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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1636 Session of  
1999

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INTRODUCED BY LYNCH, HUTCHINSON, FARGO, McNAUGHTON, BELFANTI,  
CLARK, CURRY, GODSHALL, HARHAI, HERSHEY, MCGILL, SAYLOR,  
E. Z. TAYLOR, J. TAYLOR, WILT AND YOUNGBLOOD, JUNE 14, 1999

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JUNE 14, 1999

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AN ACT

1 Providing for designation and conservation of exceptional value  
2 waters.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Exceptional  
7 Value Waters Act.

8 Section 2. Definitions.

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

12 "Department." The Department of Environmental Protection of  
13 the Commonwealth.

14 "Exceptional value waters." Includes those waters and  
15 watersheds designated by the Environmental Quality Board as  
16 exceptional value waters in compliance with the criteria and  
17 procedures of section 3.

1 Section 3. Exceptional value waters.

2 (a) Designation by board.--Following the procedures set  
3 forth in this section, the Environmental Quality Board may by  
4 regulation designate a specific stream or watershed, or portions  
5 of a stream or watershed, as exceptional value waters if the  
6 stream or watershed meets one or more of the following criteria:

7 (1) The stream or watershed was classified as  
8 exceptional value waters pursuant to final regulations  
9 adopted by the board prior to January 1, 1999.

10 (2) The stream or watershed is located within the  
11 corridor of a stream which has been designated as "wild" or  
12 "scenic" pursuant to the act of December 5, 1972 (P.L.1277,  
13 No.283), known as the Pennsylvania Scenic Rivers Act or the  
14 Wild and Scenic Rivers Act (Public Law 90-542, 16 U.S.C. §  
15 1271 et seq.).

16 (3) The stream or watershed constitute waters flowing  
17 within or contiguous to a national, State or county park or  
18 forest, State game lands, or other lands owned by the Federal  
19 Government or the Commonwealth for conservation purposes.

20 (4) The stream or watershed constitutes a "wilderness  
21 trout stream" designated by the Pennsylvania Fish and Boat  
22 Commission.

23 (5) The stream or watershed is located in the watershed  
24 of, and is important to maintaining the quality of, surface  
25 waters used by an existing unfiltered public drinking water  
26 supply.

27 (6) The board finds, after study, that:

28 (i) stream or watershed exhibits water quality  
29 meeting at least the water quality criteria for "high  
30 quality waters" as set forth in the department's

1 regulations;

2 (ii) the stream or watershed constitutes an  
3 outstanding national, State or regional resource; and

4 (iii) no more than 10% of the land surface area of  
5 the affected watershed is developed.

6 (b) Report.--

7 (1) Except as provided in paragraph (2), prior to  
8 proposal of rules designating an exceptional value water, the  
9 department shall prepare an environmental, social and  
10 economic impact assessment report. Such report shall:

11 (i) Identify the area and location of the stream and  
12 watershed to be designated.

13 (ii) Evaluate the existing water quality,  
14 environmental and ecological values of the stream and  
15 watershed.

16 (iii) Describe and evaluate the impact of existing  
17 and proposed land uses with the watershed to be  
18 designated.

19 (iv) Describe and assess the effect of an  
20 exceptional value designation on existing and proposed  
21 uses of public and private lands adjacent to or in the  
22 watershed, including impacts upon the value of any  
23 private lands which may be affected or restricted by such  
24 designation.

25 (2) An environmental, social and economic impact  
26 assessment shall not be required where at least 90% of the  
27 stream or watershed proposed for designation is located upon  
28 the land or lands owned by the Federal Government, the  
29 Commonwealth, a county, municipality or public water supply  
30 agency.

(c) Public informational meetings and public hearings.--  
Prior to adopting regulations designating a stream or watershed as exceptional value waters, at least one public informational meeting and at least one public hearing shall be held in the county or counties where the stream or watershed is located. When the designation effects a stream or watershed in more than one county, the meetings and hearings shall be held at a location reasonably convenient to the parties notified under subsection (d)(1), (2) and (3).

(d) Notice of meetings and hearing.--Notice of the informational public meetings and notice of the public hearing shall be given at least three weeks in advance in a newspaper of general circulation in the county, or in the case of land located in more than one county, in a newspaper of general circulation in each county. Notice shall also be given three weeks in advance:

(1) by first class mail to each county, city, borough, incorporated town or township wherein is located land involved in the study;

(2) by first class mail to each person to whom the department has issued a permit authorized by this act, to each person who has submitted a permit application for activities regulated under this act, and to each person conducting activities regulated under this act by a general permit or permit-by-rule, if the regulated activity is or will be conducted on watershed lands affected by the Exceptional Value Waters designation and to any applicants with pending applications for discharge permits in the watershed covered by the petition and any applicants with pending requests for revision, amendment or supplement of

official plans submitted pursuant to the act of January 24,  
1966 (1965 P.L.1535, No.537), known as the Pennsylvania  
Sewage Facilities Act; and

(3) by certified mail to those owners of the watershed  
lands which would be affected by the Exceptional Value Waters  
designation, as shown on county tax assessment records.

(e) Watershed lands.--If the recommended Exceptional Value  
Waters designation affects interests in watershed lands that are  
under private ownership or control, the department shall  
actively engage all owners of interests in the affected property  
and all persons conducting regulated activities on the affected  
watershed lands in a process to design a formal watershed  
conservation plan. The purpose of the plan shall be to provide  
for the level of protection of aquatic resources and  
recreational uses required by the recommended Exceptional Value  
Waters designation while ensuring property owners and residents  
long-range certainty about the future development of their land.

(f) Procedure.--

(1) Any petition filed pursuant to section 1920-A of the  
act of April 9, 1929 (P.L.177, No.175), known as The  
Administrative Code of 1929, requesting the Environmental  
Quality Board to designate a stream or watershed as  
exceptional value waters shall be considered pursuant to the  
procedures set forth in this subsection.

(2) The petition shall provide the following  
information:

(i) The location and area of the watershed covered  
by the petition, including a map or maps published by the  
United States Geological Survey, indicating the perimeter  
of the area proposed for designation.

(ii) A summary and analysis of available water quality information regarding instream water chemistry.

(iii) Data regarding land ownership in the watershed.

(iv) A description of the patterns and location of existing land use and development in the watershed.

(v) A description of present and proposed land use controls or plans in the watershed.

(vi) A detailed description of existing water uses in the watershed.

(vii) Detailed supporting evidence establishing that the stream or watershed qualifies for designation as exceptional value waters under the criteria set forth in subsection (a).

(viii) The petitioner's name, address and telephone number.

(ix) Identification of the petitioner's interest which may be affected by the proposed designation.

(3) Within thirty days of receipt of a petition, the department shall notify the petitioner by certified mail whether or not the petition is complete as required by this section.

(4) Within 30 days of receipt of a petition, the department shall notify by first class mail any applicants with pending applications for discharge permits in the watershed covered by the petition and any applicants with pending requests for revision, amendment or supplement of official plans submitted pursuant to the Pennsylvania Sewage Facilities Act.

(g) Permit applications.--No petition or proposal to

1 designate a stream or watershed as "exceptional value waters"  
2 shall have any effect or be considered in the review and  
3 approval of permit applications submitted under any act  
4 administered by the department unless and until such designation  
5 is adopted by the Environmental Quality Board as final  
6 rulemaking and published in the Pennsylvania Bulletin.  
7 Section 4. Effective date.  
8 This act shall take effect immediately.