

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1537 Session of 1992

INTRODUCED BY BRIGHTBILL AND O'PAKE, FEBRUARY 4, 1992

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 24, 1992

AN ACT

1 Designating the Tulpehocken Creek as a component AND THE YELLOW <—
2 BREECHES CREEK AS COMPONENTS of the Pennsylvania Scenic
3 Rivers System; requiring cooperation by State agencies in
4 implementing the purposes of the Scenic Rivers Act; PROVIDING <—
5 FOR COOPERATION AND COORDINATION IN THEIR PROTECTION AND USE
6 AND FOR THE RESPONSIBILITIES OF THEIR MANAGEMENT; limiting
7 liability; and authorizing the expenditure of moneys to
8 further the purposes of this act.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Tulpehocken
13 Creek AND YELLOW BREECHES CREEK Scenic River Act. <—

14 Section 2. Legislative findings and purposes.

15 The Department of Environmental Resources has, in accordance
16 with the act of December 5, 1972 (P.L.1277, No.283), known as
17 the Pennsylvania Scenic Rivers Act, fulfilled its obligations
18 and responsibilities prerequisite to the designation of the
19 Tulpehocken Creek and a selected tributary as a component AND <—
20 THE YELLOW BREECHES CREEK AS COMPONENTS of the Pennsylvania

1 Scenic Rivers System. The designation of ~~this component~~ THESE ←  
2 COMPONENTS is for the purposes of protecting ~~its~~ THEIR flow and ←  
3 conserving and protecting ~~its~~ THEIR pastoral, recreational, ←  
4 FISHERY and cultural qualities and historic AND GEOLOGIC ←  
5 characteristics in accordance with the policy and provisions of  
6 the Pennsylvania Scenic Rivers Act.

7 Section 3. Designation and classification FOR TULPEHOCKEN ←  
8 CREEK.

9 (a) Designation FOR TULPEHOCKEN CREEK.--Certain segments of ←  
10 the main stem of the Tulpehocken Creek in Lebanon and Berks  
11 Counties, a small segment of Cacoosing Creek in Berks County and  
12 related adjacent land area as it extends from near Kimmerlings  
13 Church eastward to its confluence with the Schuylkill River at  
14 Reading are designated a component of the Pennsylvania Scenic  
15 Rivers System under the act of December 5, 1972 (P.L.1277,  
16 No.283), known as the Pennsylvania Scenic Rivers Act. The  
17 boundaries and termini of the components have been defined by  
18 the Department of Environmental Resources and are shown on a map  
19 entitled, "Tulpehocken Scenic River Study," which is on file and  
20 available for public inspection in the Division of Land Records,  
21 Historical and Museum Commission of the Commonwealth of  
22 Pennsylvania, Harrisburg, PA 17108.

23 (b) Classification FOR TULPEHOCKEN CREEK.--Segments of the ←  
24 component are classified as follows:

25 (1) Tulpehocken Creek: Headwaters of the Tulpehocken  
26 Creek near Kimmerlings Church in North Lebanon Township to  
27 Ramona Road (Township Route 560) in Jackson Township, 3.4  
28 miles, Pastoral.

29 (2) Tulpehocken Creek: Western boundary of the Carl  
30 Sensenig property, now or formerly owned by Carl Sensenig and

1 wife, to the bridge carrying S.R.4010 over the Tulpehocken  
2 near the entrance to Heidelberg Country Club, 16.8 miles,  
3 Pastoral.

4 (3) Tulpehocken Creek: Base of the Blue Marsh Dam to  
5 the creek's confluence with the Schuylkill River at Reading,  
6 6.6 miles, Recreational.

7 (4) Cacoosing Creek: State Hill Road bridge S.R.3023 to  
8 the confluence with the Tulpehocken Creek, 2.0 miles,  
9 Recreational.

10 (c) Special classification FOR TULPEHOCKEN CREEK.--The <—  
11 Secretary of Environmental Resources is authorized to classify  
12 the 3.4 mile segment between Ramona Road and the western  
13 boundary of the property now or formerly owned by Carl Sensenig  
14 and wife on the Tulpehocken Creek upstream from Flanagan Road in  
15 Jackson Township, Lebanon County, as Pastoral when the secretary  
16 determines that it meets the established criteria for  
17 classification. When classified, that segment shall become part  
18 of the Tulpehocken Creek Scenic River component under this act,  
19 and all of the provisions of this act and of the Pennsylvania  
20 Scenic Rivers Act shall become applicable thereto.

21 SECTION 4. DESIGNATION AND CLASSIFICATION FOR YELLOW BREECHES <—  
22 CREEK.

23 (A) DESIGNATION FOR YELLOW BREECHES CREEK.--THE MAIN STEM OF  
24 THE YELLOW BREECHES CREEK IN CUMBERLAND COUNTY AND YORK COUNTY  
25 AND HAIRY SPRINGS HOLLOW IN CUMBERLAND COUNTY AND RELATED  
26 ADJACENT LAND AREA ARE DESIGNATED A COMPONENT OF THE  
27 PENNSYLVANIA SCENIC RIVERS SYSTEM UNDER THE ACT OF DECEMBER 5,  
28 1972 (P.L.1277, NO.283), KNOWN AS THE PENNSYLVANIA SCENIC RIVERS  
29 ACT. THE BOUNDARIES AND TERMINI OF THE COMPONENT HAVE BEEN  
30 DEFINED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES AND ARE

1 SHOWN ON THE MAP ENTITLED "YELLOW BREECHES CREEK STUDY" WHICH IS  
2 ON FILE AND AVAILABLE FOR PUBLIC INSPECTION IN THE DIVISION OF  
3 LAND RECORDS, HISTORICAL AND MUSEUM COMMISSION OF THE  
4 COMMONWEALTH OF PENNSYLVANIA, PROVIDED THAT THE WIDTH OF THE  
5 CORRIDOR IN THE SEGMENT DESIGNATED AS RECREATIONAL FROM THE  
6 S.R.2004 BRIDGE TO THE S.R.2017 BRIDGE SHALL BE FROM THE TOP OF  
7 THE STEEP BANK ON THE SOUTH TO THE FEDERAL EMERGENCY MANAGEMENT  
8 AGENCY FLOODWAY BOUNDARY ON THE NORTH.

9 (B) CLASSIFICATION FOR YELLOW BREECHES CREEK.--SEGMENTS OF  
10 THE COMPONENT ARE CLASSIFIED AS FOLLOWS:

11 (1) HAIRY SPRINGS HOLLOW HEADWATERS TO THE BACKWATERS OF  
12 BIG POND - 5.1 MILES, SCENIC.

13 (2) YELLOW BREECHES MAIN STEM FROM THE BACKWATERS OF BIG  
14 POND ON HAIRY SPRINGS HOLLOW TO S.R.2004 BRIDGE (BOWMANSDALE)  
15 - 32 MILES, PASTORAL.

16 (3) YELLOW BREECHES MAIN STEM FROM S.R.2004 BRIDGE  
17 (BOWMANSDALE) TO CONFLUENCE WITH THE SUSQUEHANNA RIVER - 18.8  
18 MILES, RECREATIONAL.

19 Section 4 5. Management responsibilities. <—

20 (A) TULPEHOCKEN CREEK.--The Department of Environmental <—  
21 Resources shall exercise administrative responsibilities in  
22 implementing the Management Guidelines for the Tulpehocken Creek  
23 and Cacoosing Creek tributary, within the designated component.  
24 All actions by the department and other State agencies shall be  
25 guided by the appropriate Pastoral or Recreational Management  
26 Guidelines as outlined in the text "Tulpehocken Creek Study"  
27 conducted by the department under the act of December 5, 1972  
28 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act.

29 (B) YELLOW BREECHES CREEK.--THE DEPARTMENT OF ENVIRONMENTAL <—  
30 RESOURCES SHALL EXERCISE ADMINISTRATIVE RESPONSIBILITIES IN

1 IMPLEMENTING THE "STATE AGENCY GUIDELINES" FOR THE YELLOW  
2 BREECHES CREEK, WITHIN THE DESIGNATED COMPONENT AS OUTLINED IN  
3 THE TEXT OF THE "YELLOW BREECHES CREEK SCENIC RIVER STUDY"  
4 CONDUCTED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES UNDER THE  
5 PENNSYLVANIA SCENIC RIVERS ACT. "LOCAL MANAGEMENT GUIDELINES"  
6 MAY BE DEVELOPED FOR THE YELLOW BREECHES CREEK SCENIC RIVER.  
7 THESE MAY BE RECOMMENDED AND WILL BE VOLUNTARY FOR LOCAL  
8 GOVERNMENTS, LANDOWNERS AND ORGANIZATIONS INTERESTED IN  
9 CONSERVING THE VALUE OF THE YELLOW BREECHES CREEK. THE  
10 PENNSYLVANIA FISH COMMISSION SHALL EXERCISE ENFORCEMENT OF ITS  
11 FISHING AND BOATING REGULATIONS AND LAWS WITHIN THE DESIGNATED  
12 COMPONENT.

13 SECTION 6. SPECIAL CONSIDERATIONS.

14 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL ASSIST LOCAL  
15 ORGANIZATIONS REPRESENTATIVE OF LANDOWNERS, CONSERVATION GROUPS  
16 AND LOCAL GOVERNMENTS WITHIN THE DESIGNATED COMPONENT ACTING AS  
17 THE LOCAL COORDINATION MECHANISM FOR THE IMPLEMENTATION OF THIS  
18 ACT. NOTHING IN THIS ACT SHALL BE CONSTRUED AS GRANTING  
19 AUTHORITY TO ANY LEVEL OF GOVERNMENT OR PRIVATE ENTITY TO  
20 ESTABLISH STREAMSIDE TRAILS WITHOUT THE PRIOR CONSENT AND  
21 AGREEMENT OF RIPARIAN LANDOWNERS. NOTHING IN THIS ACT SHALL BE  
22 CONSTRUED AS GRANTING ADDITIONAL AUTHORITY TO ANY MUNICIPALITY  
23 OR COUNTY TO RESTRICT OR PROHIBIT THE USE OF LAND WITHIN THE  
24 DESIGNATED SCENIC RIVER CORRIDORS.

25 Section 5 7. Cooperation and coordination. ←

26 State agencies are authorized to seek the help of and enter  
27 into agreements with the Federal Government and its agencies and  
28 commissions, local governments and concerned private individuals  
29 and organizations with the view of fostering cooperation and  
30 coordination to further the purpose of this act. To this end,

1 the Department of Environmental Resources shall also seek the  
2 cooperation of the Delaware River Basin Commission AND THE <—  
3 SUSQUEHANNA RIVER BASIN. All State agencies, boards and  
4 commissions shall cooperate and coordinate their activities with  
5 the department in relation to the Tulpehocken Creek and  
6 associated tributary included in the Scenic River component AND <—  
7 IN RELATION TO THE YELLOW BREECHES CREEK in order to further the  
8 purpose of this act.

9 Section 6 8. Limitation of liability. <—

10 The provisions of the act of February 2, 1966 (1965 P.L.1860,  
11 No.586), entitled "An act encouraging landowners to make land  
12 and water areas available to the public for recreational  
13 purposes by limiting liability in connection therewith, and  
14 repealing certain acts," limiting the liability of owners of  
15 land and water areas who make them available to the public for  
16 recreational purposes without charge shall be applicable to  
17 public and private owners of land and water areas within the  
18 Tulpehocken Creek Scenic River ~~component~~ AND THE YELLOW BREECHES <—  
19 CREEK SCENIC RIVER COMPONENTS.

20 Section 7 9. Zoning powers. <—

21 Nothing in this act shall be construed as granting new zoning  
22 powers to the Commonwealth or municipalities.

23 Section 8 10. Repairs and construction. <—

24 (a) Road repairs.--Where township road repairs are needed,  
25 construction activities should be carried out within the  
26 existing rights-of-way to maintain vegetation and scenic  
27 qualities.

28 (b) Construction.--Construction, reconstruction, repair or  
29 alterations due to safety or capacity considerations shall be  
30 consistent with safe highway geometric design and in accordance

1 with the "Guidelines to Improve the Aesthetic Quality of Roads  
2 in Pennsylvania," dated June 1978, prepared jointly by the  
3 Department of Transportation and the Department of Environmental  
4 Resources.

5 Section 9 11. Expenditure of funds. <—

6 (A) TULPEHOCKEN CREEK.--The Department of Environmental <—  
7 Resources is authorized to expend moneys when available for:

8 (1) Technical assistance for implementation and planning  
9 under the Tulpehocken Creek Study conducted by the department  
10 under the act of December 5, 1972 (P.L.1277, No.283), known  
11 as the Pennsylvania Scenic Rivers Act.

12 (2) Assistance in the education of the general public  
13 regarding the scenic river designation and appropriate  
14 conservation measures.

15 (B) YELLOW BREECHES CREEK.--THE DEPARTMENT OF ENVIRONMENTAL <—  
16 RESOURCES IS AUTHORIZED TO EXPEND MONEYS WHEN AVAILABLE FOR:

17 (1) TECHNICAL ASSISTANCE, PLANNING AND IMPLEMENTATION  
18 UNDER THE "YELLOW BREECHES CREEK SCENIC RIVER STUDY"  
19 CONDUCTED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES UNDER  
20 THE PENNSYLVANIA SCENIC RIVERS ACT.

21 (2) ASSISTANCE IN THE EDUCATION OF THE GENERAL PUBLIC  
22 REGARDING THE SCENIC RIVERS DESIGNATION AND ESTABLISHMENT OF  
23 APPROPRIATE CONSERVATION MEASURES.

24 Section 10 12. Effective date. <—

25 This act shall take effect immediately.