



Green Amendment Precedent How Green Amendments Are Recognizing & Protecting Environmental Rights



GREEN AMENDMENTS
FOR THE GENERATIONS
Pure Water. Clean Air. Healthy Environment.

Pennsylvania, Montana, New York, are the only three states in the U.S. that currently promise, protect and respect constitutional environmental rights protected on par with other fundamental human, civil and political rights we hold as inviolate, inherent, inalienable and indefeasible rights protected from government infringement and transgression. In this series we share the varied ways that constitutional recognition is providing meaningful and transformative protection in the states where they exist, thereby making the case for constitutional Green Amendments in states across our nation and ultimately at the federal level.

PUNXSUTAWNEY HUNTING CLUB, INC. v. PA. GAME COMM'N **Supreme Court of Pennsylvania, Western District** **July 21, 2026**

Since 2013, Pennsylvania Game Commission officers have entered the Hunting Clubs' land without consent, a warrant, or probable cause on at least 15 to 22 occasions to look for evidence of hunting offenses. Warden Gritzer also placed a trail camera on Punxsutawney's property that remained there for 78 days in an attempt to develop probable cause for charges of illegal elk feeding. On some occasions, Warden Gritzer cited individuals for violations of the Game and Wildlife Code.

The Hunting Clubs filed a complaint for declaratory and injunctive relief in the Commonwealth Court's original jurisdiction against the Commission and Warden Gritzer claiming that, under Article I, Section 8, (1) the Commission's and Warden Gritzer's warrantless searches violated their right to be free from unreasonable searches and seizures and (2) the Entry Statutes are unconstitutional "to the extent they allow nonconsensual warrantless searches of private land that is posted, gated, occupied, and used." In so doing, the Hunting Clubs

acknowledged the Court's contrary ruling in *Commonwealth v. Russo*—holding that the Commission officers' search of Russo's property did not violate his constitutional right to be free from unreasonable searches—and claimed that *Russo* was wrongly decided and should be overturned.

The issue pertinent to the Green Amendment is whether the *Russo* decision incorrectly balanced the competing Article I, Section 8 and Section 27 interests in holding that the Entry Statutes were constitutional.

The Commission argue that the Entry Statutes did not infringe on privacy rights because (1) the Code enables, and the Entry Statutes were designed for, the Commission to fulfill its duty under the Green Amendment to conserve, maintain, and protect wildlife; (2) the Green Amendment can justify warrantless searches of open fields, which have never enjoyed protection under Article I, Section 8 because the Green Amendment sometimes justifies warrantless searches of physical structures without violating Article I, Section 8; and (3) "a rejection of the open fields doctrine would displace much of this Court's ERA jurisprudence on a much broader scale, including decisions that predated *Russo* and that did not specifically involve open fields[,]” as well as "place Article I, Section 8 on a collision course with the ERA."

The Hunting Clubs responded that "Article I, Section 8 should be read in harmony with the ERA[,]” and "to enforce the ERA in a way that violates Article I, Section 8[]" is "not only [] wrong, but [] also unnecessary." The Hunting Clubs advocated for the "Court [to] follow the path charted in Montana, Tennessee, and Vermont" because "[l]ike Pennsylvania, Montana has a provision securing environmental rights, and the other two states have clauses authorizing hunting regulations[,]” but still "require their game wardens to obtain a warrant or prove an exception to the warrant requirement before searching private land." The Hunting Clubs also highlighted that the Commission's "theory that game wardens can ignore Article I, Section 8 when they are enforcing hunting laws and regulations under the ERA would have grave implications for other rights."

The Court found, "like Chief Justice Cappy in his dissent in *Russo*, [] that a balance must and can be achieved between the interest in protecting, preserving, and maintaining wildlife under the ERA and the interest in protecting our citizen's privacy rights guaranteed by Article I, Section 8. *See Robinson Twp.*, 83 A.3d at 946 ("[B]ecause the [Pennsylvania] Constitution is an integrated whole, we are cognizant that effect must be given to all of its provisions whenever possible.")." Therefore, the Court held that "[r]ecognition of a protected privacy interest in private land located outside the curtilage over which the landowner has taken steps to exclude others therefrom will not, as the Commission and Warden Gritzer suggest, unreasonably impede their ability to effectuate their duty under the ERA to conserve, protect, and maintain wildlife[]" because "[t]he Commission's officers will still be permitted to: (1) conduct warrantless searches of private property that is not posted, fenced, or otherwise marked to exclude intruders; (2) observe evidence of Code violations that occur in plain view on private property that is posted, fenced, or otherwise marked to exclude intruders; (3) obtain a warrant to search private property that is posted, fenced, or otherwise marked to exclude intruders based upon their receipt of information that a Code violation has occurred; and/or (4) apply a recognized exception to the warrant requirement as a means to search private property that is posted, fenced, or otherwise marked to exclude intruders."

The case ultimately held "that *Russo* was wrongly decided, and that Sections 303(c) and 901(a)(2) of the Code violate Article I, Section 8 of the Pennsylvania Constitution. In so doing, we further hold that Article I, Section 8 provides Pennsylvania citizens with greater protection than the Fourth Amendment to the United States Constitution as it relates to the open fields of any landowner that has demonstrated a reasonable expectation of privacy by taking sufficient steps to exclude intruders therefrom."

This case recognizes the Pennsylvania Green Amendment's constitutional significance and illustrates how courts can render decisions that are protective of multiple Article I rights.