

No. 1992-118

AN ACT

SB 1537

Designating the Tulpehocken Creek and the Yellow Breeches Creek as components of the Pennsylvania Scenic Rivers System; requiring cooperation by State agencies in implementing the purposes of the Scenic Rivers Act; providing for cooperation and coordination in their protection and use and for the responsibilities of their management; limiting liability; and authorizing the expenditure of moneys to further the purposes of this act.

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

Section 1. Short title.

This act shall be known and may be cited as the Tulpehocken Creek and Yellow Breeches Creek Scenic River Act.

Section 2. Legislative findings and purposes.

The Department of Environmental Resources has, in accordance with the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act, fulfilled its obligations and responsibilities prerequisite to the designation of the Tulpehocken Creek and a selected tributary and the Yellow Breeches Creek as components of the Pennsylvania Scenic Rivers System. The designation of these components is for the purposes of protecting their flow and conserving and protecting their pastoral, recreational, fishery and cultural qualities and historic and geologic characteristics in accordance with the policy and provisions of the Pennsylvania Scenic Rivers Act.

Section 3. Designation and classification for Tulpehocken Creek.

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

(b) Classification for Tulpehocken Creek.—Segments of the component are classified as follows:

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

(2) Tulpehocken Creek: Western boundary of the Carl Sensenig property, now or formerly owned by Carl Sensenig and wife, to the bridge carrying S.R.4010 over the Tulpehocken near the entrance to Heidelberg Country Club, 16.8 miles, Pastoral.

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

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

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

Section 4. Designation and classification for Yellow Breeches Creek.

(a) Designation for Yellow Breeches Creek.—The main stem of the Yellow Breeches Creek in Cumberland County and York County and Hairy Springs Hollow in Cumberland County and related adjacent land area are designated a component of the Pennsylvania Scenic Rivers System under the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act. The boundaries and termini of the component have been defined by the Department of Environmental Resources and are shown on the map entitled "Yellow Breeches Creek Study" which is on file and available for public inspection in the Division of Land Records, Historical and Museum Commission of the Commonwealth of Pennsylvania, provided that the width of the corridor in the segment designated as recreational from the S.R.2004 bridge to the S.R.2017 bridge shall be from the top of the steep bank on the south to the Federal Emergency Management Agency floodway boundary on the north.

(b) Classification for Yellow Breeches Creek.—Segments of the component are classified as follows:

(1) Hairy Springs Hollow headwaters to the backwaters of Big Pond - 5.1 miles, Scenic.

(2) Yellow Breeches main stem from the backwaters of Big Pond on Hairy Springs Hollow to S.R.2004 bridge (Bowmansdale) - 32 miles, Pastoral.

(3) Yellow Breeches main stem from S.R.2004 bridge (Bowmansdale) to confluence with the Susquehanna River - 18.8 miles, Recreational.

Section 5. Management responsibilities.

(a) Tulpehocken Creek.—The Department of Environmental Resources shall exercise administrative responsibilities in implementing the Management Guidelines for the Tulpehocken Creek and Cacoosing Creek tributary, within the designated component. All actions by the department and other

State agencies shall be guided by the appropriate Pastoral or Recreational Management Guidelines as outlined in the text "Tulpehocken Creek Study" conducted by the department under the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act.

(b) Yellow Breeches Creek.—The Department of Environmental Resources shall exercise administrative responsibilities in implementing the "State Agency Guidelines" for the Yellow Breeches Creek, within the designated component as outlined in the text of the "Yellow Breeches Creek Scenic River Study" conducted by the Department of Environmental Resources under the Pennsylvania Scenic Rivers Act. "Local Management Guidelines" may be developed for the Yellow Breeches Creek Scenic River. These may be recommended and will be voluntary for local governments, landowners and organizations interested in conserving the value of the Yellow Breeches Creek. The Pennsylvania Fish Commission shall exercise enforcement of its fishing and boating regulations and laws within the designated component.

Section 6. Special considerations.

The Department of Environmental Resources shall assist local organizations representative of landowners, conservation groups and local governments within the designated component acting as the local coordination mechanism for the implementation of this act. Nothing in this act shall be construed as granting authority to any level of government or private entity to establish streamside trails without the prior consent and agreement of riparian landowners. Nothing in this act shall be construed as granting additional authority to any municipality or county to restrict or prohibit the use of land within the designated scenic river corridors.

Section 7. Cooperation and coordination.

State agencies are authorized to seek the help of and enter into agreements with the Federal Government and its agencies and commissions, local governments and concerned private individuals and organizations with the view of fostering cooperation and coordination to further the purpose of this act. To this end, the Department of Environmental Resources shall also seek the cooperation of the Delaware River Basin Commission and the Susquehanna River Basin. All State agencies, boards and commissions shall cooperate and coordinate their activities with the department in relation to the Tulpehocken Creek and associated tributary included in the Scenic River component and in relation to the Yellow Breeches Creek in order to further the purpose of this act.

Section 8. Limitation of liability.

The provisions of the act of February 2, 1966 (1965 P.L.1860, No.586), entitled "An act encouraging landowners to make land and water areas available to the public for recreational purposes by limiting liability in connection therewith, and repealing certain acts," limiting the liability of owners of land and water areas who make them available to the public for recreational purposes without charge shall be applicable to public and private owners of land and water areas within the Tulpehocken Creek Scenic River and the Yellow Breeches Creek Scenic River components.

Section 9. Zoning powers.

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

Section 10. Repairs and construction.

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

(b) Construction.—Construction, reconstruction, repair or alterations due to safety or capacity considerations shall be consistent with safe highway geometric design and in accordance with the "Guidelines to Improve the Aesthetic Quality of Roads in Pennsylvania," dated June 1978, prepared jointly by the Department of Transportation and the Department of Environmental Resources.

Section 11. Expenditure of funds.

(a) Tulpehocken Creek.—The Department of Environmental Resources is authorized to expend moneys when available for:

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

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

(b) Yellow Breeches Creek.—The Department of Environmental Resources is authorized to expend moneys when available for:

(1) Technical assistance, planning and implementation under the "Yellow Breeches Creek Scenic River Study" conducted by the Department of Environmental Resources under the Pennsylvania Scenic Rivers Act.

(2) Assistance in the education of the general public regarding the scenic rivers designation and establishment of appropriate conservation measures.

Section 12. Effective date.

This act shall take effect immediately.

APPROVED—The 4th day of December, A. D. 1992.

ROBERT P. CASEY