH MAY NOT BE USED BY AN AUTHORIZED
21 ORGANIZATION FOR LAND ACQUISITION, UNLESS THE AUTHORIZED
22 ORGANIZATION OBTAINS THE APPROVAL OF ALL COUNTIES IN
23 WHICH THE LAND IS SITUATED. GRANT MONEYS MAY ALSO BE USED
24 FOR THE ACQUISITION OF FARMLAND FOR THE PURPOSES SET
25 FORTH IN THIS PARAGRAPH.

26 (III) TO PROVIDE GRANTS TO A COUNTY OR OTHER
27 MUNICIPALITY AND AUTHORIZED ORGANIZATIONS FOR THE PURPOSE
28 OF RESEARCH, PLANNING, INVENTORIES AND TECHNICAL
29 ASSISTANCE, INTENDED TO PROTECT AND CONSERVE THE
30 BIOLOGICAL DIVERSITY OF THIS COMMONWEALTH.

1 (2) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
2 MAY REQUIRE MATCHING FUNDS AS A CONDITION OF THE AWARD OF A
3 GRANT UNDER THIS SUBSECTION.

4 (B) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.--

5 (1) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL
6 UTILIZE MONEY IT RECEIVES FROM THE FUND FOR THE FOLLOWING
7 PURPOSES:

8 (I) TO IMPLEMENT ACID MINE DRAINAGE ABATEMENT AND
9 CLEANUP EFFORTS AND PLUG ABANDONED AND ORPHAN OIL AND GAS
10 WELLS.

11 (II) TO PROVIDE FUNDING FOR TECHNICAL ASSISTANCE AND
12 FINANCIAL INCENTIVES TO FACILITATE REMINING.

13 (III) TO PROVIDE GRANTS TO A COUNTY OR OTHER
14 MUNICIPALITY, COUNTY CONSERVATION DISTRICTS, WATERSHED
15 ORGANIZATIONS AND OTHER AUTHORIZED ORGANIZATIONS FOR ACID
16 MINE DRAINAGE ABATEMENT, MINE CLEANUP EFFORTS AND WELL
17 PLUGGING.

18 (IV) TO PROVIDE GRANTS AND TECHNICAL ASSISTANCE TO A
19 COUNTY OR OTHER MUNICIPALITY, COUNTY CONSERVATION
20 DISTRICTS, WATERSHED ORGANIZATIONS AND OTHER AUTHORIZED
21 ORGANIZATIONS TO PLAN AND IMPLEMENT LOCAL WATERSHED-BASED
22 CONSERVATION EFFORTS.

23 (V) TO IMPROVE WATER-QUALITY-IMPAIRED WATERSHEDS,
24 INCLUDING THOSE POLLUTED BY PAST MINING ACTIVITIES,
25 AGRICULTURAL AND URBAN RUNOFF, ATMOSPHERIC DEPOSITION,
26 ON-LOT SEWAGE SYSTEMS, AND EARTH MOVING ACTIVITIES.

27 (VI) TO PROVIDE GRANTS FOR SAFE DRINKING WATER
28 PROJECTS AND WASTEWATER TREATMENT PROJECTS AS PROVIDED
29 FOR IN SECTION 6110 (RELATING TO ENVIRONMENTAL
30 INFRASTRUCTURE GRANTS TO WATER AND WASTEWATER TREATMENT

1 FACILITIES).

2 (2) COUNTY CONSERVATION DISTRICTS MAY FURTHER DISTRIBUTE
3 GRANTS RECEIVED UNDER THIS SECTION TO WATERSHED ORGANIZATIONS
4 AND OTHER AUTHORIZED ORGANIZATIONS TO ASSIST IN THE
5 IMPLEMENTATION OF THIS CHAPTER.

6 (3) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION MAY
7 REQUIRE MATCHING FUNDS AS A CONDITION OF THE AWARD OF A GRANT
8 UNDER THIS SUBSECTION.

9 (4) FOR THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF
10 THIS CHAPTER AND ENDING JUNE 30, 2004, THE DEPARTMENT OF
11 ENVIRONMENTAL PROTECTION MAY UTILIZE UP TO 10% OF THE MONEY
12 ALLOCATED ANNUALLY TO IT UNDER SECTION 6104(D) (RELATING TO
13 FUNDS) TO PROVIDE GRANTS FOR SAFE DRINKING WATER PROJECTS AND
14 WASTEWATER TREATMENT PROJECTS. GRANTS UNDER THIS PARAGRAPH
15 SHALL BE MADE FOR THE SAME PURPOSES AND SHALL BE SUBJECT TO
16 THE SAME LIMITATIONS AS GRANTS AUTHORIZED IN SECTION 6110.

17 (C) DEPARTMENT OF AGRICULTURE.--FUNDS ALLOCATED TO THE
18 DEPARTMENT OF AGRICULTURE UNDER THIS CHAPTER SHALL BE DEPOSITED
19 IN THE AGRICULTURAL CONSERVATION EASEMENT PURCHASE FUND AND ARE
20 SUBJECT TO THE PROVISIONS OF THE ACT OF JUNE 30, 1981 (P.L.128,
21 NO.43), KNOWN AS THE AGRICULTURAL AREA SECURITY LAW.

22 (D) THE AUTHORITY.--THE AUTHORITY SHALL UTILIZE MONEY IT
23 RECEIVES FROM THE FUND TO PROVIDE FINANCIAL ASSISTANCE IN THE
24 FORM OF GRANTS AND MATCHING GRANTS FOR STORM WATER, WATER AND
25 SEWER INFRASTRUCTURE PROJECTS, INCLUDING CONSTRUCTION OR
26 REHABILITATION OF COLLECTION AND CONVEYANCE SYSTEMS. THE
27 AUTHORITY SHALL DEVELOP CRITERIA TO BE USED TO AWARD GRANTS
28 UNDER THIS SUBSECTION. THE CRITERIA, AND PROPOSED CHANGES
29 THERETO, SHALL BE SUBMITTED TO THE ENVIRONMENTAL RESOURCES AND
30 ENERGY COMMITTEE OF THE SENATE AND THE ENVIRONMENTAL RESOURCES

1 AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES FOR REVIEW
2 AND COMMENT. THE COMMITTEES SHALL HAVE 60 DAYS TO SUBMIT
3 COMMENTS TO THE AUTHORITY. CRITERIA SHALL BE REVIEWED BY THE
4 AUTHORITY AND THE COMMITTEES AT LEAST ONCE EVERY THREE YEARS.

5 (E) ADMINISTRATIVE EXPENSE LIMITATION.--THE DEPARTMENTS,
6 AUTHORITY AND GRANT RECIPIENTS THAT RECEIVE MONEYS FROM THE FUND
7 FOR THE PURPOSES SET FORTH IN THIS SECTION MAY NOT EXPEND MORE
8 THAN 2% OF THE MONEYS ON ADMINISTRATIVE EXPENSES.

9 (F) EXPENDITURE LIMITATION.--NO MONEYS MADE AVAILABLE
10 THROUGH THE FUND SHALL BE USED FOR ANY PURPOSE WHICH, DIRECTLY
11 OR INDIRECTLY, PRECLUDES ACCESS TO OR USE OF ANY FORESTED LAND
12 FOR THE PRACTICE OF SUSTAINABLE FORESTRY AND COMMERCIAL
13 PRODUCTION OF TIMBER OR OTHER FOREST PRODUCTS. THIS SUBSECTION
14 SHALL NOT APPLY TO FUNDS USED BY THE DEPARTMENT OF CONSERVATION
15 AND NATURAL RESOURCES, COUNTIES OR MUNICIPALITIES, FOR THE
16 PURCHASE OR IMPROVEMENT OF PARK LAND TO BE USED FOR PUBLIC
17 RECREATION.

18 (G) REGULATIONS.--THE DEPARTMENTS AND THE AUTHORITY MAY
19 PROMULGATE REGULATIONS NECESSARY TO CARRY OUT THE PURPOSES OF
20 THIS CHAPTER.

21 § 6106. PROPERTY AND EQUIPMENT RESTRICTIONS.

22 (A) PROHIBITION.--RECIPIENTS OF GRANTS UNDER THIS CHAPTER
23 MAY NOT DISPOSE OF OR CONVERT PROPERTY OR EQUIPMENT ACQUIRED
24 WITH A GRANT FOR PURPOSES OTHER THAN THE PURPOSES APPROVED IN
25 THE PROJECT APPLICATION WITHOUT THE PRIOR WRITTEN APPROVAL OF
26 THE AGENCY AWARDING THE GRANT.

27 (B) REMEDY.--IF A VIOLATION OF SUBSECTION (A) OCCURS, THE
28 AGENCY MAY:

29 (1) REQUIRE THE RECIPIENT TO REFUND ALL GRANTS RELATED
30 TO THE PROJECT, INCLUDING 10% ANNUAL INTEREST, COMPOUNDED

1 FOUR TIMES ANNUALLY, FROM THE DATE THE ORIGINAL GRANT WAS
2 RECEIVED UNTIL THE GRANT IS REPAID.

3 (2) REQUIRE ACQUISITION BY THE RECIPIENT OF EQUIVALENT
4 REPLACEMENT PROPERTY, AS DETERMINED BY THE AGENCY.

5 (3) TAKE POSSESSION OF THE PROPERTY OR EQUIPMENT FUNDED
6 BY THE AGENCY.

7 § 6107. FEDERAL PROGRAMS.

8 AGENCIES MAY UTILIZE AVAILABLE FEDERAL FUNDS TO AUGMENT FUNDS
9 AVAILABLE UNDER THIS CHAPTER.

10 § 6108. WILD RESOURCE CONSERVATION FUND; DUTIES OF DEPARTMENT
11 OF CONSERVATION AND NATURAL RESOURCES.

12 (A) APPROPRIATION.--THE MONEYS CONTAINED IN THE WILD
13 RESOURCE CONSERVATION FUND ARE HEREBY APPROPRIATED, UPON
14 APPROVAL OF THE GOVERNOR, TO THE DEPARTMENT OF CONSERVATION AND
15 NATURAL RESOURCES FOR THE PURPOSES OF CARRYING OUT SUBSECTION
16 (B), SECTION 6105(A) (RELATING TO AGENCIES), AND THE ACT OF JUNE
17 23, 1982 (P.L.597, NO.170), KNOWN AS THE WILD RESOURCE
18 CONSERVATION ACT.

19 (B) PROJECTS AND PROGRAMS.--

20 (1) THE WILD RESOURCE CONSERVATION BOARD MAY APPROVE
21 PROJECTS OR PROGRAMS FOR FUNDING AS NECESSARY TO PRESERVE AND
22 ENHANCE WILD RESOURCES. GRANTS FOR APPROVED PROJECTS SHALL BE
23 MADE BY THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
24 FROM THE WILD RESOURCE CONSERVATION FUND. THE DEPARTMENT
25 SHALL NOT ALLOCATE MONEY FROM THE WILD RESOURCE CONSERVATION
26 FUND UNDER THIS PARAGRAPH IF THE ALLOCATION WOULD EXCEED THE
27 MONEY AVAILABLE IN THE WILD RESOURCE CONSERVATION FUND. THE
28 WILD RESOURCE CONSERVATION BOARD SHALL CONSIDER THE
29 RECOMMENDATIONS OF INTERESTED PERSONS AND REPRESENTATIVES OF
30 AGENCIES SERVING ON THE BOARD WHEN APPROVING PROJECTS UNDER

THIS PARAGRAPH.

(2) IN ADDITION TO THE GRANTS UNDER PARAGRAPH (1), THE WILD RESOURCE CONSERVATION BOARD MAY RECOMMEND PROJECTS OR PROGRAMS THAT PROMOTE THE PRESERVATION AND ENHANCEMENT OF WILD RESOURCES TO THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES FOR FUNDING FROM THE ENVIRONMENTAL STEWARDSHIP FUND UNDER SECTION 6105(A).

(C) SALE OF MERCHANDISE AND VOLUNTARY CONTRIBUTIONS.--THE WILD RESOURCE CONSERVATION BOARD, WITH THE APPROVAL OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, SHALL HAVE THE RIGHT TO ISSUE FOR SALE TO THE PUBLIC STAMPS, DECALS OR OTHER ITEMS OF PERSONAL PROPERTY INTENDED TO SIGNIFY THE INTEREST OF THE PURCHASER IN CONTRIBUTING TO PROGRAMS ESTABLISHED BY THE BOARD UNDER THIS SECTION. ANY CONTRIBUTIONS RECEIVED AND THE NET PROCEEDS FROM THE SALE OF MERCHANDISE SHALL BE DEPOSITED IN THE WILD RESOURCE CONSERVATION FUND.

(D) ADVISORY COMMITTEE.--THE WILD RESOURCE CONSERVATION BOARD MAY ESTABLISH AN ADVISORY COMMITTEE TO ADVISE THE BOARD AND THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES REGARDING THE WILD RESOURCE MANAGEMENT OBJECTIVES OF THE BOARD AND THE APPROVAL OF PROJECTS TO PROMOTE THE PRESERVATION AND ENHANCEMENT OF WILD RESOURCES. MEMBERS OF THE COMMITTEE SHALL BE CHOSEN FROM THE GENERAL PUBLIC AND SHALL SERVE AT THE PLEASURE OF THE BOARD.

(E) ACTIVITIES OF OTHER AGENCIES.--THE AUTHORITY GRANTED PURSUANT TO SUBSECTION (C) SHALL NOT AFFECT OR INTERFERE WITH SIMILAR AUTHORITY VESTED BY LAW IN ANY AGENCY REPRESENTED ON THE BOARD TO SELL ITEMS OF PERSONAL PROPERTY WHICH PROMOTE THE INDEPENDENT PROGRAMS OF THOSE RESPECTIVE AGENCIES. SAID AGENCIES SHALL LIKEWISE HAVE THE RIGHT TO ISSUE FOR SALE ITEMS OF

1 PERSONAL PROPERTY INTENDED TO SIGNIFY THE INTEREST OF THE
2 PURCHASER IN CONTRIBUTING TO PROGRAMS ESTABLISHED BY THE
3 DEPARTMENT, THE NET PROCEEDS OF WHICH SHALL BE DEPOSITED IN THE
4 WILD RESOURCE CONSERVATION FUND.

5 § 6109. SEWAGE CONSTRUCTION PAYMENTS TO MUNICIPALITIES.

6 (A) CERTAIN PAYMENTS PERMITTED.--A COUNTY OR OTHER
7 MUNICIPALITY, MUNICIPAL AUTHORITY OR SCHOOL DISTRICT, RECEIVING
8 PAYMENTS ON THE EFFECTIVE DATE OF THIS CHAPTER PURSUANT TO THE
9 ACT OF AUGUST 20, 1953 (P.L.1217, NO.339), ENTITLED "AN ACT
10 PROVIDING FOR PAYMENTS BY THE COMMONWEALTH TO MUNICIPALITIES
11 WHICH HAVE EXPENDED MONEY TO ACQUIRE AND CONSTRUCT SEWAGE
12 TREATMENT PLANTS IN ACCORDANCE WITH THE CLEAN STREAMS PROGRAM
13 AND THE ACT, APPROVED THE TWENTY-SECOND DAY OF JUNE, ONE
14 THOUSAND NINE HUNDRED THIRTY-SEVEN (PAMPHLET LAWS 1987), AND
15 MAKING AN APPROPRIATION," SHALL CONTINUE TO RECEIVE ALL
16 OUTSTANDING PAYMENTS BEING FUNDED UNDER THAT ACT FOR THE
17 ACQUISITION OR CONSTRUCTION OF SEWAGE TREATMENT PLANTS FROM THE
18 COMMONWEALTH FROM FUNDS APPROPRIATED FOR THIS PURPOSE PROVIDED
19 THAT THE SEWAGE TREATMENT PLANT OPERATIONS IMPLEMENT ODOR
20 ABATEMENT PROGRAMS AS NECESSARY.

21 (B) EQUIPMENT AND PLANTS.--PAYMENTS UNDER THIS SECTION FOR
22 EQUIPMENT AND PLANTS SHALL BE DISCONTINUED UPON THE REPLACEMENT,
23 ABANDONMENT OR REMOVAL FROM SERVICE OF THE EQUIPMENT AND PLANTS.

24 (C) CERTAIN PAYMENT PROHIBITED.--NO MUNICIPALITY, MUNICIPAL
25 AUTHORITY OR SCHOOL DISTRICT, WHICH IS NOT PRESENTLY RECEIVING
26 PAYMENTS UNDER THE ACT OF AUGUST 20, 1953 (P.L.1217, NO.339),
27 ENTITLED "AN ACT PROVIDING FOR PAYMENTS BY THE COMMONWEALTH TO
28 MUNICIPALITIES WHICH HAVE EXPENDED MONEY TO ACQUIRE AND
29 CONSTRUCT SEWAGE TREATMENT PLANTS IN ACCORDANCE WITH THE CLEAN
30 STREAMS PROGRAM AND THE ACT, APPROVED THE TWENTY-SECOND DAY OF

1 JUNE, ONE THOUSAND NINE HUNDRED THIRTY-SEVEN (PAMPHLET LAWS
2 1987), AND MAKING AN APPROPRIATION," MAY APPLY FOR OR RECEIVE
3 PAYMENTS UNDER THAT ACT. NO NEW OR ADDITIONAL COSTS OF EQUIPMENT
4 OR ACQUISITION OF SEWAGE TREATMENT PLANTS FOR WHICH CONSTRUCTION
5 HAS NOT COMMENCED PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER
6 MAY BE INCLUDED IN A REQUEST FOR PAYMENT BY A MUNICIPALITY,
7 MUNICIPAL AUTHORITY OR SCHOOL DISTRICT. FOR PURPOSES OF THIS
8 SECTION, CONSTRUCTION SHALL BE DEEMED TO HAVE COMMENCED WHEN:

9 (1) THE APPLICANT HAS APPLIED FOR OR RECEIVED A PERMIT
10 UNDER THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS
11 THE CLEAN STREAMS LAW, FOR CONSTRUCTION OR MODIFICATION OF
12 THE SEWAGE TREATMENT PLANT;

13 (2) THE APPLICANT HAS APPLIED FOR OR RECEIVED
14 CONSTRUCTION FINANCING OR HAS DEDICATED CAPITAL FUNDS FOR AN
15 IDENTIFIED PROJECT, BEFORE JANUARY 1, 2000, AND THE
16 APPROPRIATE CONSTRUCTION PERMIT UNDER THE CLEAN STREAMS LAW
17 HAS BEEN APPLIED FOR OR RECEIVED BEFORE JANUARY 1, 2001; OR

18 (3) IF A CONSTRUCTION PERMIT UNDER THE CLEAN STREAMS LAW
19 IS NOT REQUIRED, A SIGNED CONTRACT OR PURCHASE ORDER FOR AN
20 ELIGIBLE ACQUISITION OR CONSTRUCTION EXPENSE HAS BEEN VALIDLY
21 EXECUTED.

22 § 6110. ENVIRONMENTAL INFRASTRUCTURE GRANTS TO WATER AND
23 WASTEWATER TREATMENT FACILITIES.

24 (A) SEPARATE ACCOUNT.--

25 (1) SAVINGS REALIZED IN SECTION 6109 (RELATING TO SEWAGE
26 CONSTRUCTION PAYMENTS TO MUNICIPALITIES) SHALL BE PLACED IN
27 AN ACCOUNT WITHIN THE FUND, WHICH SHALL BE CUMULATIVE,
28 SEPARATE FROM THE ALLOCATIONS IN SECTION 6104(D) (RELATING TO
29 FUND), AND FOR EXPENDITURE BY THE DEPARTMENT OF ENVIRONMENTAL
30 PROTECTION FOR ENVIRONMENTAL INFRASTRUCTURE GRANTS TO A

COUNTY OR OTHER MUNICIPALITY, MUNICIPAL AUTHORITIES AND
SCHOOL DISTRICTS, FOR WATER AND WASTEWATER TREATMENT
FACILITIES WHICH:

(I) INSTALL OR IMPLEMENT NEW OR INNOVATIVE
TECHNOLOGIES IN THEIR OPERATIONS;

(II) IMPLEMENT POLLUTION PREVENTION TECHNIQUES IN
THEIR OPERATIONS;

(III) UNDERTAKE TREATMENT PROCESS MODERNIZATION OR
OTHER IMPROVEMENTS, INCLUDING REHABILITATION OF
COLLECTION AND CONVEYANCE SYSTEMS; OR

(IV) IMPLEMENT ODOR ABATEMENT PROGRAMS IN THEIR
OPERATIONS.

(2) A GRANT FROM THE ACCOUNT SHALL NOT BE USED FOR THE
CONSTRUCTION OF A NEW FACILITY. AN APPLICANT FOR FUNDING MUST
DISCLOSE IN THE APPLICATION IF FUNDING HAS BEEN APPLIED FOR
FROM BOTH THE ACCOUNT AND THE AUTHORITY. AN APPLICANT THAT
RECEIVES FUNDING FROM THE ACCOUNT SHALL NOT RECEIVE FUNDING
FROM THE AUTHORITY UNDER THIS CHAPTER FOR THE SAME PORTION OF
THE PROJECT OR EQUIPMENT. AN APPLICANT THAT RECEIVES FUNDING
FROM THE AUTHORITY UNDER THIS CHAPTER SHALL NOT RECEIVE
FUNDING FROM THE ACCOUNT FOR THE SAME PORTION OF THE PROJECT
OR EQUIPMENT.

(B) LIMITATION.--FUNDING UNDER THIS SECTION SHALL BE LIMITED
TO IMPROVEMENTS TO THE PHYSICAL OPERATION OF THE TREATMENT
FACILITY AND SHALL NOT BE USED FOR ADMINISTRATIVE PURPOSES OR
FOR MACHINERY OR EQUIPMENT PERIPHERALLY RELATED TO THE
OPERATION.

(C) FUNDING AVAILABILITY.--FUNDING SHALL BE AVAILABLE TO ALL
COUNTIES OR OTHER MUNICIPALITIES, MUNICIPAL AUTHORITIES AND
SCHOOL DISTRICTS ON THE BASIS OF COST OF THE ENVIRONMENTAL OR

1 PUBLIC HEALTH IMPROVEMENT AND NOT BASED ON DEMOGRAPHICS, PER
2 CAPITA INCOME OR OTHER UNIT OF MEASURE NOT TIED TO THE COST OF
3 THE ENVIRONMENTAL IMPROVEMENT.

4 (D) CALCULATION OF FUND MONEYS.--THE ACCOUNT SHALL ANNUALLY
5 RECEIVE THE DIFFERENCE BETWEEN:

6 (1) THE AMOUNT PAID UNDER THE ACT OF AUGUST 20, 1953
7 (P.L.1217, NO.339), ENTITLED "AN ACT PROVIDING FOR PAYMENTS
8 BY THE COMMONWEALTH TO MUNICIPALITIES WHICH HAVE EXPENDED
9 MONEY TO ACQUIRE AND CONSTRUCT SEWAGE TREATMENT PLANTS IN
10 ACCORDANCE WITH THE CLEAN STREAMS PROGRAM AND THE ACT,
11 APPROVED THE TWENTY-SECOND DAY OF JUNE, ONE THOUSAND NINE
12 HUNDRED THIRTY-SEVEN (PAMPHLET LAWS 1987), AND MAKING AN
13 APPROPRIATION," IN 2001-2002; AND

14 (2) THE AMOUNT PAID UNDER SECTION 6109.

15 § 6111. PROTECTION OF RECYCLING FUND.

16 (A) MARKET DEVELOPMENT FUNDING.--THE DEPARTMENT OF
17 ENVIRONMENTAL PROTECTION, ON AN ANNUAL BASIS, SHALL PROVIDE
18 SUFFICIENT MONEYS FOR MARKET DEVELOPMENT FROM THE RECYCLING FUND
19 TO PROMOTE THE LONG-TERM SUSTAINABILITY OF RECYCLING AND TO
20 PROMOTE THE CONTINUED GROWTH OF THE RECYCLING RATE. FOR PURPOSES
21 OF THIS SUBSECTION, MARKET DEVELOPMENT SHALL MEAN A SET OF
22 GOVERNMENT POLICIES AND PROGRAMS THAT PROMOTE THE REMOVAL OF
23 MARKETPLACE BARRIERS TO RECYCLING AND THAT PROMOTE A PRODUCTIVE
24 END USE FOR RECYCLABLES COLLECTED FROM RESIDENTS AND BUSINESSES.

25 (B) REVIEW OF EXPENDITURES.--PRIOR TO SUBMITTING ITS ANNUAL
26 RECYCLING FUND SPENDING PLAN TO THE GENERAL ASSEMBLY, THE
27 DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL SUBMIT DETAILS OF
28 ITS PROPOSED EXPENDITURES UNDER THE ACT OF JULY 28, 1988
29 (P.L.556, NO.101), KNOWN AS THE MUNICIPAL WASTE PLANNING,
30 RECYCLING AND WASTE REDUCTION ACT, INCLUDING ADDITIONAL

1 EXPENDITURES FOR MARKET DEVELOPMENT, FOR REVIEW AND COMMENT TO
2 THE RECYCLING FUND ADVISORY COMMITTEE. AT THE SAME TIME, THE
3 DEPARTMENT SHALL SUBMIT DETAILS OF ITS ACTUAL EXPENDITURES UNDER
4 THE MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT
5 FOR THE PRIOR FISCAL YEAR, INCLUDING ACTUAL EXPENDITURES FOR
6 MARKET DEVELOPMENT, FOR REVIEW AND COMMENT TO THE COMMITTEE. THE
7 DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL PROVIDE AGGREGATE
8 INFORMATION ON THE PROGRAM, INCLUDING THE TOTAL AMOUNT OF
9 FUNDING APPLIED FOR, THE TOTAL AMOUNT OF FUNDING PROVIDED, THE
10 PERCENTAGE OF APPLICATIONS APPROVED AND THE PERCENTAGE OF
11 APPLICATIONS FULLY FUNDED. THE INFORMATION ON ACTUAL
12 EXPENDITURES PROVIDED TO THE COMMITTEE SHALL INCLUDE A COMPLETE
13 LIST OF RECIPIENTS FUNDED BY THE DEPARTMENT OF ENVIRONMENTAL
14 PROTECTION PURSUANT TO SECTIONS 901 AND 902 OF THE MUNICIPAL
15 WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT IN THE PRIOR
16 FISCAL YEAR. THE LIST SHALL INCLUDE:

17 (1) THE NAME OF THE RECIPIENT.

18 (2) THE AMOUNT OF FUNDING REQUESTED.

19 (3) THE AMOUNT OF FUNDING PROVIDED BY THE DEPARTMENT OF
20 ENVIRONMENTAL PROTECTION.

21 (C) MINIMUM LEVEL OF FUNDING.--FOR A PERIOD OF FIVE YEARS
22 FROM THE EFFECTIVE DATE OF THIS CHAPTER, MONEYS EXPENDED FOR
23 PROGRAMS AUTHORIZED IN THE MUNICIPAL WASTE PLANNING, RECYCLING
24 AND WASTE REDUCTION ACT SHALL NOT FALL BELOW LEVELS EXPENDED IN
25 FISCAL YEAR 1999-2000.

26 (D) INFORMATION TO APPLICANT.--WHEN THE DEPARTMENT OF
27 ENVIRONMENTAL PROTECTION DENIES AN APPLICATION FOR A GRANT, OR
28 APPROVES AN APPLICATION FOR LESS THAN THE AMOUNT REQUESTED BY
29 THE APPLICANT, THE DEPARTMENT SHALL PROVIDE THE APPLICANT WITH A
30 WRITTEN STATEMENT INDICATING THE REASON FOR THE DENIAL OR

1 REDUCTION IN FUNDING AMOUNT.

2 § 6112. EXTENSION OF FEES.

3 (A) RECYCLING FEE.--NO FEE SHALL BE IMPOSED UNDER SECTION
4 701 OF THE ACT OF JULY 28, 1988 (P.L.556, NO.101), KNOWN AS THE
5 MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT, ON
6 OR AFTER OCTOBER 15, 2004.

7 (B) FEE ESTABLISHED.--EACH OPERATOR OF A MUNICIPAL WASTE
8 LANDFILL SHALL PAY, IN THE SAME MANNER PRESCRIBED IN SECTION 701
9 OF THE MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION
10 ACT, AN AMOUNT EQUAL TO 25¢ PER TON OF WEIGHTED WASTE OR 25¢ PER
11 THREE CUBIC YARDS OF VOLUME MEASURED WASTE FOR ALL SOLID WASTE
12 RECEIVED AT THE LANDFILL. THESE FEES SHALL BE PAID TO THE STATE
13 TREASURY AND DEPOSITED INTO THE FUND.

14 § 6113. EFFECT OF REPEAL OF SITE-SPECIFIC POSTCLOSURE FUND
15 PROVISIONS.

16 (A) GENERAL RULE.--PRIOR TO CERTIFICATION OF FINAL CLOSURE
17 AND RELEASE BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF THE
18 LANDFILL BOND UNDER THE ACT OF JULY 7, 1980 (P.L.380, NO.97),
19 KNOWN AS THE SOLID WASTE MANAGEMENT ACT, AND THE REGULATIONS
20 PROMULGATED THERETO, THE TRUSTEE MAY RELEASE MONEYS FROM THE
21 TRUST TO THE COUNTY WHICH ESTABLISHED THE TRUST UPON WRITTEN
22 REQUEST FROM THE COUNTY TO THE TRUSTEE IN ORDER FOR THE COUNTY
23 TO SPEND THE MONEY TO FUND COUNTY CONSERVATION DISTRICTS,
24 PROTECT FARMLAND OR TO ACCOMPLISH ANY OTHER PURPOSE AUTHORIZED
25 BY THIS CHAPTER. PAYMENT OF DEBT SERVICE BY A COUNTY ON
26 OBLIGATIONS ISSUED TO FUND SUCH PURPOSES SHALL BE DEEMED TO BE
27 PAID FOR A PERMITTED PURPOSE. EXPENDITURE FOR FARMLAND
28 PRESERVATION MUST COMPLY WITH THE ACT OF JUNE 30, 1981 (P.L.128,
29 NO.43), KNOWN AS THE AGRICULTURAL AREA SECURITY LAW.

30 (B) LIMITATIONS.--MONEYS IN A SITE-SPECIFIC POSTCLOSURE

1 TRUST THAT HAVE NOT BEEN RELEASED TO THE COUNTY PRIOR TO
2 CERTIFICATION OF FINAL CLOSURE AND RELEASE OF THE LANDFILL BOND
3 MAY BE USED ONLY FOR REMEDIAL MEASURES AND EMERGENCY ACTIONS
4 THAT ARE NECESSARY TO PREVENT OR ABATE ADVERSE EFFECTS UPON THE
5 ENVIRONMENT AFTER CLOSURE OF THE LANDFILL. THE COUNTY MAY
6 WITHDRAW ACTUAL COSTS INCURRED IN ESTABLISHING AND ADMINISTERING
7 THE TRUST IN AN AMOUNT NOT TO EXCEED 0.5% OF THE MONEYS
8 DEPOSITED IN THE TRUST. THE TRUSTEE MAY RELEASE MONEYS FOR
9 REMEDIAL MEASURES AND EMERGENCY ACTIONS ONLY UPON WRITTEN
10 REQUEST OF THE OPERATOR OF A LANDFILL AND UPON PRIOR WRITTEN
11 APPROVAL BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. SUCH
12 REQUEST SHALL INCLUDE THE PROPOSED AMOUNT AND PURPOSE OF THE
13 WITHDRAWAL AND A COPY OF THE DEPARTMENT OF ENVIRONMENTAL
14 PROTECTION'S WRITTEN APPROVAL OF THE EXPENDITURE. A COPY OF THE
15 REQUEST SHALL BE PROVIDED TO THE COUNTY AND THE HOST
16 MUNICIPALITY. A COPY OF ANY WITHDRAWAL DOCUMENT PREPARED BY THE
17 TRUSTEE SHALL BE PROVIDED TO THE DEPARTMENT OF ENVIRONMENTAL
18 PROTECTION, THE COUNTY AND THE HOST MUNICIPALITY. NO WITHDRAWAL
19 FROM THIS TRUST FOR REMEDIAL MEASURES AND EMERGENCY ACTIONS MAY
20 BE MADE UNTIL AFTER THE DEPARTMENT OF ENVIRONMENTAL PROTECTION
21 HAS CERTIFIED CLOSURE OF THE LANDFILL. MONEYS REMAINING IN A
22 TRUST SUBSEQUENT TO CERTIFICATION OF FINAL CLOSURE OF THE
23 LANDFILL AND RELEASE OF THE LANDFILL'S BOND SHALL BE GIVEN TO
24 THE COUNTY THAT ESTABLISHED THE TRUST FOR USE IN A MANNER
25 CONSISTENT WITH THIS CHAPTER.

26 (C) APPLICABILITY.--THIS SECTION SHALL NOT APPLY TO ANY
27 COUNTY OF THE THIRD CLASS HAVING A POPULATION UNDER THE 1990
28 FEDERAL DECENNIAL CENSUS OF GREATER THAN 225,000 BUT LESS THAN
29 242,500.

SANCTIONS AND REMEDIES

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CHAPTER

81. GOOD SAMARITAN.

CHAPTER 81

GOOD SAMARITAN

SEC.

8101. SHORT TITLE OF CHAPTER.

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8114. REGULATIONS.

§ 8101. SHORT TITLE OF CHAPTER.

THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
ENVIRONMENTAL GOOD SAMARITAN ACT.

§ 8102. FINDINGS.

THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

(1) THIS COMMONWEALTH'S LONG HISTORY OF MINING AND THE

1 EXTRACTION OF OIL AND GAS HAS LEFT SOME LANDS AND WATERS
2 UNRECLAIMED AND POLLUTED.

3 (2) THESE ABANDONED LANDS AND POLLUTED WATERS ARE
4 UNPRODUCTIVE, ERODE THE TAX BASE AND ARE SERIOUS IMPEDIMENTS
5 TO THE ECONOMIC WELFARE AND GROWTH OF THIS COMMONWEALTH.

6 (3) THE UNRECLAIMED LANDS AND POLLUTED WATERS PRESENT A
7 DANGER TO THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE AND
8 THE ENVIRONMENT.

9 (4) THIS COMMONWEALTH DOES NOT POSSESS SUFFICIENT
10 RESOURCES TO RECLAIM ALL THE ABANDONED LANDS AND TO ABATE THE
11 WATER POLLUTION.

12 (5) NUMEROUS LANDOWNERS, CITIZENS, WATERSHED
13 ASSOCIATIONS, ENVIRONMENTAL ORGANIZATIONS AND GOVERNMENTAL
14 ENTITIES WHO DO NOT HAVE A LEGAL RESPONSIBILITY TO RECLAIM
15 THE ABANDONED LANDS OR TO ABATE THE WATER POLLUTION ARE
16 INTERESTED IN ADDRESSING THESE PROBLEMS BUT ARE RELUCTANT TO
17 ENGAGE IN SUCH RECLAMATION AND ABATEMENT ACTIVITIES BECAUSE
18 OF POTENTIAL LIABILITIES ASSOCIATED WITH THE RECLAMATION AND
19 ABATEMENT ACTIVITIES.

20 (6) IT IS IN THE BEST INTEREST OF THE HEALTH, SAFETY AND
21 WELFARE OF THE PEOPLE OF THIS COMMONWEALTH AND THE
22 ENVIRONMENT TO ENCOURAGE RECLAMATION OF THE ABANDONED LANDS
23 AND ABATEMENT OF WATER POLLUTION.

24 § 8103. PURPOSE.

25 THIS CHAPTER IS INTENDED TO ENCOURAGE THE IMPROVEMENT OF LAND
26 AND WATER ADVERSELY AFFECTED BY MINING AND OIL AND GAS
27 EXTRACTION, TO AID IN THE PROTECTION OF WILDLIFE, TO DECREASE
28 SOIL EROSION, TO AID IN THE PREVENTION AND ABATEMENT OF THE
29 POLLUTION OF RIVERS AND STREAMS, TO PROTECT AND IMPROVE THE
30 ENVIRONMENTAL VALUES OF THIS COMMONWEALTH AND TO ELIMINATE OR

1 ABATE HAZARDS TO HEALTH AND SAFETY. IT IS THE INTENT OF THE
2 GENERAL ASSEMBLY TO ENCOURAGE VOLUNTARY RECLAMATION OF LANDS
3 ADVERSELY AFFECTED BY MINING OR OIL OR GAS EXTRACTION. THE
4 PURPOSE OF THIS CHAPTER IS TO IMPROVE WATER QUALITY AND TO
5 CONTROL AND ELIMINATE WATER POLLUTION RESULTING FROM MINING OR
6 OIL OR GAS EXTRACTION OR EXPLORATION BY LIMITING THE LIABILITY
7 WHICH COULD ARISE AS A RESULT OF THE VOLUNTARY RECLAMATION OF
8 ABANDONED LANDS OR THE REDUCTION AND ABATEMENT OF WATER
9 POLLUTION. THIS CHAPTER IS NOT INTENDED TO LIMIT THE LIABILITY
10 OF A PERSON WHO UNDER EXISTING LAW IS OR MAY BECOME RESPONSIBLE
11 TO RECLAIM THE LAND OR ADDRESS THE WATER POLLUTION OR ANYONE WHO
12 BY CONTRACT, ORDER OR OTHERWISE IS REQUIRED TO OR AGREES TO
13 PERFORM THE RECLAMATION OR ABATE THE WATER POLLUTION.

14 § 8104. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
16 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
17 CONTEXT CLEARLY INDICATES OTHERWISE:

18 "ABANDONED LANDS." LAND ADVERSELY AFFECTED BY MINERAL OR OIL
19 OR GAS EXTRACTION AND LEFT OR ABANDONED IN AN UNRECLAIMED OR
20 INADEQUATELY RECLAIMED CONDITION.

21 "CONSIDERATION." SOMETHING OF VALUE PROMISED, GIVEN OR
22 PERFORMED IN EXCHANGE FOR SOMETHING WHICH HAS THE EFFECT OF
23 MAKING A LEGALLY ENFORCEABLE CONTRACT. FOR THE PURPOSE OF THIS
24 CHAPTER, THE TERM DOES NOT INCLUDE A PROMISE TO A LANDOWNER TO
25 REPAIR DAMAGE CAUSED BY A RECLAMATION PROJECT OR WATER POLLUTION
26 ABATEMENT PROJECT WHEN THE PROMISE IS MADE IN EXCHANGE FOR
27 ACCESS TO THE LAND.

28 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
29 THE COMMONWEALTH.

30 "ELIGIBLE LAND AND WATER." LAND AND WATER ADVERSELY AFFECTED

1 BY MINING OR OIL OR GAS EXTRACTION AND LEFT OR ABANDONED IN AN
2 UNRECLAIMED OR INADEQUATELY RECLAIMED CONDITION OR LEFT
3 DISCHARGING WATER POLLUTION AND FOR WHICH NO PERSON HAS A
4 CONTINUING RECLAMATION OR WATER POLLUTION ABATEMENT OBLIGATION.
5 THE TERM SHALL ALSO INCLUDE LAND AND WATER ADVERSELY AFFECTED BY
6 MINING OR OIL OR GAS EXTRACTION AND LEFT IN AN UNRECLAIMED OR
7 INADEQUATELY RECLAIMED CONDITION OR LEFT DISCHARGING WATER
8 POLLUTION FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION
9 HAS FORFEITED AND COLLECTED THE OPERATORS BONDS AND THERE IS NO
10 OUTSTANDING LITIGATION CONCERNING THE BOND FORFEITURE.

11 "LANDOWNER." A PERSON WHO HOLDS EITHER LEGAL OR EQUITABLE
12 INTEREST IN REAL PROPERTY.

13 "MINERAL." ANY AGGREGATE OR MASS OF MINERAL MATTER, WHETHER
14 OR NOT COHERENT, WHICH IS EXTRACTED BY MINING, INCLUDING, BUT
15 NOT LIMITED TO, LIMESTONE, DOLOMITE, SAND, GRAVEL, SLATE,
16 ARGILLITE, DIABASE, GNEISS, MICACEOUS SANDSTONE KNOWN AS
17 BLUESTONE, ROCK, STONE, EARTH, FILL, SLAG, IRON ORE, ZINC ORE,
18 VERMICULITE, CLAY AND ANTHRACITE AND BITUMINOUS COAL.

19 "PERMITTED MINING ACTIVITY SITE." A SITE PERMITTED BY THE
20 DEPARTMENT OF ENVIRONMENTAL PROTECTION PURSUANT TO ONE OR MORE
21 OF THE FOLLOWING ACTS:

22 (1) THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN
23 AS THE CLEAN STREAMS LAW;

24 (2) THE ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS
25 THE SURFACE MINING CONSERVATION AND RECLAMATION ACT;

26 (3) THE ACT OF APRIL 27, 1966 (1ST SP.SESS., P.L.31,
27 NO.1), KNOWN AS THE BITUMINOUS MINE SUBSIDENCE AND LAND
28 CONSERVATION ACT;

29 (4) THE ACT OF SEPTEMBER 24, 1968 (P.L.1040, NO.318),
30 KNOWN AS THE COAL REFUSE DISPOSAL CONTROL ACT; OR

(5) THE ACT OF DECEMBER 19, 1984 (P.L.1093, NO.219),
KNOWN AS THE NONCOAL SURFACE MINING CONSERVATION AND
RECLAMATION ACT.

"PERSON." A NATURAL PERSON, PARTNERSHIP, ASSOCIATION,
ASSOCIATION MEMBERS, CORPORATION, POLITICAL SUBDIVISION OF THE
COMMONWEALTH, AN AGENCY, INSTRUMENTALITY OR ENTITY OF FEDERAL OR
STATE GOVERNMENT OR OTHER LEGAL ENTITY RECOGNIZED BY LAW AS THE
SUBJECT OF RIGHTS AND LIABILITIES.

"PROJECT WORK AREA." THAT LAND NECESSARY FOR A PERSON TO
COMPLETE A RECLAMATION PROJECT OR A WATER POLLUTION ABATEMENT
PROJECT.

"RECLAMATION PROJECT." THE RESTORATION OF ELIGIBLE LANDS AND
WATER TO PRODUCTIVE USE BY REGRADING AND REVEGETATING THE LAND
TO STABLE CONTOURS THAT BLEND IN AND COMPLEMENT THE DRAINAGE
PATTERN OF THE SURROUNDING TERRAIN WITH NO HIGHWALLS, SPOIL
PILES OR DEPRESSIONS TO ACCUMULATE WATER AND BY PLUGGING
ABANDONED OIL OR GAS WELLS AND REMOVING PRODUCTION OR STORAGE
FACILITIES, SUPPLIES AND EQUIPMENT FROM AREAS DISTURBED IN
SITING, DRILLING, COMPLETING AND PRODUCING SUCH WELLS.

"WATER POLLUTION." POLLUTION OF THE WATERS OF THIS
COMMONWEALTH AS DEFINED IN SECTION 1 OF THE ACT OF JUNE 22, 1937
(P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, WHICH WAS
CAUSED BY MINING ACTIVITIES OR OIL OR GAS EXTRACTION OR
EXPLORATION FOR THESE RESOURCES.

"WATER POLLUTION ABATEMENT FACILITIES." THE METHODS FOR
TREATMENT OR ABATEMENT OF WATER POLLUTION LOCATED ON ELIGIBLE
LANDS AND WATER. THESE METHODS INCLUDE, BUT ARE NOT LIMITED TO,
A STRUCTURE, SYSTEM, PRACTICE, TECHNIQUE OR METHOD CONSTRUCTED,
INSTALLED OR FOLLOWED TO REDUCE, TREAT OR ABATE SUCH WATER
POLLUTION.

1 "WATER POLLUTION ABATEMENT PROJECT." A PLAN FOR TREATMENT OR
2 ABATEMENT OF WATER POLLUTION LOCATED ON ELIGIBLE LANDS AND
3 WATER. THESE PLANS INCLUDE, BUT ARE NOT LIMITED TO, THE
4 PRACTICES TO BE FOLLOWED AND THE INSTALLATION, OPERATION AND
5 MAINTENANCE OF FACILITIES TO REDUCE, TREAT OR ABATE SUCH WATER
6 POLLUTION.

7 § 8105. ELIGIBILITY AND PROJECT INVENTORY.

8 (A) GENERAL RULE.--A LANDOWNER OR PERSON WHO VOLUNTARILY
9 PROVIDES EQUIPMENT, MATERIALS OR SERVICES AT NO CHARGE OR AT
10 COST FOR A RECLAMATION PROJECT OR A WATER POLLUTION ABATEMENT
11 PROJECT IN ACCORDANCE WITH THIS CHAPTER MAY BE IMMUNE FROM CIVIL
12 LIABILITY, AND MAY RAISE THE PROTECTIONS AFFORDED BY THIS
13 CHAPTER IN ANY SUBSEQUENT LEGAL PROCEEDING WHICH IS BROUGHT TO
14 ENFORCE ENVIRONMENTAL LAWS OR OTHERWISE IMPOSE LIABILITY. A
15 LANDOWNER OR OTHER PERSON IS ONLY ELIGIBLE FOR THE PROTECTIONS
16 AND IMMUNITIES PROVIDED BY SECTIONS 8106 (RELATING TO LANDOWNER
17 LIABILITY LIMITATION AND EXCEPTIONS) AND 8107 (RELATING TO
18 PROJECT LIABILITY LIMITATION AND EXCEPTIONS) IF A DETAILED
19 WRITTEN PLAN OF THE PROPOSED RECLAMATION PROJECT OR WATER
20 POLLUTION ABATEMENT PROJECT IS SUBMITTED TO AND APPROVED BY THE
21 DEPARTMENT. THE PROJECT PLAN SHALL INCLUDE THE OBJECTIVE OF THE
22 PROJECT AND A DESCRIPTION OF THE WORK THAT WILL BE PERFORMED TO
23 ACCOMPLISH THE OBJECTIVE AND MUST IDENTIFY THE PROJECT LOCATION,
24 PROJECT BOUNDARIES, THE PROJECT PARTICIPANTS AND THE OWNERS OF
25 THE LAND.

26 (B) NOTICE.--UPON RECEIPT OF EACH PROJECT PLAN THE
27 DEPARTMENT SHALL EITHER GIVE WRITTEN NOTICE BY CERTIFIED MAIL TO
28 ADJACENT PROPERTY OWNERS AND RIPARIAN LAND OWNERS LOCATED
29 DOWNSTREAM OF THE PROPOSED PROJECT OR WILL PROVIDE PUBLIC NOTICE
30 OF THE PROPOSED PROJECT IN A NEWSPAPER OF GENERAL CIRCULATION,

1 PUBLISHED IN THE LOCALITY OF THE PROPOSED PROJECT, ONCE A WEEK
2 FOR FOUR CONSECUTIVE WEEKS AND SHALL GIVE PUBLIC NOTICE IN THE
3 PENNSYLVANIA BULLETIN. THE PERSON PROPOSING THE PROJECT MAY ALSO
4 PROVIDE PUBLIC NOTICE. ANY PERSON HAVING AN INTEREST WHICH MAY
5 BE ADVERSELY AFFECTED BY THE PROPOSED PROJECT HAS THE RIGHT TO
6 FILE WITH THE DEPARTMENT WRITTEN OBJECTION TO THE PROPOSED
7 PROJECT WITHIN 30 DAYS AFTER RECEIPT OF THE WRITTEN NOTICE OR
8 THE LAST PUBLICATION OF THE ABOVE NOTICE WHICH SHALL CONCLUDE
9 THE PUBLIC COMMENT PERIOD. THE DEPARTMENT SHALL PROVIDE TO THE
10 PERSON PROPOSING THE PROJECT A COPY OF EACH WRITTEN OBJECTION
11 RECEIVED DURING THE PUBLIC COMMENT PERIOD.

12 (C) ADVICE.--THE DEPARTMENT MAY PROVIDE ADVICE TO THE
13 LANDOWNER OR OTHER INTERESTED PERSON BASED UPON THE DEPARTMENT'S
14 KNOWLEDGE AND EXPERIENCE IN PERFORMING RECLAMATION PROJECTS AND
15 WATER POLLUTION ABATEMENT PROJECTS.

16 (D) DEPARTMENTAL REVIEW.--THE DEPARTMENT SHALL REVIEW EACH
17 PROPOSED RECLAMATION PROJECT AND APPROVE THE PROJECT IF THE
18 DEPARTMENT DETERMINES THE PROPOSED PROJECT:

19 (1) WILL RESULT IN THE REGRADING OF THE LAND TO STABLE
20 CONTOURS THAT BLEND IN AND COMPLEMENT THE DRAINAGE PATTERN OF
21 THE SURROUNDING TERRAIN WITH NO HIGHWALLS, SPOIL PILES OR
22 DEPRESSIONS TO ACCUMULATE WATER;

23 (2) WILL RESULT IN THE APPROPRIATE REVEGETATION OF THE
24 SITE; AND

25 (3) IS NOT LIKELY TO RESULT IN WATER POLLUTION AS
26 DEFINED IN SECTION 1 OF THE ACT OF JUNE 22, 1937 (P.L.1987,
27 NO.394), KNOWN AS THE CLEAN STREAMS LAW.

28 THE DEPARTMENT SHALL REVIEW EACH PROPOSED WATER POLLUTION
29 ABATEMENT PROJECT AND APPROVE THE PROJECT IF THE DEPARTMENT
30 DETERMINES THE PROPOSED PROJECT IS LIKELY TO IMPROVE THE WATER

1 QUALITY AND IS NOT LIKELY TO MAKE THE WATER POLLUTION WORSE.

2 (E) ADDITIONAL REVIEW.--THE DEPARTMENT SHALL REVIEW EACH
3 PROJECT PLAN IN ACCORDANCE WITH SECTION 8111(B) (RELATING TO
4 EXCEPTIONS).

5 (F) PROJECT INVENTORY.--THE DEPARTMENT SHALL DEVELOP AND
6 MAINTAIN A SYSTEM TO INVENTORY AND RECORD EACH PROJECT, THE
7 PROJECT LOCATION AND BOUNDARIES, EACH LANDOWNER AND EACH PERSON
8 IDENTIFIED IN A PROJECT PLAN PROVIDED TO THE DEPARTMENT. THE
9 INVENTORY SHALL INCLUDE THE RESULTS OF THE DEPARTMENT'S REVIEW
10 OF THE PROPOSED PROJECT AND, WHERE APPLICABLE, INCLUDE THE
11 DEPARTMENT'S FINDINGS UNDER SECTION 8111(B).

12 (G) APPEAL.--A PERSON AGGRIEVED BY A DEPARTMENT DECISION TO
13 APPROVE OR DISAPPROVE A RECLAMATION PROJECT OR A WATER POLLUTION
14 ABATEMENT PROJECT HAS THE RIGHT TO FILE AN APPEAL WITH THE
15 ENVIRONMENTAL HEARING BOARD IN ACCORDANCE WITH THE ACT OF JULY
16 13, 1988 (P.L.530, NO.94), KNOWN AS THE ENVIRONMENTAL HEARING
17 BOARD ACT, AND IN ACCORDANCE WITH THE ENVIRONMENTAL HEARING
18 BOARD'S RULES, 25 PA. CODE CH. 1021 (RELATING TO PRACTICE AND
19 PROCEDURES).

20 § 8106. LANDOWNER LIABILITY LIMITATION AND EXCEPTIONS.

21 (A) GENERAL RULE.--EXCEPT AS SPECIFICALLY PROVIDED IN
22 SUBSECTIONS (B) AND (C), A LANDOWNER WHO PROVIDES ACCESS TO THE
23 LAND, WITHOUT CHARGE OR OTHER CONSIDERATION, WHICH RESULTS IN
24 THE IMPLEMENTATION OF A RECLAMATION PROJECT OR A WATER POLLUTION
25 ABATEMENT PROJECT:

26 (1) SHALL BE IMMUNE FROM LIABILITY FOR ANY INJURY OR
27 DAMAGE SUFFERED BY THE PERSON IMPLEMENTING THE RECLAMATION
28 PROJECT OR THE WATER POLLUTION ABATEMENT PROJECT WHILE THE
29 PERSON IS WITHIN THE PROJECT WORK AREA.

30 (2) SHALL BE IMMUNE FROM LIABILITY FOR ANY INJURY TO OR

1 DAMAGE SUFFERED BY A THIRD PARTY WHICH ARISES OUT OF OR
2 OCCURS AS A RESULT OF AN ACT OR OMISSION OF A PERSON
3 IMPLEMENTING A RECLAMATION PROJECT OR WATER POLLUTION
4 ABATEMENT PROJECT WHICH OCCURS DURING THE IMPLEMENTATION OF
5 THE RECLAMATION PROJECT OR THE WATER POLLUTION ABATEMENT
6 PROJECT.

7 (3) SHALL BE IMMUNE FROM LIABILITY FOR ANY INJURY TO OR
8 DAMAGE SUFFERED BY A THIRD PARTY WHICH ARISES OUT OF OR
9 OCCURS AS A RESULT OF A RECLAMATION PROJECT OR A WATER
10 POLLUTION ABATEMENT PROJECT.

11 (4) SHALL NOT BE DEEMED TO ASSUME LEGAL RESPONSIBILITY
12 FOR OR INCUR LIABILITY FOR ANY POLLUTION RESULTING FROM A
13 RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT.

14 (5) SHALL NOT BE SUBJECT TO A CITIZEN SUIT FILED
15 PURSUANT TO SECTION 601 OF THE ACT OF JUNE 22, 1937
16 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, FOR
17 POLLUTION RESULTING FROM A RECLAMATION PROJECT OR WATER
18 POLLUTION ABATEMENT PROJECT.

19 (6) SHALL BE IMMUNE FROM LIABILITY FOR THE OPERATION,
20 MAINTENANCE OR REPAIR OF THE WATER POLLUTION ABATEMENT
21 FACILITIES CONSTRUCTED OR INSTALLED DURING THE PROJECT UNLESS
22 THE LANDOWNER NEGLIGENTLY DAMAGES OR DESTROYS THE WATER
23 POLLUTION ABATEMENT FACILITIES OR DENIES ACCESS TO THOSE
24 PERSONS WHO OPERATE, MAINTAIN OR REPAIR THE WATER POLLUTION
25 ABATEMENT FACILITIES.

26 (B) DUTY TO WARN.--A LANDOWNER SHALL WARN A PERSON
27 IMPLEMENTING A RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT
28 PROJECT OF KNOWN, LATENT, DANGEROUS CONDITIONS LOCATED ON THE
29 PROJECT WORK AREA WHICH KNOWN, LATENT, DANGEROUS CONDITIONS ARE
30 NOT THE SUBJECT OF THE RECLAMATION PROJECT OR THE WATER

1 POLLUTION ABATEMENT PROJECT. NOTHING IN THIS CHAPTER SHALL LIMIT
2 IN ANY WAY OR AFFECT A LANDOWNER'S LIABILITY WHICH RESULTS FROM
3 THE LANDOWNER'S FAILURE TO WARN OF SUCH KNOWN, LATENT, DANGEROUS
4 CONDITIONS.

5 (C) EXCEPTIONS TO IMMUNITY.--NOTHING IN THIS CHAPTER SHALL
6 LIMIT IN ANY WAY OR AFFECT A LANDOWNER'S LIABILITY WHICH RESULTS
7 FROM A RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT
8 AND WHICH WOULD OTHERWISE EXIST:

9 (1) FOR INJURY OR DAMAGE RESULTING FROM THE LANDOWNER'S
10 ACTS OR OMISSIONS WHICH ARE RECKLESS OR CONSTITUTE GROSS
11 NEGLIGENCE OR WILLFUL MISCONDUCT.

12 (2) WHERE THE LANDOWNER CHARGES AN ACCESS FEE OR
13 REQUIRES OTHER CONSIDERATION BEFORE ALLOWING ACCESS TO THE
14 LAND FOR THE PURPOSE OF IMPLEMENTING A RECLAMATION PROJECT OR
15 WATER POLLUTION ABATEMENT PROJECT OR TO OPERATE, MAINTAIN OR
16 REPAIR WATER POLLUTION ABATEMENT FACILITIES CONSTRUCTED OR
17 INSTALLED DURING A WATER POLLUTION ABATEMENT PROJECT.

18 (3) FOR THE LANDOWNER'S UNLAWFUL ACTIVITIES.

19 (4) FOR DAMAGE TO ADJACENT LANDOWNERS OR DOWNSTREAM
20 RIPARIAN LANDOWNERS WHICH RESULTS FROM A RECLAMATION PROJECT
21 OR WATER POLLUTION ABATEMENT PROJECT WHERE WRITTEN NOTICE OR
22 PUBLIC NOTICE OF THE PROPOSED PROJECT WAS NOT PROVIDED.

23 § 8107. PROJECT LIABILITY LIMITATION AND EXCEPTIONS.

24 (A) GENERAL RULE.--EXCEPT AS SPECIFICALLY PROVIDED IN
25 SUBSECTION (B), A PERSON WHO PROVIDES EQUIPMENT, MATERIALS OR
26 SERVICES AT NO COST OR AT COST FOR A RECLAMATION PROJECT OR A
27 WATER POLLUTION ABATEMENT PROJECT:

28 (1) SHALL BE IMMUNE FROM LIABILITY FOR ANY INJURY TO OR
29 DAMAGE SUFFERED BY A PERSON WHICH ARISES OUT OF OR OCCURS AS
30 A RESULT OF THE WATER POLLUTION ABATEMENT FACILITIES

1 CONSTRUCTED OR INSTALLED DURING THE WATER POLLUTION ABATEMENT
2 PROJECT.

3 (2) SHALL BE IMMUNE FROM LIABILITY FOR ANY POLLUTION
4 EMANATING FROM THE WATER POLLUTION ABATEMENT FACILITIES
5 CONSTRUCTED OR INSTALLED DURING THE WATER POLLUTION ABATEMENT
6 PROJECT UNLESS THE PERSON AFFECTS AN AREA THAT IS
7 HYDROLOGICALLY CONNECTED TO THE WATER POLLUTION ABATEMENT
8 PROJECT WORK AREA AND CAUSES INCREASED POLLUTION BY
9 ACTIVITIES WHICH ARE UNRELATED TO THE IMPLEMENTATION OF A
10 WATER POLLUTION ABATEMENT PROJECT.

11 (3) SHALL NOT BE DEEMED TO ASSUME RESPONSIBILITY FOR OR
12 INCUR LIABILITY FOR THE OPERATION, MAINTENANCE AND REPAIR OF
13 THE WATER POLLUTION ABATEMENT FACILITIES CONSTRUCTED OR
14 INSTALLED DURING THE WATER POLLUTION ABATEMENT PROJECT.

15 (4) SHALL NOT BE SUBJECT TO A CITIZEN SUIT UNDER SECTION
16 601 OF THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS
17 THE CLEAN STREAMS LAW, FOR POLLUTION EMANATING FROM THE WATER
18 POLLUTION ABATEMENT FACILITIES CONSTRUCTED OR INSTALLED
19 DURING THE WATER POLLUTION ABATEMENT PROJECT.

20 (B) EXCEPTIONS.--

21 (1) NOTHING IN THIS CHAPTER SHALL LIMIT IN ANY WAY THE
22 LIABILITY OF A PERSON WHO PROVIDES EQUIPMENT, MATERIALS OR
23 SERVICES AT NO COST OR AT COST FOR A RECLAMATION PROJECT OR A
24 WATER POLLUTION ABATEMENT PROJECT WHICH LIABILITY RESULTS
25 FROM THE RECLAMATION PROJECT OR THE WATER POLLUTION ABATEMENT
26 PROJECT AND WHICH WOULD OTHERWISE EXIST:

27 (I) FOR INJURY OR DAMAGE RESULTING FROM THE PERSON'S
28 ACTS OR OMISSIONS WHICH ARE RECKLESS OR CONSTITUTE GROSS
29 NEGLIGENCE OR WILLFUL MISCONDUCT.

30 (II) FOR THE PERSON'S UNLAWFUL ACTIVITIES.

(III) FOR DAMAGES TO ADJACENT LANDOWNERS OR
DOWNSTREAM RIPARIAN LANDOWNERS WHICH RESULT FROM A
RECLAMATION PROJECT OR A WATER POLLUTION ABATEMENT
PROJECT WHERE WRITTEN NOTICE OR PUBLIC NOTICE OF THE
PROPOSED PROJECT WAS NOT PROVIDED.

(2) NOTHING IN THIS CHAPTER SHALL LIMIT IN ANY WAY THE
LIABILITY OF A PERSON WHO THE DEPARTMENT HAS FOUND TO BE IN
VIOLATION OF ANY OF THE FOLLOWING ACTS:

(I) THE ACT OF MAY 31, 1945 (P.L.1198, NO.418),
KNOWN AS THE SURFACE MINING CONSERVATION AND RECLAMATION
ACT.

(II) THE ACT OF APRIL 27, 1966 (1ST SP.SESS.,
P.L.31, NO.1), KNOWN AS THE BITUMINOUS MINE SUBSIDENCE
AND LAND CONSERVATION ACT.

§ 8108. PERMITS AND ZONING.

NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS WAIVING ANY
EXISTING PERMIT REQUIREMENTS OR WAIVING ANY LOCAL ZONING
REQUIREMENTS.

§ 8109. RELATIONSHIP TO FEDERAL AND STATE PROGRAMS.

THE PROVISIONS OF THIS CHAPTER SHALL NOT PREVENT THE
COMMONWEALTH FROM ENFORCING REQUIREMENTS NECESSARY OR IMPOSED BY
THE FEDERAL GOVERNMENT AS A CONDITION TO RECEIVING OR
MAINTAINING PROGRAM AUTHORIZATION, DELEGATION, PRIMACY OR
FEDERAL FUNDS.

§ 8110. GENERAL PERMITS.

IF THE DEPARTMENT DETERMINES IT WILL FURTHER THE PURPOSES OF
THIS CHAPTER, THE DEPARTMENT MAY ISSUE A GENERAL PERMIT FOR EACH
RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT, WHICH
GENERAL PERMIT SHALL:

(1) ENCOMPASS ALL OF THE ACTIVITIES INCLUDED IN THAT

RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT.

(2) BE ISSUED IN PLACE OF ANY REQUIRED STREAM
ENCROACHMENT, EARTH DISTURBANCE OR NATIONAL POLLUTION
DISCHARGE ELIMINATION SYSTEM PERMITS.

§ 8111. EXCEPTIONS.

(A) GENERAL RULE.--ANY PERSON WHO UNDER EXISTING LAW SHALL
BE OR MAY BECOME RESPONSIBLE TO RECLAIM THE LAND OR TREAT OR
ABATE THE WATER POLLUTION OR ANY PERSON WHO FOR PAYMENT OR
CONSIDERATION OR WHO RECEIVES SOME OTHER BENEFIT THROUGH A
CONTRACT, OR ANY PERSON WHO THROUGH A CONSENT ORDER AND
AGREEMENT OR OTHERWISE AGREES OR IS ORDERED TO PERFORM OR
COMPLETE RECLAMATION OR TREAT OR ABATE WATER POLLUTION AS WELL
AS A SURETY WHICH PROVIDED A BOND FOR THE SITE SHALL NOT BE
ELIGIBLE FOR NOR SHALL THAT PERSON RECEIVE THE BENEFIT OF THE
PROTECTIONS AND IMMUNITIES AVAILABLE UNDER THIS CHAPTER.

(B) PROJECTS NEAR MINING OR COAL REFUSE SITES.--THIS CHAPTER
SHALL NOT APPLY TO A RECLAMATION PROJECT OR A WATER POLLUTION
ABATEMENT PROJECT THAT IS LOCATED ADJACENT TO, HYDROLOGICALLY
CONNECTED TO OR IN CLOSE PROXIMITY TO A SITE PERMITTED UNDER THE
ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS THE SURFACE
MINING CONSERVATION AND RECLAMATION ACT, THE ACT OF APRIL 27,
1966 (1ST SP.SESS., P.L.31, NO.1), KNOWN AS THE BITUMINOUS MINE
SUBSIDENCE AND LAND CONSERVATION ACT, THE ACT OF SEPTEMBER 24,
1968 (P.L.1040, NO.318), KNOWN AS THE COAL REFUSE DISPOSAL
CONTROL ACT, OR THE ACT OF DECEMBER 19, 1984 (P.L.1093, NO.219),
KNOWN AS THE NONCOAL SURFACE MINING CONSERVATION AND RECLAMATION
ACT, UNLESS:

(1) THE RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT
PROJECT IS SUBMITTED TO THE DEPARTMENT IN WRITING BEFORE THE
PROJECT IS STARTED.

1 (2) THE DEPARTMENT FINDS:

2 (I) THE RECLAMATION PROJECT OR THE WATER POLLUTION
3 ABATEMENT PROJECT WILL NOT ADVERSELY AFFECT THE
4 PERMITTEE'S OBLIGATIONS UNDER THE PERMIT AND THE
5 APPLICABLE LAW.

6 (II) THE ACTIVITIES ON THE PROJECT WORK AREA CANNOT
7 BE USED BY THE PERMITTEE TO AVOID THE PERMITTEE'S
8 RECLAMATION OR WATER POLLUTION TREATMENT OR ABATEMENT
9 OBLIGATIONS.

10 (3) THE DEPARTMENT ISSUES A WRITTEN NOTICE OF ITS
11 FINDINGS AND THE APPROVAL OF THE PROJECT.

12 (C) PROJECTS IN LIEU OF CIVIL PENALTIES.--THIS CHAPTER SHALL
13 NOT APPLY TO A RECLAMATION PROJECT OR A WATER POLLUTION
14 ABATEMENT PROJECT THAT IS PERFORMED IN LIEU OF PAYING CIVIL
15 PENALTIES.

16 (D) LAND RECYCLING AND ENVIRONMENTAL REMEDIATION STANDARDS
17 ACT.--THE ACT OF MAY 19, 1995 (P.L.4, NO.2), KNOWN AS THE LAND
18 RECYCLING AND ENVIRONMENTAL REMEDIATION STANDARDS ACT, DOES NOT
19 APPLY TO RECLAMATION PROJECTS OR WATER POLLUTION ABATEMENT
20 PROJECTS IMPLEMENTED UNDER THIS CHAPTER.

21 § 8112. WATER SUPPLY REPLACEMENT.

22 A PUBLIC OR PRIVATE WATER SUPPLY AFFECTED BY CONTAMINATION OR
23 THE DIMINUTION CAUSED BY THE IMPLEMENTATION OF A RECLAMATION
24 PROJECT OR THE IMPLEMENTATION OF A WATER POLLUTION ABATEMENT
25 PROJECT SHALL BE RESTORED OR REPLACED BY THE DEPARTMENT WITH AN
26 ALTERNATE SOURCE OF WATER ADEQUATE IN QUANTITY AND QUALITY FOR
27 THE PURPOSES SERVED BY THE WATER SUPPLY.

28 § 8113. ORPHAN OIL AND GAS WELLS.

29 A RECLAMATION PROJECT OR WATER POLLUTION ABATEMENT PROJECT
30 SHALL NOT BE IMPLEMENTED IN A MANNER WHICH WILL LIMIT ACCESS TO

1 AN ORPHAN GAS WELL OR AN ORPHAN OIL WELL.

2 § 8114. REGULATIONS.

3 THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS NECESSARY
4 TO IMPLEMENT THE PROVISIONS OF THIS CHAPTER.

5 PART VII

6 MISCELLANEOUS PROVISIONS

7 (RESERVED)

8 SECTION 2. (A) THE SUM OF \$2,000,000 IS HEREBY
9 APPROPRIATED, UPON APPROVAL OF THE GOVERNOR, TO THE DEPARTMENT
10 OF ENVIRONMENTAL PROTECTION FROM THE HAZARDOUS SITES CLEANUP
11 FUND FOR THE FISCAL YEAR JULY 1, 1999, TO JUNE 30, 2000, FOR THE
12 PURPOSES OF EXPANDING THE SMALL BUSINESS AND HOUSEHOLD POLLUTION
13 PREVENTION PROGRAM TO PROVIDE ONSITE ASSESSMENTS AND
14 RECOMMENDATIONS FOR POLLUTION PREVENTION AND ENERGY EFFICIENCY
15 TECHNIQUES FOR FISCAL YEAR 1999-2000. THE GENERAL ASSEMBLY MAY
16 APPROPRIATE UP TO \$2,000,000 IN ADDITIONAL FUNDS FROM THE
17 HAZARDOUS SITES CLEANUP FUND FOR THE FISCAL YEAR JULY 1, 2000,
18 TO JUNE 30, 2001, FOR THIS PURPOSE.

19 (B) THE SUM OF \$44,675,000, OR AS MUCH THEREOF AS MAY BE
20 NECESSARY, IS HEREBY APPROPRIATED TO THE ENVIRONMENTAL
21 STEWARDSHIP FUND FOR THE FISCAL YEAR JULY 1, 1999, TO JUNE 30,
22 2000, TO CARRY OUT THE PROVISIONS OF 27 PA.C.S. CH. 61.

23 (C) THE SUM OF \$20,000,000, OR AS MUCH THEREOF AS MAY BE
24 NECESSARY, IS HEREBY APPROPRIATED TO THE AGRICULTURAL
25 CONSERVATION EASEMENT PURCHASE FUND FOR THE FISCAL YEAR JULY 1,
26 1999, TO JUNE 30, 2000, TO CARRY OUT THE PROVISIONS OF THE ACT
27 OF JUNE 30, 1981 (P.L.128, NO.43), KNOWN AS THE AGRICULTURAL
28 AREA SECURITY LAW.

29 SECTION 3. (A) THE FOLLOWING ACTS AND PARTS OF ACTS ARE
30 REPEALED:

1 SECTION 1936-A(B) OF THE ACT OF APRIL 9, 1929 (P.L.177,
2 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

3 ACT OF AUGUST 20, 1953 (P.L.1217, NO.339), ENTITLED "AN ACT
4 PROVIDING FOR PAYMENTS BY THE COMMONWEALTH TO MUNICIPALITIES
5 WHICH HAVE EXPENDED MONEY TO ACQUIRE AND CONSTRUCT SEWAGE
6 TREATMENT PLANTS IN ACCORDANCE WITH THE CLEAN STREAMS PROGRAM
7 AND THE ACT, APPROVED THE TWENTY-SECOND DAY OF JUNE, ONE
8 THOUSAND NINE HUNDRED THIRTY-SEVEN (PAMPHLET LAWS 1987), AND
9 MAKING AN APPROPRIATION."

10 SECTION 1108(B), (C), (F) AND (I) OF THE ACT OF JULY 28, 1988
11 (P.L.556, NO.101), KNOWN AS THE MUNICIPAL WASTE PLANNING,
12 RECYCLING AND WASTE REDUCTION ACT.

13 SECTIONS 5(D) AND 6(B)(3), (4), (5) AND (6), (C), (D), (E),
14 (F) AND (G) OF THE ACT OF JUNE 23, 1982 (P.L.597, NO.170), KNOWN
15 AS THE WILD RESOURCE CONSERVATION ACT.

16 (B) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS
17 THEY ARE INCONSISTENT WITH:

- 18 (1) SUBSECTION (A);
19 (2) THE ADDITION OF 27 PA.C.S. CH. 61;
20 (3) THE ADDITION OF 27 PA.C.S. CH. 81; OR
21 (4) SECTION 2 OF THIS ACT.

22 SECTION 4. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

- 23 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.
24 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 60
25 DAYS:

- 26 (I) THE ADDITION OF 27 PA.C.S. CH 81.
27 (II) SECTION 3(B)(3) OF THIS ACT.
28 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT DECEMBER
29 31, 1999, OR IMMEDIATELY, WHICHEVER IS LATER.