

Subject: : Fly Fishing Locations

Topic: : New list of Public owned streambeds

Re: New list of Public owned streambeds

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URL:

Swattie, nothing's changed in that regard.

The list is all of those streams which at some point in history, the PA legislature has declared them to be public highways. Legally speaking, those declarations by PA state legislatures don't carry much weight. Being on the list doesn't automatically make it navigable, nor does not being on the list make it not navigable. The situation is still that a court must decide.

That said, it's still not worthless. What DOES make it navigable is a history of commerce. And generally, those declarations were made with the purpose of protecting commerce routes. If you, for instance, owned a farm on a stream, and used a nearby stream to transport your crops to market, then you may lobby your local rep to declare the stream a public highway.

The declarations themselves are nearly meaningless, but they were typically made for purposes that are still valid. And in past cases, like the Little J case, the court recognized the declarations as historical evidence of commerce.

Bottom line: The final test is still the courts. If you wish to trespass on a stream that has not been tried by the courts, you still have to go to court to defend yourself. It's just that these declarations are a nice piece of evidence in your favor, and the DCNR seems to be showing a greater interest in supporting this issue.