

Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Dear Sir:

This letter is in reference to the antidegradation regulation proposal in the March 22, 1997, *Pennsylvania Bulletin*.

I am opposed to the allowance of general NPDES permits in our High Quality streams. Oil and gas discharges have already done plenty of damage in the northwest part of the state, and now you want to allow their discharges in HQ streams. General permits are not tracked by DEP, so they would have no way of knowing how much degradation is taking place in any one watershed—until it was too late. The proposed rules will significantly weaken existing protection for both High Quality and Exceptional Value streams.

I am also very disappointed that DEP did not mention wetlands in their antidegradation proposal. The current regulation, put into place by EPA, gives this protection to wetlands. How can wetlands be given HQ or EV protection if the criteria to make a "surface water" HQ or EV are based on streams?

The proposed regulation has little good to recommend them and much bad. The proposed regulation should be rejected by the Board.

Sincerely yours,



Mr. James Seif
Chairman
Environmental Quality Board
16th Floor, Rachel Carson Building
P.O. Box 8477
Harrisburg, PA 17105-8477

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RECEIVED

Re: Proposed Antidegradation Regulations (Revisions to PA Code Chapters 92, 93, and 95 published on January 21, 1997)

Dear Mr. Seif:

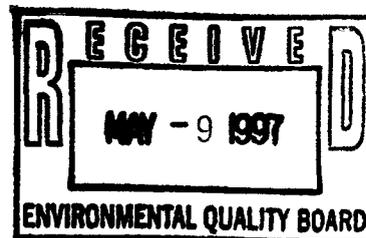
I am writing to express my opposition to the proposed new antidegradation regulations for Pennsylvania. The proposal weakens the protections that exist under the current regulations promulgated for Pennsylvania by the U.S. Environmental Protection Agency and does not ensure that this state's highest quality waters will not be degraded.

As a member of Trout Unlimited, I am acutely aware of the ecological damage that can be done by any degradation of water quality. Pennsylvania is home to many outstanding trout streams that attract anglers from all over the world. These waters and their fisheries are threatened from a variety of sources, including coal mining and its after effects, increased development, polluted run-off, and industrial pollution. These sources are so pervasive and diverse that unless we make protecting high water quality a top priority, we will lose it.

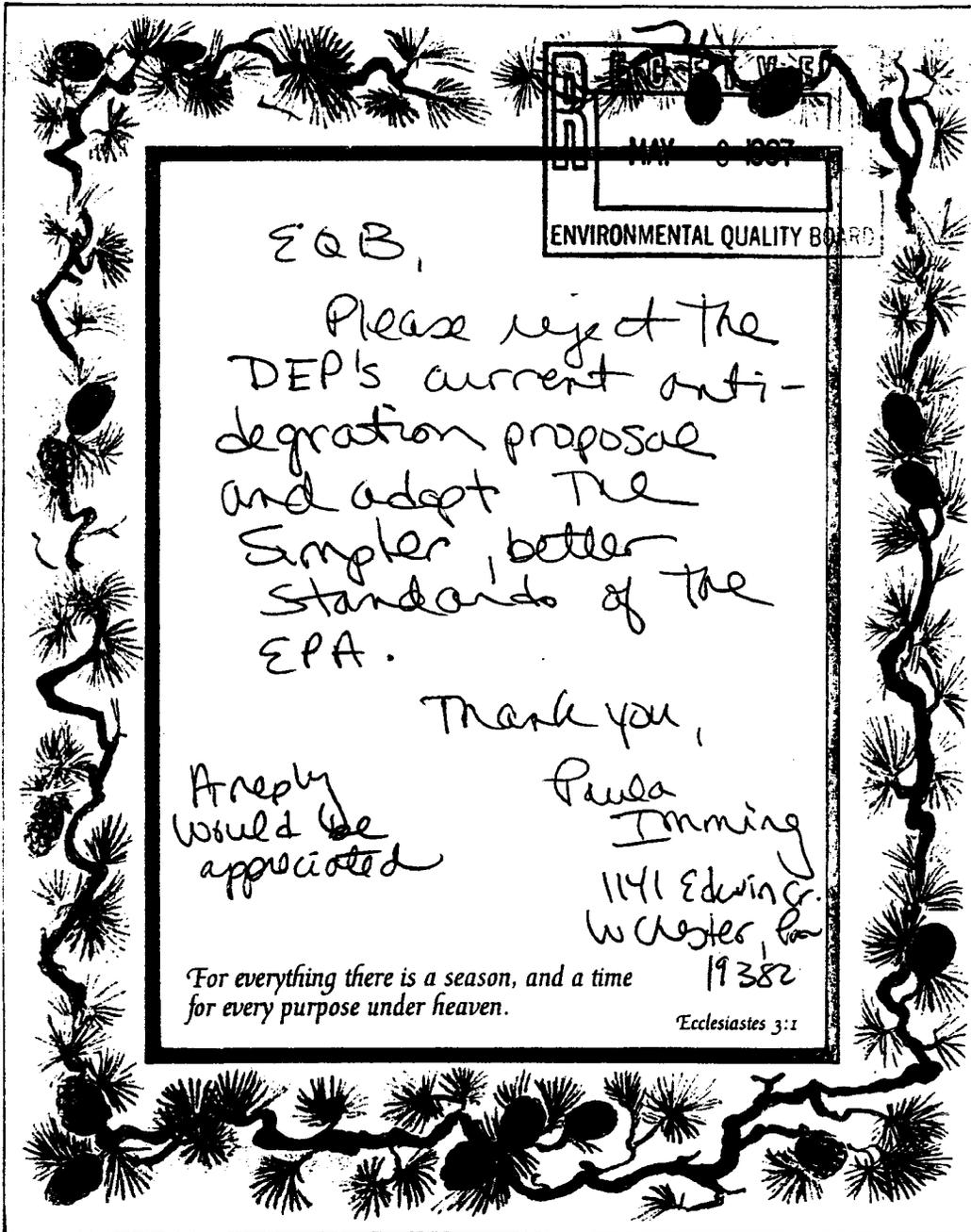
I understand that Pennsylvania Trout is submitting comments on the regulations pointing out their specific shortcomings. The regulations should not be adopted unless all of the problems pointed out in those comments are fixed. The existing regulation is vastly preferable to the new proposal as it is now written.

Sincerely,

Paul Turtyer



STUDY 27 10 1987



REGISTERED MAIL
MAY 9 1987
ENVIRONMENTAL QUALITY BOARD

EQB,

Please reject the
DEP's current anti-
degradation proposal
and adopt the
simpler, better
standards of the
EPA.

Thank you,

A reply
would be
appreciated

Paula
Imming
1141 Edwinger
W. Chester, Pa
19382

For everything there is a season, and a time
for every purpose under heaven.

Ecclesiastes 3:1

ORIGINAL: #1799
COPIES: NONE
(PER JHJ)

Pat Dumm Construction
1431 New Germany Road
Summerhill, PA 15958
(814) 495-4275

97 MAY 27 10 04 AM

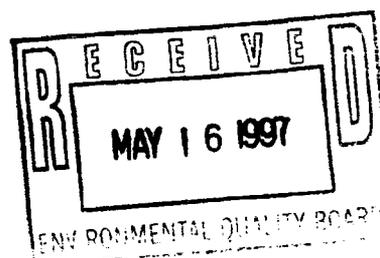
Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

I appreciate the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. The Pat Dumm Construction Company employs several persons in the Summerhill area. My company has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As a small company, we are affected by many of Pennsylvania's laws and regulations.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Increasingly, the time and cost with complying with environmental regulations has been tremendous. For many years our company has been, and still is, very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

Pennsylvania's current stream designation process is, in ever increasing numbers, used as a tool to halt future economic growth and development in particular areas. Often, it seems stream designation upgrades to exceptional value status have been granted based more on politically driven anti-growth sentiment rather than based on scientific fact. Remember, these DEP regulations concern water quality, not land use.



Several provisions of the existing regulations need revised to provide more reasonable water quality regulations. The three areas of our comments deal with high quality stream designations, exceptional value stream designations and public participation.

First, when DEP assesses a stream, only those streams that have water quality better than standards should be eligible for special protection status. Currently, the Department evaluates a stream for a high quality or exceptional value designation using a “generally better than water quality” determination. This is not appropriate nor consistent with the existing federal language. A stream should never be considered for a high quality or exceptional value status if even one of its water quality parameters is above the existing standard.

I support a “de minimis” permit threshold where a social and economic justification is not required. I also recommend that the Department revise its regulations to allow for the use of general permits on high quality and exceptional value streams. Discharges associated with these permits are minimal and permit applicants should not be burdened with applying for an individual permit for these types of projects.

Also, because of the many implications an antidegradation designation will have on a community, the DEP must base its designations on more than just one grab sample. The DEP must have enough actual, sound scientific background water quality data before an accurate evaluation can occur and a stream designation can be made.

Our second major area of concern is the DEP’s current exceptional value streams designation process. The section of the regulations concerning the designation of streams as exceptional value has been abused recently. Too often streams have been redesignated as exceptional value, when in reality they may have only qualified as high quality. In other words, certain streams designated as exceptional value under Pennsylvania’s program would never meet the criteria of a federal Tier Three stream designation. In particular, Pennsylvania’s EV program is broader than the federal program as it considers outstanding regional and local resource waters. I recommend the DEP’s exceptional value program be revised to be no more stringent than the federal program.

Designation of exceptional value streams should be based solely on the stream’s uniqueness to the Commonwealth of Pennsylvania or the nation. Some states have not yet designated a single stream in their state as exceptional value due to the adverse economic impact this designation carries with it.

One of the key positions of Governor Ridge's administration is that no state-run program should be more stringent than required by federal law. Also, a greater balance needs to be established between the environmental and economic interests of the state. Pennsylvania should not be placed at an economic disadvantage in comparison to other states' water quality programs.

An associated concern with the federal tier three program is the Environmental Protection Agency's (EPA) interpretation of the federal requirements regarding discharges to exceptional value streams. Despite the EPA's insistence that the DEP prohibit new or expanded discharges to exceptional value streams, I believe that current EPA and DEP rules allow for the consideration of such discharges. With the use of sound technical practices, discharges which result in no adverse measurable change to long term water quality should be allowed.

My final comments focus on the need for improved public participation in the entire special protection stream designation process. Public participation must start during the assessment of the stream.

The Department must ensure increased public participation at the early stages of the stream redesignation process, whether the assessment is initiated by the Department or by a petition. Under the present DEP policy, The Department publishes a notice of acceptance of a petition in the *Pennsylvania Bulletin*, however not everyone subscribes to this publication. Many parties, including landowners and homeowners, which may be adversely affected by a stream upgrade are never made aware of the petition until perhaps a proposed regulatory package is already in front of the Environmental Quality Board for consideration. In addition these parties are never fully made aware of the impacts a redesignation can have on their activities in the area.

The Department must notify potentially affected parties in the preliminary stages of the stream's evaluation. This includes notice by first class mail to any applicant with a pending discharge permit application, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received Act 247 or Act 537 planning or subdivision and land development planning approval within the previous 5 years. This will help the DEP to eliminate potential oversights and to obtain a complete picture of the stream, including present and planned growth and economic development in the area.

The Department should be required to consider the social and economic impacts associated with any of its high quality and exceptional value designations during the assessment process. This information should be made available to the public.

Thank you for your consideration of these comments regarding this very important regulatory proposal. I believe the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Dumm". The signature is fluid and cursive, with a large initial "P" and "D".

Patrick Dumm
Owner
Pat Dumm Construction

ORIGINAL: #1799
COPIES: NONE
(PER JHJ)

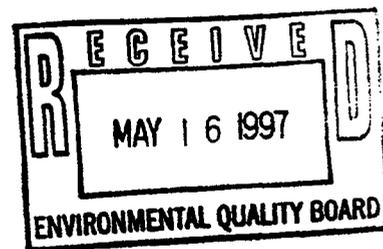
Patricia A. White

209 Fingal Street

• Pittsburgh, PA 15211 •

412-481-3831

Environmental Quality Board (EQB)
DEP, PO BOX 8465
Harrisburg, PA 17105



To Whom It May Concern:

My name is Patricia A. White, and i currently am a resident of Allegheny County. I am concerned with the new regulations the DEP is pro proposing to lower the quality of our waterways. We need new standards to help protect out waterways from any more degradation.

It would be appreciated if you would consider rejecting the DEP's current anti-degradation proposal.

Please respond to my inquiry.

Sincerely,.


Patricia A. White

Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

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The proposed regulation has little good to recommend them and much bad. The proposed regulation should be rejected by the Board.

Sincerely yours,

Ralph Worthing
St. Rt. Box 40
Clairington Pa.
15828



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(PER JHJ)

1188 Laurelwood Rd
Pottstown, PA 19465

STANDARD MAIL

ENVIRONMENTAL QUALITY BOARD

DEP

POB 8465

Harrisburg, PA 17105



Gentlemen:

re: new proposal - water quality
rules

I am not satisfied with the continued effort on the part of DEP to avoid reasonable protection for Pa. waters.

HQ and EV need to stay as protected water uses, so that our best streams will not be downgraded. Contrary to Federal regs no weight is given to public lands in the selection process. There is a loophole allowing discharges & degradation in EV waters. There is no integration of wetlands protection with anti degradation. Waters not yet assessed are protected at the lowest level. This is not satisfactory.

This new proposal has many items which are damaging to the environment. It should be rejected.

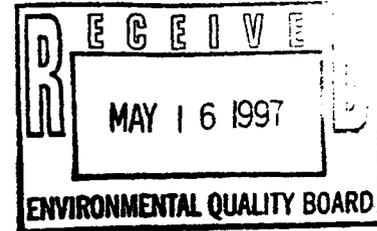
I am asking that my feelings be conveyed to members of the Board. Thank you

Sincerely yours,
Royce McWhorter

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(PER JHJ)

RICHARD VALAZAK
939 1/2 JACKSON ST
Reynoldsville, PA 15851

Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477



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I am also very disappointed that DEP did not mention wetlands in their antidegradation proposal. The current regulation, put into place by EPA, gives this protection to wetlands. How can wetlands be given HQ or EV protection if the criteria to make a "surface water" designation for HQ or EV streams are based on the proposed regulation?

The proposed regulation has little good to recommend it and much bad. The proposed regulation should be rejected by the Board.

Sincerely yours,

Richard M Valazak

P.S. I am a registered Republican and whenever the Republicans get control of the House and Senate, they always seem to attack the environment and make people wonder why they voted for them, let's not let this happen again.
Thank you.

STANDARD FORM NO. 64

POSTAGE WILL BE PAID BY ADDRESSEE

R. Pokos
180 Cambridge Lane
Newtown, PA 18940

to the Environmental Quality Board,

THE QUALITY OF WATER IN THIS STATE IS GETTING WORSE!
PLEASE REJECT THE DEP'S CURRENT ANTI-DEGRADATION
PROPOSAL AND ADOPT THE SIMPLER, BETTER STANDARDS OF THE EPA.
PLEASE LET ME KNOW WHAT IS BEING DONE.



THANKS
Rodney E. Pokos
Rodney E. Pokos

Rock Hill Builders, Inc.
P.O. Box 419
Washington Crossing, Pennsylvania 18977

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10/10/97

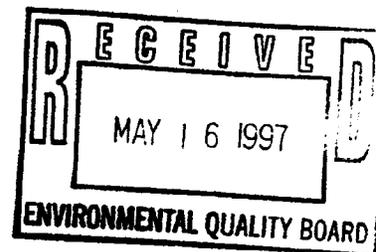
Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

Rock Hill Builders, Inc. appreciates the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality anti-degradation regulations. Our company employs 25 persons in the Philadelphia area. Our company has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As a small company, we are affected by many of Pennsylvania's laws and regulations.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Increasingly, the time and cost with complying with environmental regulations has been tremendous. For many years Rock Hill Builders, Inc. has been, and still is, very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

Pennsylvania's current stream designation process is, in ever increasing numbers, used as a tool to halt future economic growth and development in particular areas. Often, it seems stream designation upgrades to exceptional value status have been granted based more on politically driven anti-growth sentiment rather than based on scientific fact. Remember, these DEP regulations concern water quality, not land use.



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Thank you for your consideration of these comments regarding this very important regulatory proposal. Rock Hill Builders, Inc. believes the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. E. Knipe', with a long horizontal flourish extending to the right.

David E. Knipe
President

Dear EQB-

Keep our waters
clean. Reject the Dep's
current anti-degradation
proposal -

Robert Wilson

RECEIVED
646 HILL
KING OF

RECEIVED
MAY 15 1997
ENVIRONMENTAL QUALITY BOARD

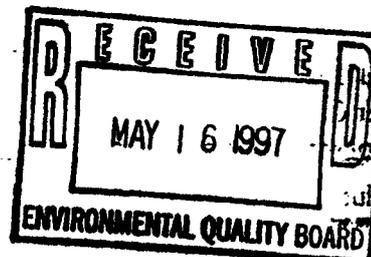
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*Robert Reitsnyder
14 Delancey Place
Downingtown, Pa 19335*

Environmental Quality Board
DEP
P.O.Box 8465
Harrisburg, Pa. 17105

← SEND TO THIS ADDRESS

New Proposal/Water Quality Rules



Gentleman:

Please consider this letter to be my protest against the subject!

I am not at all satisfied with the continued effort on the part of DEP to avoid reasonable protection for Pennsylvania Waters. The persons operating as the state's representatives are still applying the dilatory tactics which have twice within memory resulted in litigation which found the DEP at fault and the EPA forced to step in.

And now the new proposal is, for all intents and purposes, worse! Such as:

HQ and EV need to stay as protected water uses, so that our best streams will not be downgraded.

Contrary to Federal regs no weight is given to public lands in the selection process.

Another loophole — allows discharges and degradation in EV waters;

There is no integration of wetlands protection with anti-degradation.

Waters not yet assessed are protected at the lowest level. How long are they expected to last under these conditions.

This proposal is loaded with items which are damaging to the environment. It should not be given any credence in its present form — these regulations should be rejected!

I am asking that my feelings be conveyed to the members of the Board. Thank you.

Yours Truly,

(make sure you sign)

A handwritten signature in cursive script, appearing to read "Robert Reitsnyder".

Mr James Seif, Chairman
Environmental Quality Board
Box 8977
Harrisburg PA 17105-8977



Dear Mr Seif,

This letter is to object to the proposal to alter the current regulation protecting the "existing uses" of our waters. Right now, we have language protecting existing uses because DEP failed to include such language and was ordered to write a regulation by a Federal judge. At least we have the protection that the Clean water act was intended to provide.

I am also disappointed that DEP did not mention wetlands in their antidegradation proposal. The current EPA regulation protects wetlands, these do not.

In my area, southwestern Pa. we are losing streams to stone quarries and coal mines, both from waste disposal sites and subsidence. We need strong existing use protection and an agency that is willing to use it. I am strongly against any proposal for existing use protection that qualifies the Federal language as this proposal does. Make the PA regulations the same as the Federal regulations or be leaders and make them better.

This proposal should be rejected by the board.

Thank you
Robert D. Stueckert
Scottdale, Westmoreland County.

97 MAY 27 AM 9:37

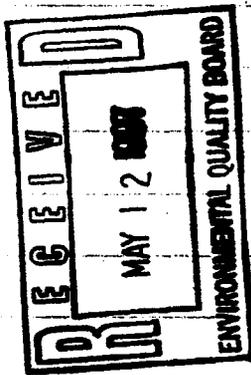
Environmental Quality Board
DEP
PO Box 8465
Harrisburg PA 17105

Re Clean Water Act

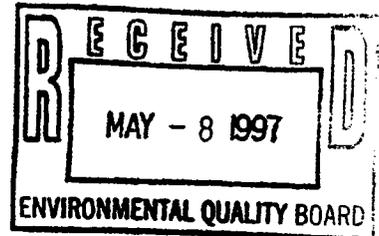
Reject DEP's current anti-degradation
proposal.

Adopt simpler, better standards
of EPA

Bob Philipson



Mr. Robert B. Philipson
104 Elm Av.
Swarthmore, PA 19081-1425



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Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Dear Sir:

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The proposed regulation has little good to recommend them and much bad. The proposed regulation should be rejected by the Board.

Sincerely yours,

*Richard A. Swinger, retired
Water Commissioner and
Health Officer
Dunwoody Borough 15825*



Good People • Good Service

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TYRRELL
JEWETT
SANDUSKY
WYATTE
BERESCHAK

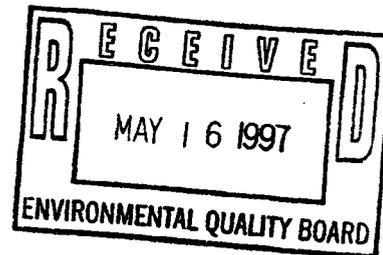
Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

Reliance Savings appreciates the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. Our company employs 38 persons in the Altoona area. Our company has always been a strong proponent of sensible environmental regulations that protect the public health and safety.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Increasingly, the time and cost with complying with environmental regulations has been tremendous. For many years Reliance Savings has been, and still is, very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

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EBENSBURG OFFICE: 873 LOVELL PARK, P.O. BOX 53, EBENSBURG, PA 15931-0053 • TEL (814) 472-9520 • FAX (814) 472-4940
PLANK ROAD OFFICE: 226 WEST PLANK ROAD, ALTOONA, PA 16602 • TEL (814) 946-0477 • FAX (814) 942-0119
STATE COLLEGE: 1352 S. ATHERTON STREET, STATE COLLEGE, PA 16801 • TEL (814) 237-1133 • FAX (814) 237-1428
TWELFTH STREET: 1119 TWELFTH STREET, P.O. BOX 1968, ALTOONA, PA 16603-1968 • TEL (814) 944-4061 • FAX (814) 949-8298
TYRONE OFFICE: 916 PENNSYLVANIA AVENUE, P.O. BOX 145, TYRONE, PA 16686-0145 • TEL: (814) 684-3980 • FAX (814) 684-5665



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An associated concern with the federal tier three program is the Environmental Protection Agency's (EPA) interpretation of the federal requirements regarding discharges to exceptional value streams. Despite the EPA's insistence that the DEP prohibit new or expanded discharges to exceptional value streams, we believe that current EPA and DEP rules allow for the consideration of such discharges. With the use of sound technical practices, discharges which result in no adverse measurable change to long term water quality should be allowed.

Our final comments focus on the need for improved public participation in the entire special protection stream designation process. Public participation must start during the assessment of the stream.

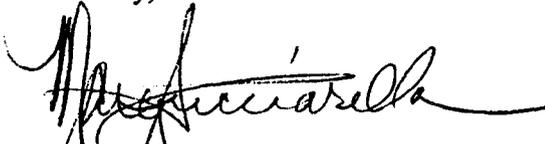
The Department must ensure increased public participation at the early stages of the stream redesignation process, whether the assessment is initiated by the Department or by a petition. Under the present DEP policy, The Department publishes a notice of acceptance of a petition in the *Pennsylvania Bulletin*, however not everyone subscribes to this publication. Many parties, including landowners and homeowners, which may be adversely affected by a stream upgrade are never made aware of the petition until perhaps a proposed regulatory package is already in front of the Environmental Quality Board for consideration. In addition these parties are never fully made aware of the impacts a redesignation can have on their activities in the area.

The Department must notify potentially affected parties in the preliminary stages of the stream's evaluation. This includes notice by first class mail to any applicant with a pending discharge permit application, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received Act 247 or Act 537 planning or subdivision and land development planning approval within the previous 5 years. This will help the DEP to eliminate potential oversights and to obtain a complete picture of the stream, including present and planned growth and economic development in the area.

The Department should be required to consider the social and economic impacts associated with any of its high quality and exceptional value designations during the assessment process. This information should be made available to the public.

proposal. Reliance Savings believes the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Pucciarella', with a long horizontal flourish extending to the right.

Mary C. Pucciarella
Vice President

ORIGINAL: #1799
COPIES: NONE
(PER JHJ)

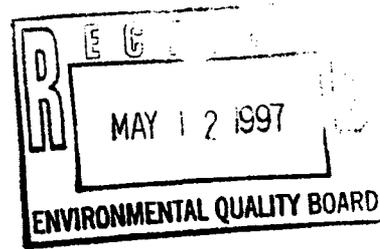
Reject the DEP's current anti-degradation
proposal and adopt the simpler, better
standards of the EPA.

Roy Patton
Margie E. Patton

713 EDGEWOOD ROAD
KING OF RUSSIA, PA 19406



Mr. James Seif
Chairman
Environmental Quality Board
16th Floor, Rachel Carson Building
P.O. Box 8477
Harrisburg, PA 17105-8477



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Re: Proposed Antidegradation Regulations (Revisions to PA Code Chapters 92, 93,
and 95 published on January 21, 1997

Dear Mr. Seif:

I am writing to express my opposition to the proposed new antidegradation regulations for Pennsylvania. The proposal weakens the protections that exist under the current regulations promulgated for Pennsylvania by the U.S. Environmental Protection Agency and does not ensure that this state's highest quality waters will not be degraded.

As a member of Trout Unlimited, I am acutely aware of the ecological damage that can be done by any degradation of water quality. Pennsylvania is home to many outstanding trout streams that attract anglers from all over the world. These waters and their fisheries are threatened from a variety of sources, including coal mining and its after effects, increased development, polluted run-off, and industrial pollution. These sources are so pervasive and diverse that unless we make protecting high water quality a top priority, we will lose it.

I understand that Pennsylvania Trout is submitting comments on the regulations pointing out their specific shortcomings. The regulations should not be adopted unless all of the problems pointed out in those comments are fixed. The existing regulation is vastly preferable to the new proposal as it is now written.

Sincerely,

Rudolph Valasek
Member - Arrowhead Chapter
Trout Unlimited

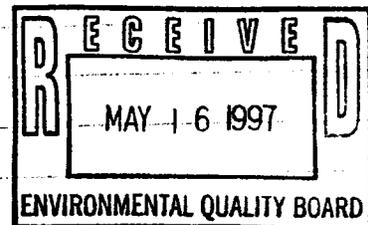
Dear Environmental Quality Board

~~Dear~~

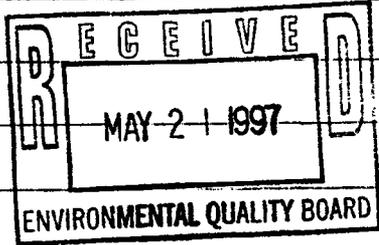
please reject the Deps Current
anti degradation proposal
please adopt the simpler, better
standards of the EPA.
our children & our future
depends on it!

Thankyou,
Shawn Leader

please reply
301 Crossfield Rd
King of Prussia Pa 19406



I am opposed to the new regulations being proposed by the DEP to lower water quality standards.



Shannon Moore
Shannon Moore

S. G. Diamond, Inc.
485 East Elmwood Avenue
Mechanicsburg, PA 17055
(717) 766-0412

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(PER JHJ)

Mr. James Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477



Dear Secretary Seif:

Thank you for the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. This is a very important proposal and my comments are as follows:

This proposal should be subject to the Governor's Executive Order 1996-1, which requires the department to revise all of its regulations to bring balance to Pennsylvania's environmental regulations. In several instances, Pennsylvania's program exceeds federal standards. The DEP should adopt the federal language that states water quality must "exceed" standards rather than what is contained in the proposal as "generally better than" standards. This proposal of "generally better than" standards allows for judgement calls by the department. If data indicates the stream does not meet even one water quality standard, the stream should not qualify for a high quality or exceptional value designation.

Pennsylvania's exceptional value program should apply only to outstanding resource waters as contained in the federal regulations. Currently, DEP's program is much broader in scope and includes streams that would never qualify under the federal program.

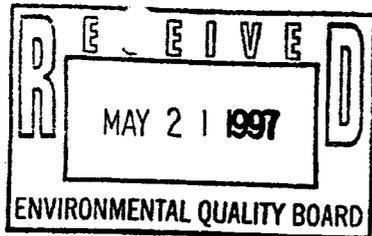
The DEP must expand its public participation in regard to its assessment of high quality and exceptional value waters. Notice by first class mail must be sent to any applicant with a pending permit, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received planning or subdivision and land development approval within the last five years.

We support the department's efforts to reduce the permitting burden for applicants included in this proposal. The provisions regarding dischargers with minimal impact are welcomed. We also endorse the use of general permits on high quality streams and support the expansion of this practice to exceptional value streams.

Thank you for considering these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "S. G. Diamond". The signature is written in dark ink and is positioned below the word "Sincerely,".



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TYRRELL
JEWETT
SANDUSKY
WYATTE
BERESCHAK

INTEROFFICE MEMORANDUM

Date: 21-May-1997 10:39am EST
From: Dennis Guise
dguise@epix.net@PMDf@DER003
Dept:
Tel No:

TO: RegComments (RegComments@a1.dep.state.pa.us@PMDf@
CC: sexton.barbara (sexton.barbara@a1.dep.state.pa.us@PM
Subject: Comments on Proposed Rulemaking

Here are the PFBC comments on the proposed rulemaking. A hardcopy will be hand-delivered this afternoon.

May 20, 1997

The Honorable James Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Re: Water Quality Amendments/Antidegradation
Regulation Number #7-310
27 Pa. B. 1459 et seq. (Mar. 22, 1997)

Dear Secretary Seif:

The Pennsylvania Fish and Boat Commission is submitting the following comments on the subject proposed amendments to 25 PA Code Chapters 92, 93 and 95. I have also attached a one-page summary of these comments for the Board's use.

The Fish and Boat Commission's mission is to provide fishing and boating opportunities through the protection and management of the Commonwealth's aquatic resources. The protection of water quality is perhaps the most important tool that the Commonwealth has to ensure the future protection of aquatic resources. The linkage between water quality, aquatic resources and recreational fishing and boating is obvious. This relationship is much like the food chain pyramid that explains the way of life in aquatic systems. If you degrade water quality then you affect the animals that depend upon it to survive and ultimately affect the anglers and boaters that use the resource for recreation or subsistence. This is the reason that the PFBC participated in the regulatory negotiations that preceded this rulemaking. Clean water is essential to achieving our mission and, a strong, scientifically-based antidegradation regulation is vital to protecting our Commonwealth's water resources into the future.

Over the years the PFBC has worked closely with the DEP and its predecessor agencies, the Environmental Quality Board and the

Pennsylvania General Assembly on various statutory, regulatory and policy matters that involve clean water. The PFBC is somewhat disappointed that the approach to crafting changes in this program apparently was based on the notion that Pennsylvania should not be any more stringent than the guiding federal Clean Water Act program.

Pennsylvania has been long regarded as a leader, and not a follower, in efforts to provide clean water. Our Clean Streams Law was used as a blueprint by the federal government when it created the federal Water Pollution Control Act (Clean Water Act), and our Surface Mining Conservation and Reclamation Act was used as a model for the federal Surface Mining Control and Reclamation Act.

The PFBC staff are offering the following specific comments concerning this proposed rulemaking:

Background of the Amendment

It is noted that the US EPA "generally lauded the Commonwealth's antidegradation program as an excellent vehicle to protect valuable resources...." The PFBC would like to echo these observations and comment that we generally are satisfied with the Commonwealth's existing antidegradation program. While we also believe that there are areas that could be strengthened to fully meet the requirements of the Clean Water Act, these changes are minor and do not require a complete overhaul of the entire program.

In many of the proposed changes, the DEP staff have attempted to strike a balance between the industry and conservation comments that were contained in reports that resulted from the regulatory negotiation efforts. However, we believe that many of these issues require the Board to take a position on one side of the issue or the other. In these cases, we believe that when there is potential to do harm to our water resources then we should not take the risk of changing our program without a scientific basis.

The PFBC is in general support of the findings and recommendations contained in the Conservation Stakeholder's Report of August 21, 1996. We are supplementing this report with the following comments: Section 92.81. General Permits. and Section 92.83. Inclusion of individual dischargers in general NPDES permits.

The changes to these sections provide for the use of general permits in High Quality watersheds where they are now prohibited. We continue to strongly support this prohibition in EV watersheds. We still have some questions about the general exception for HQ watersheds. During the negotiated rulemaking discussions, there was consensus agreement that some general permits (i.e. aerial transmission line stream crossings) might be applicable in HQ watersheds if they pose no potential threat to water quality. The wording of the proposed rulemaking sets no clear boundaries on which permits may or may not be used. The Board should require DEP to do an analysis on which permits may or may not qualify for use in HQ watersheds prior to making this change.
Section 93.1 Definitions.

The changes in definition to EV Waters were extensively discussed at the reg-neg meetings. We believe that the word "watershed" should be included in the new definition in much the same way it is used in the existing definition. The special protection designations are presently watershed (basin) designations and not stream-specific designations except for some special exceptions (certain mainstem segments of larger

streams and rivers). We are very concerned that this change would greatly weaken the existing EV protection program and could eventually lead to a far less protective program for our best natural resources.
Section 93.3. Protected Water Uses.

The PFBC staff believe that it is inappropriate to remove EV and HQ waters as protected water uses unless there is some assurance that to prevent DEP from independently (without EQB or EPA approvals) downgrading waters from these special protection classifications. The Conservation Stakeholders report contains language to provide these safeguards while removing EV and HQ waters as protected uses. The PFBC staff recommend use of this wording.
Section 93.4. Statewide Water Uses.

The PFBC staff concur with the proposed change, which will insure that the designated uses will reflect the existing uses at all times.
Section 93.4a. Existing Uses.

We suggest that the first sentence be amended to read:

Existing instream water uses and the level of water quality need to protect the existing uses shall be maintained and protected. When the Department's evaluation of technical data establishes that a surface water attains or has attained an existing use.

We recommend that the last portion of this sentence be eliminated since it conditions the protection of the existing use on a DEP evaluation which is not supported by federal regulation or policy. The federal program requirements are simple: The Commonwealth has a duty to protect and maintain all existing water uses.

The reference to the Pennsylvania Natural Diversity Inventory (PNDI) should be changed since this is one of several databases that is used to house information about the location of state and federally listed threatened and endangered (T&E) species. Agencies (Fish & Boat Commission, Game Commission, Department of Conservation and Natural Resources, and US Fish and Wildlife Service) with the direct responsibility for state and federally listed plants and animals should be the ultimate contact for confirmation of their presence or absence in particular watersheds. Although the agencies contribute information to PNDI, it should not be the sole source of information. Excluding it from the discussion doesn't limit the Department to one source for the information.

The proposed language states that "discharges to these waters shall be limited to ensure protection of these species and critical habitat" and the Summary of Proposed Revisions explains that this will be done by "specifically limiting mixing areas, in permitting discharges that may impact these species." The following language would be more acceptable. It would allow the Department to be more comprehensive in fully protecting state and federally-listed T&E species:

Where necessary, the Department will restrict activities, including limiting discharges, to ensure protection of federal or Pennsylvania endangered or threatened species or their critical habitat.

Section 93.4b. High Quality Waters.

(a) Qualifying as High Quality Waters

The PFBC staff do not believe that a water should have to pass both a biological and water quality test in order to qualify for protection as an HQ water. One or the other should be sufficient based on EPA guidance. To require both is too restrictive for Tier 2 protection.

The EPA Rapid Bioassessment Protocols (RBP) that are referenced in the regulations are scientifically-based procedures that are widely supported in the literature and are designed to evaluate whether or not a particular water may or may not be impaired. DEP has taken this process an extra step and developed a procedure to conduct comparisons of Ecoregion reference sites and sites which are being considered for HQ or EV (Special Protection). To the PFBC staff's knowledge, this particular modification has not been subject to peer review. However, we agree that this approach is more credible conceptually than the manner by which waters were designated in the past. There is much more objectivity involved with these decisions and, as a result, the decisions are far more defensible. On the other hand, although the procedures seem to be fixed, they are periodically adjusted to produce a result that may be more politically or socially acceptable. It is difficult or impossible to devise a flawless procedure, but the process should be well explained in policy so that the Board understands the ground rules that DEP is using to make these decisions.

Reference streams (waters of substantial ecological significance) are presently being used to make the comparisons. Once identified as an Ecoregion Reference, these streams need to be protected as EV to insure that they are not degraded, which would prevent them from being used as reference streams in the future. More importantly there have been some recent interpretations that a water cannot merit EV if it is not judged by comparing it to an EV reference. This makes it even more urgent to reclassify all of our reference streams EV. Since the HQ comparisons require only an 83% score for the candidate site/reference site comparison, it is reasonable to require EV for all reference streams.

The PFBC staff suggest that HQ designations should not be limited to just Class A Wild Trout Streams but should include Class A, B, C and D Wild Trout Streams since these streams support good, clean water as indicated by the presence of wild trout.

(b) Level of Protection/social or economic justification (SEJ)

We recommend that this section explicitly reference both point- sources and non-point sources of pollution. Although "discharges" may be interpreted to include both, they are sometimes thought to only include point sources.

It is very important that the ultimate measure of whether or not a stream passes the test is measured by creating social or economic benefits to the public which outweigh the degradation expected to be caused by the discharge. How DEP will perform this balancing should be subsequently defined in a policy document so that the Board is aware of how DEP staff is conducting these tests.

(f) Special provisions for minimal impact discharges.

The offer of an "off ramp" for certain de minimus discharges was a discussion point in the negotiations during the reg-neg. The PFBC staff objects to a procedure that would suspend an SEJ analysis for the first 25% assimilative capacity of a receiving stream since it will exempt a discharger from SEJ and the public participation requirements that go along with it. If general permits are allowed in HQ watersheds, they should also pass the SEJ test.

Section 93.4 c. Exceptional Value Waters.

(a) Qualifying as Exceptional Value Waters

The PFBC staff concur with the two-test approach for EV since it is appropriate for a water to pass more stringent tests to receive a

greater level of protection. However, the same comments are noted for the biology test as were explained in the review of 93.4b (a) for High Quality Waters. Reference Streams should be immediately designated EV because of their ecological significance.

The PFBC designation of waters as Wilderness Trout Streams should not be listed as a biology test. The PFBC staff concur that Wilderness Trout Streams should be EV but this designation should not be used as an example of a biology test. Streams enter the PFBC's Wilderness Trout Stream program because they are in a remote location and support naturally reproducing trout populations to offer sport fishing opportunity for the recreation of anglers in a wilderness setting away from roads or vehicular use (58 Pa. Code Sc 57.4). The Wilderness Trout Stream designation would more appropriately qualify as a recreational test rather than a biological test.

Section 93.4d. General requirements for High Quality and Exceptional Value Waters.

(a) The PFBC staff applaud the requirement that all permit applicants in HQ and EV watersheds must evaluate non-discharge alternatives. We recommend including the pollution prevention language from the Conservation Stakeholders report in this section.

(b) We are unclear about how DEP will promote non-point pollution programs. We recommend that the existing regulation be retained since it assures that there shall be achieved Best Management Practices (BMPs).

Section 93.7. Specific Water Quality Criteria.

The PFBC staff strongly support the higher dissolved oxygen criteria for HQ waters and encourage DEP to evaluate the existing DO criteria for CWF and WWF and update these in accordance with the most recent US EPA Water Quality Criteria guidance.

Thank you for the opportunity to provide these comments. The PFBC staff contact for these comments is John Arway, Chief, Environmental Services Division, 450 Robinson Lane, Bellefonte, PA 16823, 814/359-5140, email: jxa18@psu.edu.

Sincerely,

Dennis T. Guise
Deputy Executive Director
Chief Counsel

Attachment:
May 20, 1997

One-Page Summary of PFBC Comments on Water Quality
Amendments/Antidegradation Regulations; Regulation Number #7-310; 27 Pa.
B. 1459 et seq. (Mar. 22, 1997)

The Fish and Boat Commission's (PFBC) mission is to provide fishing and boating opportunities through the protection and management of the Commonwealth's aquatic resources. The protection of water quality is perhaps the most important tool that the Commonwealth has to insure the future protection of aquatic resources. Clean water is essential to achieving the PFBC's mission and, a strong, scientifically-based antidegradation regulation is vital to protecting the Commonwealth's

water resources into the future.

The EPA has "generally lauded the Commonwealth's antidegradation program as an excellent vehicle to protect valuable resources...." The PFBC is satisfied with the Commonwealth's existing antidegradation program, and we do not believe that a complete overhaul of the program is required at this time. When proposed revisions to the antidegradation program require the Board to take a position on one or the other of an issue, we believe that the board should not take the risk of changing our program without a scientific basis when there is a potential to do harm to water resources.

Section 92.81 and Section 92.83. The changes to these sections provide for the use of general permits in High Quality watersheds where they are now prohibited. The PFBC staff believe that some general permits (i.e. aerial transmission line stream crossings) might be applicable in HQ watersheds if they pose no potential threat to water quality. The Board should require DEP to do an analysis on which permits may or may not qualify for use in HQ watersheds prior to making this change. Definitions. The PFBC suggests that the word "watershed" be included in the new definition in much the same way it is used in the existing definition.

Existing Uses. The PFBC staff concur with the proposed change, which will insure that the designated uses will reflect the existing uses at all times. Agencies with the direct responsibility for state and federally listed threatened and endangered plants and animals should be the ultimate contact for confirmation of their presence or absence in particular watersheds.

High Quality Waters. The PFBC staff do not believe that a water should have to pass both a biological and water quality test in order to qualify for protection as an HQ water. Reference streams (waters of substantial ecological significance) are presently being used to make comparisons for evaluation purposes. Once identified as an Ecoregion Reference, these streams need to be protected as EV to insure that they are not degraded. The PFBC staff suggest that HQ designations should not be limited to just Class A Wild Trout Streams but should include Class A, B, C and D Wild Trout Streams since these streams support good, clean water as indicated by the presence of wild trout.

Exceptional Value Waters. The PFBC staff concur with the two-test approach for EV since it is appropriate for a water to pass more stringent tests to receive a greater level of protection. The PFBC's Wilderness Trout Stream designation would more appropriately qualify as a recreational test rather than a biological test.

General requirements for both High Quality and Exceptional Value Waters. The PFBC staff applaud the requirement that all permit applicants in HQ and EV watersheds must evaluate non-discharge alternatives.

Specific Water Quality Criteria. The PFBC staff strongly support the higher dissolved oxygen criteria for HQ waters and encourage DEP to evaluate the existing DO criteria for cold water fisheries (CWF) and

RFC-822-headers:

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with SMTP id <01IJ4ONUZQSQ96X8VB@PADER.GOV>; Wed, 21 May 1997 11:29:20 EST
Received: by gatekeeper.pader.gov; (5.65v3.2/1.3/10May95) id AA27404; Wed,
21 May 1997 11:32:14 -0400
Received: from sparky.cmic.state.pa.us by gatekeeper.pader.gov (smtpxd)
; id XA27422
Received: from state.pa.us by sparky.cmic.state.pa.us (SMI-8.6/SMI-SVR4)
id LAA19073; Wed, 21 May 1997 11:26:10 -0400
Received: from dguise.cmic.state.pa.us ([164.156.215.53])
by state.pa.us (5.x/SMI-SVR4) id AA01254; Wed, 21 May 1997 11:41:47 -0400
Organization: Pennsylvania Fish and Boat Commission
X-Mailer: Mozilla 3.01Gold (Win95; I)

warmwater fisheries (WWF).

SOCIAL OR ECONOMIC JUSTIFICATION IN HIGH QUALITY WATERS

Federal regulations allow for the lowering of water quality in a high quality ("HQ") stream to accommodate important economic or social development in the area in which the waters are located. The proposed rule for Pennsylvania, however, includes an additional condition that would require the economic or social benefits to "outweigh" water quality degradation which the proposed discharge is expected to cause. Normalizing both sides of this scale will be nearly impossible. As a consequence, businesses wishing to expand operations in a HQ watershed will be forced to undertake expensive SEJ studies that will be subjective at best.

Moreover, Pennsylvania businesses will face stricter regulatory controls than competitors in other states, thereby placing them at an economic disadvantage, encouraging relocation, and dissuading new business ventures in the Commonwealth. Accordingly, PEA urges the Department to remove this additional balancing test from the final rule.

HIGH QUALITY WATERS

Biology Test

PEA supports the biological test (PLAFKIN, ET, AL; EPA/444/4-89-001) including the 83% reference score to determine non-impairment. PEA also supports other peer-reviewed biological assessment procedures to determine the condition of the aquatic community of a surface water. PEA supports the special provisions for minimal impact discharges including the 25% multiplier.

Chemical Test

The term "generally better" (than water quality standards) is somewhat troubling to PEA. Especially given the Federal regulation that requires a stream to "exceed" water quality standards. However, PEA understands that the general chemistry test used in conjunction with the biological test is a surrogate for the Federal requirement. Accordingly, PEA supports the use of a general chemistry test but requests that the Department publish the criteria which is to be used to make the evaluation. In addition, PEA urges the Department to rely on more than one grab sample for this test. Similar study requirements placed in NPDES permits by the Department require permittees to conduct stream surveys for a minimum of three years with quarterly sampling.

GENERAL PERMITS TO HIGH QUALITY WATERS

PEA supports the proposal allowing general permits for minor discharges on high quality streams.

SUMMARY

PEA anticipates that the restructuring of the electric utility industry, brought through new competitive initiatives at the Federal and State levels, will include a variety of changes. Not the least of which will be competition with non-Pennsylvania suppliers of electric power. The Department must assure that Pennsylvania requirements are no more stringent than corresponding Federal provisions if our electric utilities are to compete with energy providers outside the Commonwealth.

In addition, the economic well being of PEA's membership is tied to the economic well being and continued growth in Pennsylvania. Pennsylvania's regulations must provide the necessary protection of our environmental resources, while at the same time insure the prosperity and growth of the Commonwealth.

PEA appreciates the opportunity to submit these comments and hopes that you will consider them in the final antidegradation proposal.

Sincerely,



Scott K. Rodgers

Chairman

PEA Water Quality Subcommittee

c: S. Gansell - PADEP
E. Brezina - PADEP

Seven Springs Fly Fishers



Seven Springs Champion, PA 15622
Director: Chuck Furimsky
Phone: (814) 926-2676

ORIGINAL: #1799
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(PER JHJ)

Dear Mr. Seif,

It has been brought to my attention the EQB is proposing regulations that will weaken those written by EPA. Protection for our waters, their use, and wetlands protection is an important issue to me and the fifty members of our club. Most of our fishermen are doctors, dentists, and other professionals that favor intelligent regulations that protect our waters for the valuable, but limited, recreational time we have chosen. Pennsylvania is dependent on tourism, and tourism is directly dependent on clean and protected waters. Please be careful in any new regulations that lessen this protection.

Sincerely,
Chuck Furimsky

5/8/97

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Mr. James Seif
Chairman
Environmental Quality Board
16th Floor, Rachel Carson Building
P.O. Box 8477
Harrisburg, PA 17105-8477

Re: Proposed Antidegradation Regulations (Revisions to PA Code Chapters 92, 93,
and 95 published on January 21, 1997.

Dear Mr. Seif:

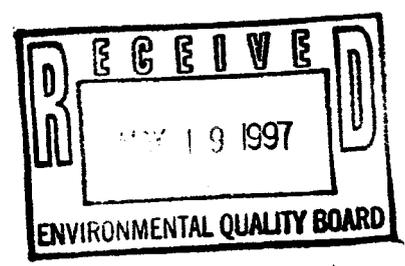
I am writing to express my opposition to the proposed new antidegradation regulations for Pennsylvania. The proposal weakens the protections that exist under the current regulations promulgated for Pennsylvania by the U.S. Environmental Protection Agency and does not ensure that this state's highest quality waters will not be degraded.

As a member of Trout Unlimited, I am acutely aware of the ecological damage that can be done by any degradation of water quality. Pennsylvania is home to many outstanding trout streams that attract anglers from all over the world. These waters and their fisheries are threatened from a variety of sources, including coal mining and its after effects, increased development, polluted run-off, and industrial pollution. These sources are so pervasive and diverse that unless we make protecting high water quality a top priority, we will lose it.

I understand that Pennsylvania Trout is submitting comments on the regulations pointing out their specific shortcomings. The regulations should not be adopted unless all of the problems pointed out in those comments are fixed. The existing regulation is vastly preferable to the new proposal as it is now written.

Sincerely,

Sergi Barck



Schultz Construction
346 Ross Road
Eighty-Four, Pennsylvania 15330

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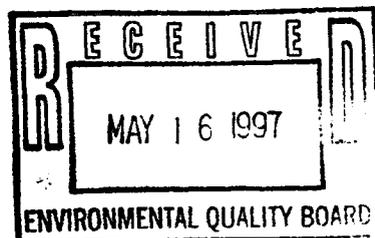
Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

Schultz Construction appreciates the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality anti-degradation regulations. Our company employs 4 persons in the Washington county area. Our company has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As a small company, we are affected by many of Pennsylvania's laws and regulations.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Increasingly, the time and cost with complying with environmental regulations has been tremendous. For many years Schultz Construction has been, and still is, very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

Pennsylvania's current stream designation process is, in ever increasing numbers, used as a tool to halt future economic growth and development in particular areas. Often, it seems stream designation upgrades to exceptional value status have been granted based more on politically driven anti-growth sentiment rather than based on scientific fact. Remember, these DEP regulations concern water quality, not land use.



Several provisions of the existing regulations need revised to provide more reasonable water quality regulations. The three areas of our comments deal with high quality stream designations, exceptional value stream designations and public participation.

First, when DEP assesses a stream, only those streams that have water quality better than standards should be eligible for special protection status. Currently, the Department evaluates a stream for a high quality or exceptional value designation using a "generally better than water quality" determination. This is not appropriate nor consistent with the existing federal language. A stream should never be considered for a high quality or exceptional value status if even one of its water quality parameters is above the existing standard.

We support a "de minimis" permit threshold where a social and economic justification is not required. We also recommend that the Department revise its regulations to allow for the use of general permits on high quality and exceptional value streams. Discharges associated with these permits are minimal and permit applicants should not be burdened with applying for an individual permit for these types of projects.

Also, because of the many implications an anti-degradation designation will have on a community, the DEP must base its designations on more than just one grab sample. The DEP must have enough actual, sound scientific background water quality data before an accurate evaluation can occur and a stream designation can be made.

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Designation of exceptional value streams should be based solely on the stream's uniqueness to the Commonwealth of Pennsylvania or the nation. Some states have not yet designated a single stream in their state as exceptional value due to the adverse economic impact this designation carries with it.

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Our final comments focus on the need for improved public participation in the entire special protection stream designation process. Public participation must start during the assessment of the stream.

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The Department should be required to consider the social and economic impacts associated with any of its high quality and exceptional value designations during the assessment process. This information should be made available to the public.

Thank you for your consideration of these comments regarding this very important regulatory proposal. Schultz Construction believes the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Schultz, Sr.", with a stylized flourish at the end.

Michael J. Schultz, Sr.
Owner

ORIGINAL: #1799
COPIES: NONE
(PER JHJ)



Mr. James Seif
Chairman, Environmental Quality Board
PO Box 8477
Harrisburg, PA. 17105-8477

Dear Sir:

This letter is in reference to the antidegradation regulation proposal in the March 22, 1997 Penna. Bulletin. I am against the allowance of general NPDES permits in our High Quality Streams. Oil and gas discharges have already done much damage in the northwest part of the state, and now you want to allow their discharges into HQ streams. General permits are not tracked by DEP, so they would have no way of knowing how much degradation is taking place in any one watershed—until it was much too late.

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This regulation has a little good, but much bad. It should be rejected by the Board.

Sincerely,

Sally Morris
RD #1 Box 178
Summerville, PA, 15864

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Environmental Quality Board
DEP
PO Box 8465
Harrisburg, PA 17105

RECEIVED
MAY 27 1997
ENVIRONMENTAL BOARD

RECEIVED
MAY - 8 1997
ENVIRONMENTAL QUALITY BOARD

Dear Sirs,

The Clean Water Act requires states to protect waterways from further degradation. Please reject the new regulations that lower water quality standards. This proposal would allow additional discharges into our streams and as parents of a young child and voting citizens of this state, we find this unacceptable. We hope you will reject this proposal and would like a response to this letter.

Thank- you
Sincerely,
Steven and Amanda Melones
422 Eisenbrown Street
Reading, PA 19605



P.O. BOX 3605 ERIE, PA 16508

THRU: John Arway, Environmental Services, PFBC
TO: The Conservation Stakeholders
SUBJECT: Regulatory Negotiation for the Antidegradation
(Special Protection Waters) Program

The S.O.N.S. (Save Our Native Species) of Lake Erie Fishing Club with over 1600 members support the efforts of the Stakeholders to help keep and maintain the waters of the Commonwealth of Pennsylvania as clean as possible.

Our club is currently monitoring Cascade Creek in the City of Erie for pollution and even with the current regulations, the system of enforcement is of a concern.

Our water provides to much of a resource in our every day life style not to have the best quality water possible. Since our club is directly involved with the hatching and stocking of walleye and yellow perch into Presque Isle Bay, we know first hand the importance of good water quality.

We strongly support and encourage the Stakeholders to continue to make Pennsylvania waters the best in the U.S.

cc: Rep. Cappabianca
Rep. Jones
Rep. Scrimenti
Rep. Merry
Rep. Boyes
Sen. Buzz Andrezeski

Sincerely,

Jerry Skrypzak
President, S.O.N.S.

Recycled Paper

Mr. James Seif
Chairman
Environmental Quality Board
16th Floor, Rachel Carson Building
P.O. Box 8477
Harrisburg, PA 17105-8477

Re: Proposed Antidegradation Regulations (Revisions to PA Code Chapters 92, 93,
and 95 published on January 21, 1997

Dear Mr. Seif:

I am writing to express my opposition to the proposed new antidegradation regulations for Pennsylvania. The proposal weakens the protections that exist under the current regulations promulgated for Pennsylvania by the U.S. Environmental Protection Agency and does not ensure that this state's highest quality waters will not be degraded.

As a member of Trout Unlimited, I am acutely aware of the ecological damage that can be done by any degradation of water quality. Pennsylvania is home to many outstanding trout streams that attract anglers from all over the world. These waters and their fisheries are threatened from a variety of sources, including coal mining and its after effects, increased development, polluted run-off, and industrial pollution. These sources are so pervasive and diverse that unless we make protecting high water quality a top priority, we will lose it.

I understand that Pennsylvania Trout is submitting comments on the regulations pointing out their specific shortcomings. The regulations should not be adopted unless all of the problems pointed out in those comments are fixed. The existing regulation is vastly preferable to the new proposal as it is now written.

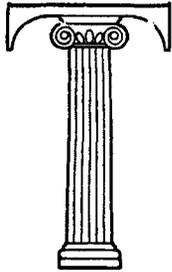
Sincerely,

Alice Lasharis, MD



*15 Ames Plaza
Phillipsburg, PA
16866*

(814) 342-7150



SWEETWATER
BUILDERS, INC.

ORIGINAL: #1799
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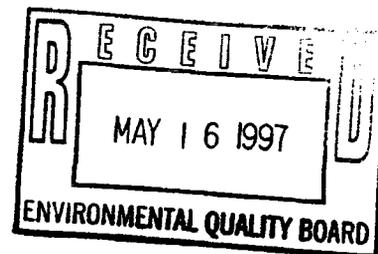
Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

I appreciate the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. Our company employs several people in the Sewickley area. Our company has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As a small company, we are affected by many of Pennsylvania's laws and regulations.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Increasingly, the time and cost with complying with environmental regulations has been tremendous. For many years I have been, and still am, very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

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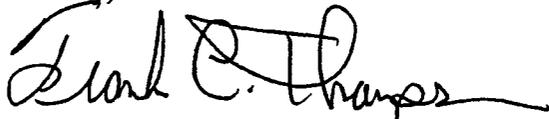
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Sincerely,

A handwritten signature in black ink, appearing to read "Frank C. Thompson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frank C. Thompson
President
Sweetwater Builders, Inc.

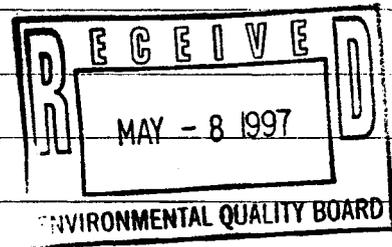
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97 MAY 27 10 05 AM

Environmental Quality Board

Please reject the DEP's
current anti-degradation
proposal.

Thank you
Lynne Berger
107 Cypress Dr.
Shakerstown PA
18951



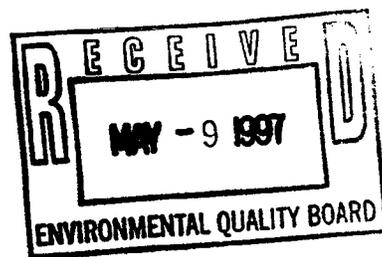
To the: Environmental Quality Board,

ORIGINAL: #1799
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Reject the DEP's current
anti-degradation proposal and
adopt the simpler, better standards
of the EPA.

Thanks,
Sue Rustad

Please Reply:
Sue Rustad
1214 Pauli Pike
W. Chester, PA 19380



Dear EQB,

ORIGINAL: #1799
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Please reject the DEP's current
anti-degradation proposal.

Adopt the better standards of the EPA.

Please reply with information concerning your vote:

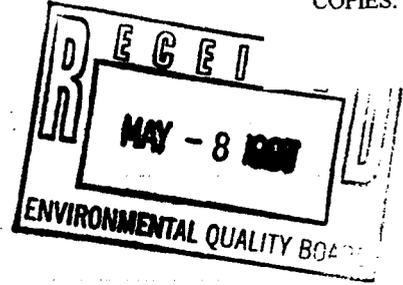
Thank you

Susan Ridgeway

624 Pancrast Rd

Kef P PA 19406





To Whom it may concern,

STANLEY AN OLC

DEPT. OF ENVIRONMENTAL PROTECTION

PLEASE FOLLOW THRU WITH PASSAGE OF
THE CLEAN WATER ACT TO PROTECT OUR
WATER WAYS FROM FURTHER DEGRADATION.

WE HERE IN MUHLBERG TOWNSHIP
ALREADY HAVE HAD TO CAP 3 NEW WELLS
SLATED FOR RESIDENTIAL USE. DON'T CONTINUE
TO LET THIS HAPPEN TO MY CHILDREN.

A TAXPAYER

STEVEN C. DETURCK

MR & MRS STEVEN DETURCK
409 EISENBROWN STREET
READING, PA 19605

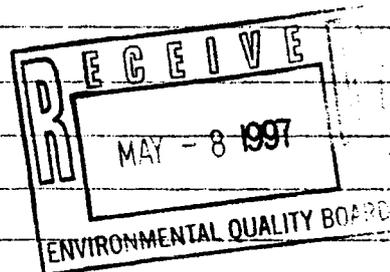
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07/11/97 09:45:01

07/11/97 09:45:01

Please reject the DEP's
current anti degradation proposal
Adopt a simpler & better
standard of the EPA.

Alice Kenton





Mr. James Seif
Chairman, Environmental Quality Board
PO Box 8477
Harrisburg, PA. 17105-8477

Dear Sir:

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This regulation has a little good, but much bad. **It should be rejected by the Board.**

Sincerely,

Stanley E. Beers
Debra J. Beers

Terry Morrow
35 Campbell Ave.
Clarion, PA 16214
May 15, 1997

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(PER JHJ)

Mr. James Seif
Environmental Quality Board
DEP
P. O. Box 8477
Harrisburg, PA 17105-8477

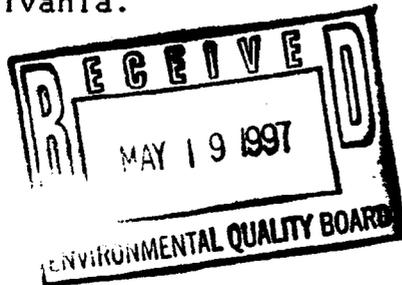
Dear Mr. Seif,

I would like to express my extreme disappointment in the results of the DEP rulemaking concerning the antidegradation standards for Pennsylvania's streams publicized in the March 22, 1997 issue of the Pennsylvania Bulletin. The position of the environmental stake holders was essentially ignored by DEP in framing the proposed regulations. EPA's intent was to force Pennsylvania to strengthen its protection for its streams, yet DEP seized the moment to produce a document that weakens what we already have.

The entire document should be discarded and the effort begun again, this time starting with a premise of protection our life sustaining water resources instead of making life easier for polluters. Several specific examples of why these proposed rules are abysmal are: 1. allowing general NPDES permits in HQ streams. This will allow polluters to do their damage unmonitored by DEP. 2. The 25% exemption and allowance with general permits is ridiculous. It obviously takes only four 25% events to equal 100% degradation. 3. The plan does nothing to protect the 29,000 miles of unassessed streams in the state. There is so little good in the proposed rules that the entire proposal should be discarded.

This is yet another demonstration of the anti-environmental stance of the Ridge Administration despite the obvious efforts of DEP to improve its image with "public participation" efforts, roundtables run by professional facilitators where the public isn't allowed to speak and the like. The real measure of environmental protection is in the acts of the agency, not public relations efforts. These rules are an "act" that displays the true colors of the current DEP.

I urge the Environmental Quality Board to reject these proposed rules. They are not good for the citizens of Pennsylvania.



Sincerely,

Terry O. Morrow
Terry O. Morrow

Tepes Construction Company, Inc.
3185 Center Road
Northampton, PA 18067

Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

Tepes Construction Company, Inc. appreciates the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality anti-degradation regulations. Our company employs 6 persons in the Lehigh Valley area. Our company has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As a small company, we are affected by many of Pennsylvania's laws and regulations.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Increasingly, the time and cost with complying with environmental regulations has been tremendous. For many years Tepes Construction Company, Inc. has been, and still is, very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

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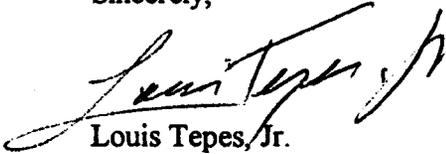
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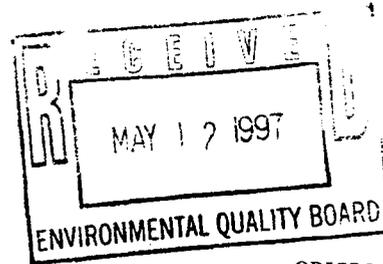
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Sincerely,

A handwritten signature in black ink, appearing to read "Louis Tepes, Jr.", written in a cursive style.

Louis Tepes, Jr.
President

Mr. James Seif
Chairman
Environmental Quality Board
16th Floor, Rachel Carson Building
P.O. Box 8477
Harrisburg, PA 17105-8477



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(PER JHJ)

Re: Proposed Antidegradation Regulations (Revisions to PA Code Chapters 92, 93,
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Sincerely,

Terry Burkitt



717-296-7210

T.C. HOGAN, INC.

CUSTOM BUILDER

P.O. BOX 276 • MILFORD, PA 18337

ORIGINAL: #1799
COPIES: NONE
(PER JHI)

Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

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Also, because of the many implications an anti-degradation designation will have on a community, the DEP must base its designations on more than just one grab sample. The DEP must have enough actual, sound scientific background water quality data before an accurate evaluation can occur and a stream designation can be made.

Our second major area of concern is the DEP’s current exceptional value streams designation process. The section of the regulations concerning the designation of streams as exceptional value has been abused recently. Too often streams have been redesignated as exceptional value, when in reality they may have only qualified as high quality. In other words, certain streams designated as exceptional value under Pennsylvania’s program would never meet the criteria of a federal Tier Three stream designation. In particular, Pennsylvania’s EV program is broader than the federal program as it considers outstanding regional and local resource waters. We recommend the DEP’s exceptional value program be revised to be no more stringent than the federal program.

Designation of exceptional value streams should be based solely on the stream’s uniqueness to the Commonwealth of Pennsylvania or the nation. Some states have not yet designated a single stream in their state as exceptional value due to the adverse economic impact this designation carries with it.

One of the key positions of Governor Ridge's administration is that no state-run program should be more stringent than required by federal law. Also, a greater balance needs to be established between the environmental and economic interests of the state. Pennsylvania should not be placed at an economic disadvantage in comparison to other states' water quality programs.

An associated concern with the federal tier three program is the Environmental Protection Agency's (EPA) interpretation of the federal requirements regarding discharges to exceptional value streams. Despite the EPA's insistence that the DEP prohibit new or expanded discharges to exceptional value streams, we believe that current EPA and DEP rules allow for the consideration of such discharges. With the use of sound technical practices, discharges which result in no adverse measurable change to long term water quality should be allowed.

Our final comments focus on the need for improved public participation in the entire special protection stream designation process. Public participation must start during the assessment of the stream.

The Department must ensure increased public participation at the early stages of the stream redesignation process, whether the assessment is initiated by the Department or by a petition. Under the present DEP policy, The Department publishes a notice of acceptance of a petition in the *Pennsylvania Bulletin*, however not everyone subscribes to this publication. Many parties, including landowners and homeowners, which may be adversely affected by a stream upgrade are never made aware of the petition until perhaps a proposed regulatory package is already in front of the Environmental Quality Board for consideration. In addition these parties are never fully made aware of the impacts a redesignation can have on their activities in the area.

The Department must notify potentially affected parties in the preliminary stages of the stream's evaluation. This includes notice by first class mail to any applicant with a pending discharge permit application, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received Act 247 or Act 537 planning or subdivision and land development planning approval within the previous 5 years. This will help the DEP to eliminate potential oversights and to obtain a complete picture of the stream, including present and planned growth and economic development in the area.

The Department should be required to consider the social and economic impacts associated with any of its high quality and exceptional value designations during the assessment process. This information should be made available to the public.

Thank you for your consideration of these comments regarding this very important regulatory proposal. T. C. Hogan, Inc. believes the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink that reads "T. C. Hogan". The signature is written in a cursive style with a long horizontal flourish extending to the right.

T. C. Hogan
President

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(PER JHJ)

STAMPED ADDRESS

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Please reject the

D.E.P.'s

Anti-Degradation Proposal.

Mr. Frank Simpson

6405 Verona Rd.

Verona, PA 15147



United States Department of the Interior

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May 20, 1997

Mr. James Seif, Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Dear Mr. Seif:

The Fish and Wildlife Service has reviewed the proposed rulemaking for the antidegradation policy for Pennsylvania, published in the March 22, 1997 *Pennsylvania Bulletin*. The Service has provided comments on this issue to the Environmental Quality Board (EQB) and the Department of Environmental Protection (DEP) in the past. We have also consulted with the Environmental Protection Agency (EPA) during EPA's review of Pennsylvania's 1994 triennial review of water quality standards, and during EPA's recent promulgation of an antidegradation policy for Pennsylvania. In addition, we participated in the DEP-sponsored "regulatory-negotiation" (reg-neg) process from its inception in June 1995 to the close of the process in August 1996. At that time, the Service, along with other organizations, submitted a joint report to DEP that outlined recommendations on the antidegradation program.

We offer the following comments under the authority of the Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661-667e) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). Our review also considers the fact that federal regulations (40 CFR 131.6(d) and 131.12) require States to have an antidegradation policy in their water quality standards at least as stringent as the federal policy, and that implementation methods must be identified.

GENERAL COMMENTS

The Preamble to the proposed rulemaking states that DEP considered the "Phase I Interim Report" of the reg-neg group to have been a "good starting point" for new regulations. The DEP issued a "draft proposed rulemaking" in May 1996 based largely on the Phase I Interim Report and, although DEP offered at that time no proposals for the Exceptional Value waters program, the draft nevertheless elicited extensive public comment. The reg-neg group submitted two separate reports to DEP on the program. The EPA, under court order, has proposed and promulgated an antidegradation policy for Pennsylvania that took effect January 8, 1997 (40 CFR 131.32). The DEP offers this proposal to address the EPA disapproval of June 1994, and has taken the previous public comment and the reg-neg reports into consideration to "re-engineer an antidegradation program which addresses concerns specific to this Commonwealth."

Our primary concern with Pennsylvania's old antidegradation policy was that it did not meet minimum federal requirements. The promulgation of a federal rule satisfies that basic fault of the State's old program. We do have other concerns with the program that relate mostly to endangered species protection, and fish and wildlife needs in general, and have relayed those concerns to the EQB and DEP in the past. Our other concerns with the program relate to how the antidegradation policy is implemented.

The DEP seems to be relying on public comments on the May 1996 draft proposal and the two separate reg-neg reports as the "concerns specific" to Pennsylvania that DEP believes are being addressed in this proposal. Unfortunately, no comment-response document was prepared for either the public comments received on the "draft proposed rulemaking" of May 1996 or the two separate reports submitted by the reg-neg group. Although the draft proposed rulemaking was withdrawn, the current proposal is very similar. Without a comment-response document, it is difficult to understand DEP's reasoning for some of the specific provisions of this proposal. We believe that the EQB should request that DEP, as part of this proposal, formally respond to the comments received for the May 1996 draft proposed rulemaking, and the two separate reg-neg reports. Regardless, we are enclosing as part of these comments our testimony of June 18, 1996, and the "conservation stakeholders' report" of August 21, 1996.

SPECIFIC COMMENTS

§ 92.81. General NPDES permits.

The proposal is less protective than the interim consensus reached by the reg-neg group. Unless DEP is willing to undertake a specific assessment of general NPDES permits and determine under which conditions they would be allowable, we would oppose issuance of general NPDES permits in High Quality (HQ) waters. We support the continued prohibition of general NPDES permits in Exceptional Value (EV) waters.

§ 93.1. Definitions.

The Service supports the new definitions of HQ and EV waters, except that we would prefer to see the word "watersheds" retained in each definition. It is unclear to us if DEP intends to continue to assess and designate on a watershed basis, or assess each separate surface water in a basin. If it is the latter, we note that the proposed biological tests for HQ and EV do not include biological methods for lakes, ponds, reservoirs, seeps, springs, wetlands or estuaries. If DEP plans on assessing the main streams and rivers in a basin, and then applying the designation to all the waterbodies in the watershed, then we do not see any need for changing the definitions.

§ 93.3. Protected water uses.

We note that HQ and EV, when considered "protected water uses," give an added measure of protection and visibility to significant environmental attributes. Currently, about 25% of the State's waters are HQ, and 3% are EV. These waters, because of DEP's past requirement for additional "features," have existing uses that merit a "protected water use" over and above the regular designated uses. To remove HQ and EV from the list of protected water uses without creating a new protected water use that recognizes significant environmental attributes could be considered a removal of a designated use. If the waterbodies have in fact attained that use (actually have the significant environmental attribute that merits the HQ or EV designation), then those uses cannot be removed, as designated uses must reflect existing uses.

We believe that if HQ and EV are removed as protected water uses, then a use category of "Outstanding Environmental Resource" should be added as a protected water use. Waters could then qualify for this protected water use regardless of their antidegradation classification. We would be willing to assist DEP in developing the definition for this use. In addition, we do not believe that the proposal includes adequate safeguards to prevent arbitrary "downgrades" of the antidegradation classification. The conservation stakeholders' report included language to protect waters' antidegradation classification, while allowing for the removal of HQ and EV as protected water uses. We suggest that additional safeguards be put into place to prevent reductions in antidegradation protection (see enclosed report).

Alternatively, there is no need to remove HQ and EV from the list of protected water uses if what is desired is to separate antidegradation from protected water uses. Instead, three tiers of antidegradation protection could be established. All HQ waters are automatically in Tier 2, and all EV waters are automatically in Tier 3. As new waters are assessed, they will be assigned to a Tier and may merit a new designated use as HQ or EV in order to reflect their special attributes.

§ 93.4. Statewide water uses.

We support deletion of the phrase "under subsection (b)." This will ensure that the designated uses, at a minimum, reflect the existing uses in all cases.

§ 93.4a. Existing uses.

General existing use language. We believe that the federal Tier 1 language should be included as a separate sentence; we do not support the inclusion of the qualifying phrase beginning "when...". The inclusion of this phrase is problematic in that protection of existing uses must take place at all times, not just after a technical evaluation. Qualification of the existing use protection language of the regulation is not supported by federal regulation or guidance.

Endangered species protection. We appreciate DEP's efforts to include endangered species protection under existing use protection. However, we have some questions about the threshold for, and the extent of, this protection. The threshold for protection is Departmental confirmation of the presence of the aquatic species or critical habitat in the Pennsylvania Natural Diversity Inventory (PNDI). We have had conversations about this very issue in the past with DEP Central Office and Regional Office staff. Reliance on the PNDI data base brings with it two problems: 1) PNDI generally is not up-to-date, and 2) PNDI is not inclusive.

The threats to unionid mussels have generated interest by agencies other than the Service. For example, DEP has contracted mussel surveys in northwestern Pennsylvania (seven sites completed; ten sites awaiting survey). We appreciate DEP's interest in protecting mussels, but believe that the information should be used as it is generated, because it may be months before the information is entered into the PNDI data base. In addition to its own surveys, DEP should use any available credible information in its determination of an occurrence of an endangered species, and not simply rely on the PNDI data base. To disregard other information seems to establish a double standard: one threshold for endangered species (PNDI) and another for all other existing uses ("Department's evaluation of technical data").

We are also concerned about an approach that assumes that PNDI or any data base can adequately establish all endangered species locations. Endangered unionid mussels are found only in six streams and rivers in Pennsylvania, and only in suitable habitat. Many of the surveys already conducted that have made their way into the PNDI database were not designed to detect the presence/absence of rare species, but were general qualitative surveys. For example, PNDI may list ten mussel species at a site, none endangered, with the survey having been done in 1990. Endangered mussels may very well occur at that site, and were simply not detected in the 1990 qualitative survey. In other areas, no surveys have been conducted, and PNDI will contain nothing at all on the resources at that site. We believe that when an activity is proposed that could affect suitable endangered species habitat, the permit applicant should be required to characterize the resource, including the presence/absence of endangered species.

There is a parallel between this situation and wetlands permitting. Before an applicant is permitted to discharge dredged or fill material into waters of the United States, a Clean Water Act § 404 permit is needed, and the applicant must characterize the wetland as part of the application. If the wetland is suitable habitat for the bog turtle (*Clemmys muhlenbergii*), a species that listed as endangered by Pennsylvania and proposed for federal listing as threatened, the applicant must conduct a bog turtle survey. We see no reason why applicants for NPDES permits or requesting Section 401 water quality certification should be held to a less stringent standard.

We applaud the preamble language that states that DEP will use all necessary measures, including restricting mixing zones, to protect listed species. We also support the ultimate goal to "ensure protection" of listed species. We believe, however, that limiting the

protection to the effects of "discharges" unduly restricts the regulation. We also believe that limiting the protection to "aquatic" species is too limiting. The bald eagle (*Haliaeetus leucocephalus*) is a federally-listed species that is dependent on aquatic systems and merits protection under the Clean Water Act and State water quality standards, including the antidegradation policy. We suggest the word "aquatic" be deleted.

We also suggest the following language for the regulation:

Where necessary, the Department will restrict activities, including limiting discharges, to ensure protection of federal or State listed endangered or threatened species, or their critical habitats.

We would be happy to assist DEP in developing implementation guidance for the endangered species protection provision of Tier 1.

§ 93.4b. High Quality Waters.

a. Qualifying as High Quality Waters. We have concerns about the requirement that both chemistry and biology tests be met in order to qualify as HQ waters. The contrast between this proposal and the Special Protection Waters Implementation Handbook shows that the biological tests proposed here were once considered to be "other environmental features" under the Special Protection Waters program. The EPA disapproved Pennsylvania's program because of the requirement for the other "feature." This proposal, while making changes to the definition, has defined "quality which exceeds levels" in such a way to require some biological "feature" as well as having water chemistry that exceeds numeric criteria.

On its face, the current Tier 2 regulation (40 CFR 131.32(a)(2)) guidance appears to apply to water chemistry: "[w]here the quality of the waters exceeds levels necessary to support [the 101(a)(2) Clean Water Act goals]." This is identical to the basic federal regulation (40 CFR 131.12(a)(2)). The "quality of the water" in a candidate waterbody would be compared to the numeric water quality criteria. The EPA's guidance (USEPA 1994) states:

All the parameters do not need to be better quality than the State's ambient criteria for the water to be deemed a "high-quality water." EPA believes that it is best to apply antidegradation on a parameter-by-parameter basis. Otherwise, there is potential for a large number of waters not to receive antidegradation protection (emphasis original).

Therefore, a strong argument can be made that the sole Tier 2 threshold is water chemistry alone, although the guidance goes on to say that EPA has accepted different approaches. These approaches must be evaluated for conformance with "the statutory and regulatory intent of the antidegradation policy." Since DEP has taken a different approach, the decision to use chemistry and biology must be evaluated.

The DEP has not given any rationale for requiring both tests. Perhaps the reasoning is that aquatic biota are a good integrator of long-term water chemistry. If this is the case, then why evaluate water chemistry at all? Simply assess biology, and from that determine whether or not long-term water chemistry "exceeds levels necessary" to meet the 101(a)(2) goals. Perhaps DEP believes that the purpose of Tier 2 antidegradation is to protect the aquatic communities, rather than water chemistry. If that is the case, we suspect that no request for degradation would ever be denied, because degradation in water chemistry down to the level of the numeric criteria should not result in changes to aquatic biota. We see the purpose of Tier 2 antidegradation as giving further protection to water chemistry. Regardless, DEP should clearly state their rationale for departing from a parameter-by-parameter approach.

The proposed biological test can be met in three ways: 1) a biotic assessment, that considers physical habitat and benthic macroinvertebrates or fish, based on the Rapid Bioassessment Protocol (USEPA 1989); 2) other future methods that may be approved; or 3) if a water is Pennsylvania Fish and Boat Commission (PFBC) Class A Wild Trout Stream. Further details of 1) are provided in the proposed Statement of Policy, Chapter 15, and separate public comments are being taken on that proposal. We believe that some discussion of that method is warranted here, however.

2.i. Rapid Bioassessment Protocol. The Rapid Bioassessment Protocol (RBP) was established by EPA and has been adopted by many States and other resource agencies. We believe that it is a useful tool, and use it in our own surveys. We understand that Pennsylvania has been using it for some years now and has made some modifications to it based on Pennsylvania's waters. We do not question its utility for certain uses.

Our concern is the requirement that, using the RBP, a candidate's water quality must "support nonimpaired, high quality aquatic communities." Streams that do not meet this threshold will not get HQ protection (if they do not satisfy the biological test in another way), whatever the reason for the impairment (physical habitat or water quality). If the purpose of Tier 2 antidegradation is to protect water chemistry, then discounting a waterbody having an "impaired" biological community because of habitat problems violates the intent of Tier 2 antidegradation.

The RBP also uses reference streams in order to make comparisons, and reference streams are chosen on an ecoregion basis. While this works well for characterizing biota on a regional level, it creates problems for determining levels of antidegradation protection. There is strong evidence to indicate that, between ecoregions, reference streams vary widely in absolute quality. Across the State, candidate streams with similar water chemistry and biology will receive different levels of antidegradation protection if their respective reference streams are sufficiently dissimilar.

2. ii. Other methods. As noted above, the proposal changes the definition of HQ from a "watershed" to a "surface water." Surface waters are further defined as "...streams, rivers,

lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries." In this section, the proposal does not mention any specific methods for assessing biology, but says that other procedures will be used if they are approved by DEP. The RBP (above) and the Class A Wild Trout Stream (below) are the only specific biological procedures listed in this proposal. This creates a situation where only streams and rivers can receive HQ protection, because there are no biological methods listed in the proposal for waters other than streams and rivers.

2.iii. Class A Wild Trout Streams. While we believe that Class A trout streams certainly merit HQ protection, we believe that most, if not all, wild trout streams qualify. The State of West Virginia considers all their wild trout streams to automatically qualify for Tier 2 protection. Wild trout streams vary greatly in their carrying capacity, and Pennsylvania's Class A streams are considered the best of the State. The variation in trout biomass, however, can be due to many factors, most notably physical habitat and natural productivity of the waters (T. Greene, PFBC, pers. comm.). There are likely to be few streams that are considered Class B, C, or D wild trout streams that also exhibit violations of numeric water quality criteria due to some human-induced condition. Just about all wild trout streams will have water chemistry which exceeds levels necessary to support the 101(a)(2) goals of the Clean Water Act and, therefore, all wild trout streams should be considered HQ.

In summary, the requirement for both chemistry and biology tests will limit the number of Tier 2 waters in a way not intended by federal regulation and guidance. We believe that simply making the tests disjunctive would solve this problem: waters qualify for HQ protection if water chemistry is better than criteria or if biology indicates that water chemistry is generally good.

b. Level of protection/social or economic justification. This section could be construed to mean that non-discharge permitted activities are not subject to this provision. We suggest re-writing this section to include all permitted activities that could result in degradation, since the threshold in the current regulation is water quality degradation. As written, this section would also apply to discharges that do not degrade water quality.

A balanced public interest determination requires that public benefits result from water quality degradation. Accordingly, we support inclusion of the phrase beginning "will result..." at the end of this paragraph.

f. Special provisions for minimal impact discharges. In the reg-neg proceedings, our previous consideration of some type of suspension of the full Tier 2 review for some discharges was a preliminary position. As DEP knows, this position was ultimately rejected by the Service and most of the "conservation stakeholders." Therefore, we do not support suspending the SEJ process for the first 25% of the assimilative capacity of the water. This would exempt many dischargers from the SEJ process and the accompanying public participation requirements, and is not allowed in the current regulation, which is considered

to be the minimum federal requirements. General NPDES permits should also be subject to the SEJ process, if they are allowed at all, in HQ watersheds.

§ 93.4c. Exceptional Value Waters.

a. Qualifying as Exceptional Value Waters. We believe that Pennsylvania has more latitude in determining Tier 3 waters than it does for Tier 2. The proposal includes water chemistry and biology tests, similar to the HQ proposal, and a provision to allow consideration of additional information. We note, however, that the current regulation considers waters of certain public lands and waters of "exceptional recreational or ecological significance" (40 CFR 131.32(a)(3)). The following comments focus on whether or not 1) the public land categories are sufficiently considered, and 2) the definitions of "recreational or ecological significance" are reasonable and sufficiently inclusive.

Public Lands. Unlike Pennsylvania's Special Protection program, this proposal does not give any consideration to the public land categories in the current regulation (40 CFR 131.32(a)(3)), nor does it reflect at all the public lands listed in the proposed definition of EV waters. The EPA (1994) considers the combination of "high quality waters" on public lands to be sufficient to qualify as a Tier 3 water. The Special Protection Waters Handbook gave thoughtful consideration to all the land use categories in the EV definition. We believe that this proposal does not give sufficient consideration to public lands. As a land steward whose lands are specifically mentioned in both the current Tier 3 regulation and proposed EV definition, the Service strongly supports consideration of public land uses as Tier 3 waters.

Recreational significance. Wilderness Trout Streams are listed here as a biological measure, although their designation by the PFBC is based less on the inherent biology of the stream than it is on the surrounding land use (J. Arway, PFBC, pers. comm.). Nevertheless, it is the only consideration given to any type of recreational use in the proposal. The Special Protection Waters Implementation Handbook had some examples of recreational uses that could qualify for EV protection. We believe that some consideration of recreational uses should be included in the final regulation. In addition, given our recommendation that all wild trout streams be considered at least HQ waters, Class A streams, by their biomass, constitute an outstanding recreational resource, and should qualify as EV waters. We also believe that the proposal should consider water resource-based recreation other than trout fishing.

Ecological significance. Similar to the High Quality section, the biology requirement relies on the Rapid Bioassessment Protocol (RBP), other methods (presumably to be determined at a later date), and the Wilderness Trout Stream classification to determine outstanding biology. Notably absent is any mention of threatened or endangered species. The Preamble stated that the addition of threatened or endangered species language in Tier 1 adequately protects these species. We support language protecting threatened or endangered

species in Tier 1, but believe that waters supporting listed species merit consideration as Tier 3 waters as well.

For federally-listed species, the listing as endangered or threatened often means that the species has been eliminated from a large portion of its historic range. The few remaining systems where the species occurs are often of "exceptional...ecological significance" by their sheer rarity. For example, the northern riffleshell mussel (*Epioblasma torulosa rangiana*) was once found throughout the upper Ohio and Great Lakes drainages. It has been eliminated from a large number of streams throughout its historic range, and French Creek and the Allegheny River in Pennsylvania probably have the best remaining populations in the world. One other federally-listed mussel, the clubshell (*Pleurobema clava*) is extant in Pennsylvania, and is often found with the northern riffleshell.

Mussels are a group of benthic macroinvertebrates not considered under the RBP; therefore, presence of mussel species in a waterbody will not give it any additional consideration. We do not mean to diminish the ecological value of streams rating highly because of their RBP benthic macroinvertebrate score, but it is difficult to imagine considering such streams as "waters of exceptional...ecological significance" while at the same time disregarding waterbodies that support the only known remaining populations of a different aquatic invertebrate. Although the proposal includes a provision for consideration of additional biological or chemical information, we believe that waters supporting threatened or endangered species merit specific language qualifying them as EV waters. We urge the EQB to allow for additional, definable ways to assess ecological significance, and are willing to assist DEP in developing the necessary language.

b. Level of protection for EV waters. We note that the Preamble states that this proposal does not resolve EPA disapproval of the level of protection for EV waters. Ideally, the proposal should have given details about the method DEP uses to determine whether or not water quality is "maintained and protected." During the reg-neg process, the Service had concerns about DEP's use of "no measurable change in long-term water quality." Specifically we were concerned with, and are still concerned with, 1) use of the median flow as the design flow in permitting; and 2) allowance for instream dilution and mixing zones, especially for chemicals not normally found in surface waters. We continue to support DEP's contention that Tier 3 does not automatically preclude discharges, but do not believe that DEP's current method maintains and protects water quality in all cases. This method should be clearly outlined and, after public comment, placed into regulation.

§ 93.4d. General requirements...

a. Discharge alternatives. We support the provision that all permit applicants in HQ and EV waters are subject to these requirements, even applicants proposing "minimal impact discharges" (§ 93.4b(f)). Specific pollution prevention and waste minimization language, as outlined in the conservation stakeholders' report, should also be included here. That language was based on the Great Lakes Water Quality Initiative.

b. Nonpoint sources. We do not believe that the language in this section is as protective as the language in the current regulation. Programs that will "promote" best management practices (BMPs) for nonpoint source control are not equivalent to DEP's obligation to "assure that there shall be achieved" BMPs. We suggest simply incorporating the current regulation's language into this section.

§ 93.4e. Public participation...

The reg-neg group assembled a panel that agreed on public participation requirements. We believe that their recommendations should be adopted.

§ 93.7. Specific water quality criteria.

We support the higher dissolved oxygen standards for HQ waters.

§ 93.9a-93.9z. Drainage lists.

The DEP's Use Attainability Reports for the Peters Creek and the Broad Run basins, prepared as a result of the Special Protection surveys, indicate that both watersheds support naturally reproducing trout populations. Both basins, therefore, should have designated aquatic life uses of "cold water fishes."

Antidegradation in wetlands

We do not believe that the State's current wetlands permitting program affords sufficient antidegradation protection for wetlands. While this proposal nominally extends antidegradation protection to wetlands, there are no specific provisions to integrate the two programs. The EPA (1994), for example, considers that the antidegradation policy is satisfied if a fill does not result in "significant degradation" as defined in 40 CFR 230.10(c) of the Clean Water Act § 404(b)(1) Guidelines. While the State's regulations contain some language from the Guidelines, Pennsylvania does not always prohibit fills that cause significant degradation to special aquatic sites. Similarly, general permits for wetland fills have been issued that authorize activities in both HQ and EV watersheds, without any consideration of antidegradation. The Service believes that integration of the two programs is both possible and desirable. We would be happy to assist DEP in developing implementation procedures for antidegradation in wetlands.

SUMMARY

1. The DEP should respond formally to the previously submitted reg-neg reports (August 1996) and public comment on the draft proposed regulation (May 1996).
2. We support the prohibition of general NPDES permits in EV waters, but believe that HQ waters should be similarly protected.

3. Assessments should be done on a watershed basis, not a water-by-water basis. Definitions of HQ and EV should reflect this.
4. There are not sufficient safeguards against downgrades in the antidegradation classification of waters, and special environmental features will no longer be recognized if HQ and EV are removed as "protected water uses." They should remain, or safeguards put into place and another designated use created to recognize special environmental features.
5. The existing use language should not be qualified by DEP's evaluation of technical data.
6. We support language protecting endangered species in Tier 1. We believe that the protection should 1) extend to all species, not just "aquatic" species; 2) apply to activities, not just discharges; and 3) extend to confirmed endangered species habitat, not just PNDI occurrences.
7. We do not support the requirement that HQ waters meet both a chemical and biological test for the following reasons:
 - DEP has not given any rationale for deviating from the EPA-recommended parameter-by-parameter approach.
 - The use of the RBP test as outlined in this proposal 1) does not distinguish between impairment caused by water chemistry problems, and those caused by physical habitat problems; and 2) may give different results for streams of similar water chemistry when dissimilar reference streams are used.
 - There are no biological tests in place to assess lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, and therefore no possible way under the current proposal for these waterbodies to receive HQ protection.
 - While Class A Wild Trout Streams certainly deserve HQ protection, most wild trout streams, no matter what the biomass, will likely have water chemistry better than the numeric criteria, the differences in trout biomass often being a matter of physical habitat or natural productivity.
8. We agree with the provision that requires a demonstrated public benefit before permission to degrade water quality in HQ waters is granted. Any activity that could degrade water quality should be subject to the SEJ, not just discharges.
9. The suspension of the SEJ for the first 25% of the assimilative capacity of a water, and for general NPDES permits, does not meet the minimum federal requirement.

10. The qualifiers for EV waters do not include the public land categories listed in either the current regulation nor the proposed definition of EV. The qualifiers for ecological significance should include consideration of threatened or endangered species. Additional recreational attributes should be considered.
11. The proposal is silent on how DEP plans to maintain and protect water quality in EV waters while allowing for point source discharges.
12. Specific pollution prevention language, as well as stronger language protecting against non-point source pollution, should be included.
13. The reg-neg group's recommendations on public participation should be adopted.
14. The DEP should integrate antidegradation into the wetlands protection program.

The Service appreciates the opportunity to provide comments on the proposed rulemaking. We are available to assist DEP in developing alternative language in areas where we suggested changes to the proposal, or in any other area where such assistance would be helpful. Please contact Mark Hersh of this office (814-234-4090) if you have any questions regarding these comments.

Sincerely,



David Densmore
Supervisor

Enclosures

REFERENCES

- USEPA. 1994. Water quality standards handbook. 2nd edition. EPA-823-B-94-005a. Office of Water, Washington, D.C.
- USEPA. 1989. Rapid bioassessment protocol for use in streams and rivers. Benthic macroinvertebrates and fish. EPA/444/4-89-001. Office of Water, Washington, D.C.



United States Department of the Interior

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TESTIMONY OF MARK HERSH
BEFORE THE DEPARTMENT OF ENVIRONMENTAL PROTECTION -
REGARDING THE ANTIDEGRADATION PROGRAM
JUNE 18, 1996

Good afternoon. My name is Mark Hersh. I am an Environmental Contaminants Specialist in the U.S. Fish and Wildlife Service's Pennsylvania Field Office in State College. We offer the following comments on the program.

The draft regulations are based on the interim report of the Water Quality Stakeholders group, of which we are a member. The fact that we signed a draft report does not reflect support for the recommendations contained in it unless and until the recommendations are finalized in a report from the reg-neg group. It was also understood that the stakeholders were free to re-examine any component of the interim report and suggest any necessary changes.

Tier 1

The proposal includes regulatory language identical to the federal language, plus additional language on DEP's technical review. The Service supports the inclusion of language identical to the federal language protecting existing instream water uses and the water quality necessary to support those uses. Federally-listed threatened and endangered species are existing uses in some of Pennsylvania's waters, however, and federal guidance for existing use protection does not in all cases provide protection for listed species. Pennsylvania should include additional regulatory language protecting listed species as existing uses. In any case, Pennsylvania must also identify implementation methods for Tier 1 antidegradation, in addition to the proposed regulatory language in order to meet minimum federal requirements. We would be happy to assist DEP in preparing additional regulatory language or implementation methods for existing use protection that will also protect federally-listed species.

Tier 2

The draft regulation assumes that High Quality waters are no longer considered a "protected water use" in Pennsylvania's water quality standards. While we agree that this will speed up the process by which waters will be provided with the appropriate level of antidegradation protection, we remain concerned about the possible "sliding" of the level of antidegradation protection. Without regulatory language, the public may perceive that it is permissible under

any circumstance for waters to be protected at a lower level, if the present conditions do not meet the criteria for Tier 2 protection. We believe that regulatory language is needed to make it clear to the public that once waters attain the criteria associated with Tier 2 they cannot "slide" to a Tier 1 level of protection. We believe that waters currently designated as HQ must continue to be protected as Tier 2 waters, unless it can be shown that such waters never met the requirements for HQ since November 28, 1975. We would be happy to work with DEP in preparing appropriate regulatory language.

The draft definition of High Quality waters drops the need for another environmental feature from the definition of High Quality waters. The Service agrees with the removal of the requirement, and also believe that the definition should apply to "watersheds." HQ classifications should be done on a watershed basis, and the designation should apply to all surface waters of the Commonwealth in the watershed. DEP and other regulatory and resource agencies recognize the need for considering activities on a watershed basis in this and many other programs.

The selection criteria for HQ streams includes a two part test: 1) water quality generally better than standards, and 2) some measure of biology. The biological test should not be used to exclude waters that would likely receive protection under the federal definition, that is, water quality better than standards. The biological trigger should not be set so high that it represents only a portion of the waters where quality is better than standards. An analysis of data by the Service and provided to DEP indicates that use of a 79% trigger for benthic macroinvertebrates appears to do just that--excludes streams where water chemistry is better than standards.

It is unlikely that a single number will serve in all cases such that if the candidate stream's score equals or exceeds the trigger, we are certain that water quality is better than standards, or if below the trigger, water quality is equal to or worse than standards. A better alternative to a single number is to allow for use of the best professional judgement of the investigator if the biological score falls within a certain range. Other alternatives include making the chemistry and biology tests disjunctive rather than conjunctive, or using a strict water chemistry, parameter-by-parameter test.

The proposal allows certain discharges to be exempt from a full Tier 2 review. The purpose of Tier 2 antidegradation is to allow for extensive public participation and intergovernmental coordination in decisions regarding degradation of water quality. Certain discharges are exempt from the full review. We recommend that all discharges that require an individual permit be subject to the alternatives analysis and "antidegradation BAT" to ensure that the highest feasible level of treatment is employed. We also believe that all dischargers should be required to use waste minimization and pollution prevention techniques.

Tier 3

No specific proposals were made by DEP for Tier 3 antidegradation, but DEP solicited comments on various aspects of the program, including the definition, selection criteria, and implementation matters.

Pennsylvania is fortunate to have many miles of outstanding resource waters, and we agree that Pennsylvania is correct to have a definition of Tier 3 waters that includes more examples of outstanding waters than the federal definition. We believe that the existing selection criteria for Exceptional Value waters reflect the definition. Any weakening of the current selection criteria would result in guidance that does not reflect the regulatory definition.

Water quality protection relates to one of the Service's legislative mandates: protection of federally-listed threatened and endangered species. Currently, there are over 600 species of plants and animals native to the U.S., and more than 500 species living in other parts of the world listed under the Endangered Species Act of 1973. There are eight existing species living in Pennsylvania on the list. Seven of those fall under the jurisdiction of the U.S Fish and Wildlife Service; the other species, shortnose sturgeon, is the responsibility of another federal agency, the National Marine Fisheries Service. There is one federal candidate species in Pennsylvania.

One threatened species, bald eagle, and two endangered species, the northern riffleshell mussel and the clubshell mussel, are aquatic or dependent on aquatic systems, and are affected by the State's antidegradation program. The northern riffleshell mussel is particularly important in Pennsylvania. This animal is now present in only six streams in the world--three of which are in Pennsylvania. The other three streams are in Kentucky, Michigan and Ohio. Probably the best reproducing populations of northern riffleshell in the world reside in French Creek and the Allegheny River, in northwestern Pennsylvania. This mussel used to be present in two other streams in Pennsylvania, and was present in three states where it has been extirpated.

The clubshell mussel was also more widespread across Pennsylvania at one time. Streams and rivers where the clubshell once was, but from which it has been extirpated include: the Beaver River, Cheat River, Conemaugh River, Mahoning River, Shenango River, and some other smaller rivers and streams. Both the clubshell and northern riffleshell mussels have been eliminated from a vast majority of their respective ranges in the Ohio River drainage. In addition, the Ohio drainage in Pennsylvania has lost 34% of the 51 species that were historically present. Even French Creek, where few devastating industrial or mining activities took place, has suffered a loss of three of its historical mussel species.

The reproductive cycle of these mussels is complex, and relies on fish to serve as hosts for parasitic juvenile forms of the mussel. Many times the

relationship between a mussel and fish is species-specific; a mussel species can only parasitize one or a few species of fish. This complex life cycle is one reason why mussel diversity is declining--if water quality or habitat conditions for a fish host decline, the mussel will decline along with the fish.

Whether or not the cause of declining diversity of mussels is direct or indirect, water quality certainly plays a role. When water quality is good, we know that recovery can occur. Where water quality is poor, recovery is in doubt.

Currently, Pennsylvania considers federally-listed species when evaluating a watershed for an Exceptional Value designation. The Special Protection Waters Implementation Handbook lists such waters as "other waters of substantial recreational or ecological significance." We agree with DEP that waters with federally-listed species are waters of substantial ecological significance.

However, the way in which DEP has implemented this particular aspect of the program concerns us. The Handbook states that "maintenance of existing water quality is required to protect any life cycle phase of an endangered or threatened aquatic or semi-aquatic species" in order for the waters to be recommended for an Exceptional Value designation.

On first glance, the "maintenance" requirement might make sense. After all, why protect the existing water quality if it is not needed to protect the species? All we have to do is determine whether or not we need to maintain existing water quality in order to protect the species. How difficult can that be?

Let's go back to one of the Pennsylvania endangered species, the northern riffleshell, and examine the database to determine what level of water quality is needed to protect this species. In order to answer this question we should expect to find information on endangered species and their life history requirements, specifically water chemistry information. For example, does a northern riffleshell require the dissolved oxygen currently available in French Creek, can it get by with the 4.0 mg/L level established by the WWF use, or maybe it needs something in between? To answer this question, we also need to know if the oxygen requirements vary for each life stage of northern riffleshell. Do juveniles require more than adults? Do reproducing females need more than adult males?

A quick look at the appropriate literature will reveal that there are few data on unionid mussels in general, and none on northern riffleshell in particular, that will give us the answer we need for dissolved oxygen. Similar to dissolved oxygen, there are few data developed for mussels on the entire range of water quality parameters that DEP routinely considers when writing NPDES permits. As part of an agreement between the Service and EPA regarding the Great Lakes Initiative, information on a limited number of pollutants will be gathered. Because of the rarity of endangered organisms, much of the initial effort must be placed on

establishing acceptable surrogate test species. The effort for just a few pollutants will take years and hundreds of thousands of dollars.

Also, remember that a limiting factor for endangered mussels may be the integrity of the host fish populations. Research is just beginning to identify the host fish of endangered mussels. To answer the question that DEP's selection criterion poses, additional work would be needed on all the life stages of all the host fish, in order to determine what level of water quality is needed to protect listed species.

We believe that DEP's "maintenance" requirement, while perhaps well-intentioned, is simply too difficult to implement. Because the data do not exist, and would require a Herculean effort to obtain, the requirement cannot be meaningfully fulfilled. We fear that the lack of a demonstration will serve to prevent waters containing listed species from being considered as Exceptional Value.

We recommend that the requirement be dropped in favor of a simpler demonstration that the listed species is an existing use (present on or after November 28, 1975). Listed species represent irreplaceable biological resources, and are a public resource similar to water quality. In Tier 3 waters, it is understood that the public interest dictates that in certain circumstances, private use of the public resource (water quality) will not be granted. The presence of a rare public resource, such as listed species, is sufficient reason to deny private use of the public's water quality.

That same line of reasoning follows in determining the scope of EV waters. Both federal and State regulations describe two broad categories of waters: 1) waters of certain public lands, and 2) waters of exceptional ecological or recreational significance. There is nothing in either the federal or State definition that mentions that the latter category be limited to public lands, lands where protective mechanisms are in place, or lands where private entities have taken steps to protect the resource. While protection of the resource may be easier where one or more of these occur, the water quality and biological integrity of the Commonwealth's waters belong to the citizens of the Commonwealth, not to municipalities or private landowners. Outstanding resources deserve protection regardless of land ownership or control.

The Service has long supported DEP's position that the federal definition of Tier 3 requires only that water quality be "maintained and protected" and that discharges with stringent effluent limits are permissible. We believe that this has allowed Pennsylvania to have one of the most effective Tier 3 programs in EPA Region 3, if not the nation. In order to maintain that effectiveness, we recommend that general NPDES permits not be permitted in EV watersheds. In addition, we recommend that general permits developed by the Bureau of Dams, Waterways and Wetlands be re-examined to determine their compatibility with an EV

designation. For example, GP-15, which allows houses to be built in wetlands, could result in significant cumulative wetland fills in Pennsylvania's outstanding watersheds. Allowance of certain BDWW general permits in EV watersheds may not result in strict maintenance and protection of water quality as mandated by federal regulation.

EPA has expressed concern that DEP's calculation of "no degradation" is not the equivalent of the federal requirement. We understand DEP's method of determining "no degradation" is equivalent to effluent limits equal to the long-term water quality. EPA is concerned that degradation may occur under certain conditions, such as periods of low-flow. We recommend that DEP re-examine its method of determining "no degradation" and implement additional safeguards as necessary. For example, we understand that in certain circumstances, dischargers are given credit for instream dilution in order to meet the no degradation standard. We recommend that effluent discharge limits be equivalent to long-term water chemistry at low-flow conditions, with no allowance for dilution, in order to meet the no degradation standard mandated by federal regulation.

Unassessed Streams

The interim report proposes that the General Assembly be approached to fund stream assessments. If they do not, we believe that the public interest requires that unassessed streams "default" to a Tier 2 level of protection. Permit applicants that believe a Tier 2 level is inappropriate can gather data at their own expense and submit that information to DEP for analysis. We also do not think a subsidy, in the way of public funding of stream assessments in order to relieve permit applicants of the obligation, is particularly appropriate. We have been involved with the wetlands regulatory program in Pennsylvania for over 15 years and in that program, permit applicants, not DEP or resource agencies, are responsible for characterizing the resource. Why should the NPDES program be different?

We thank DEP for the opportunity to offer comments.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

U.S. FISH AND WILDLIFE SERVICE

SUMMARY OF COMMENTS -- ANTIDegradation PROPOSAL

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TYRRELL
JEWETT
SANDUSKY
WYATTE
BERESCHAK

DEP should respond formally to the previously submitted public comments and reports.

General NPDES permits in HQ waters should not be permitted.

HQ and EV assessments should be conducted on a watershed basis.

There are not sufficient safeguards against downgrades in the antidegradation classification of waters, and special environmental features will no longer be recognized if HQ and EV are removed as "protected water uses."

The existing use language should not be qualified by DEP's evaluation of technical data.

We support language protecting endangered species in Tier 1. We believe that the protection should 1) extend to all species, not just "aquatic" species, 2) apply to activities, not just discharges, and 3) require permittees to conduct surveys to determine the species presence/absence.

DEP has not given any rationale for deviating from the EPA-recommended parameter-by-parameter approach. There are no biological tests in place to assess lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, and therefore, they cannot receive HQ protection. We do not support requiring both chemistry and biology tests to qualify as HQ.

While Class A Wild Trout Streams certainly deserve High Quality protection, all wild trout streams deserve protection as HQ, because all wild trout streams will have good quality water.

We agree with the provision that requires a public benefit before permission to degrade water quality in HQ waters is granted. Antidegradation applies to activities, not just discharges.

The suspension of the SEJ for the first 25% of the assimilative capacity of a water, and for general NPDES permits, is not supported by the minimum federal regulation.

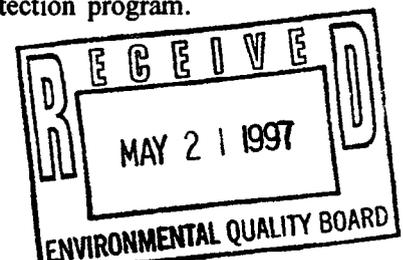
The qualifiers for EV waters should include the public land categories listed in the proposed definition of EV. There should be other qualifiers for ecological significance such as presence of threatened or endangered species. More recreational attributes should be considered.

The proposal is silent on how DEP plans on maintaining and protecting water quality in EV waters while allowing for point source discharges.

Specific pollution prevention language should be included, as well as stronger language protecting against non-point source pollution.

The reg-neg group's recommendations on public participation should be adopted.

DEP needs to address integration of antidegradation with the wetlands protection program.



ORIGINAL: #1799
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(PER JHJ)

Trent D. Bentzel
404 S. Main St
Yoe, PA 17313-1314

Mr. James Seif, Chairman
Environmental Quality Board
16th Floor, Rachel Carson Bldg
P O Box 8477
Harrisburg PA 17105



May 15, 1997

Dear James,

Please don't ruin a good thing!

You should be aware that the Commonwealth of Pennsylvania has some of the best fishing on the eastern seaboard. I have many friends and clients who travel from Maryland and Virginia just to fish in PA.

For example, the Susquehanna River has become the premier smallmouth bass fishery on the east coast. Penns Creek, Spring Creek, The Cumberland Valley spring runs (Letort, Big Spring, Falling Springs) and the Yellow Breeches are famous nationwide as trout fisheries.

Regarding the Proposed Antidegradation Regulations (Revisions to PA code Chapters 92, 93, and 95 published on January 21, 1997), I do not support any act that would create poorer water conditions than already exist. Please keep water quality where it is or improve it.

Sincerely,

Trent D. Bentzel

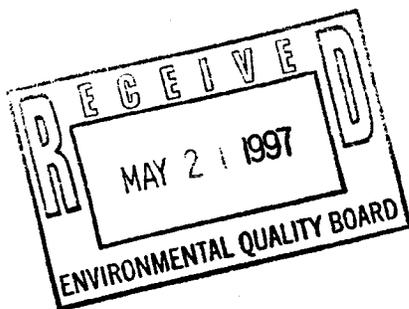
DATE: 05/21/97

TIME: 10:00 AM

Thomas M Zippel
213 W Sprague Ave
Pittsburgh PA 15202

Environmental Quality Board
DEP, P.O. Box 8465
Harrisburg PA 17105

Environmental Quality Board reject
the DEP's current anti-degradation
proposal. Because we need to continue
improving the poor water that already
exists rather than lower our standard to
accept it



Thank you
Thomas M Zippel



Thomas A. Ross, Jr.
P.O. Box 247 Helen St
Pomeroy, Pa. 19367
May 5, 1997

ORIGINAL: #1799
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(PER JHJ)

Gentlemen:

Please consider this letter to be my protest against the subject!

I am not satisfied with the continued effort on the part of DEP to avoid reasonable protection for Pennsylvania waters. Twice in the past these tactics have found the DEP at fault and the EPA forced to step in.

And now the new proposal is worse. Such as: HQ and EV need to stay as protected water uses, so that our best streams will not be downgraded. Another loophole - allows discharges and degradation in EV waters.

Waters not yet assessed are protected at the lowest level. How long are they expected to last under these conditions.

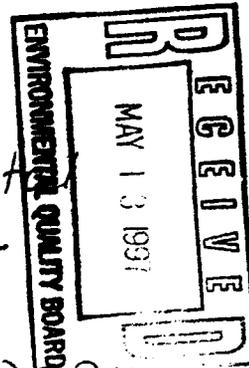
This proposal is damaging to the environment. It should not be given any credence in its present form. These regulations should be rejected!

Please convey my feelings to the Board. Thank You.

Yours Truly,
Thomas A. Ross, Jr.

THIRTY-SEVEN MORELAND ROAD
PAOLI, PENNSYLVANIA
1 9 3 0 1

To : The Environment
Quality Board



Please reject the DEP's
current anti-degradation
proposal.

We feel it would be
better to adopt the simpler,
better standards of the EPA.

Sincerely,
The Schaefer family

Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Dear Sir:

This letter is in reference to the antidegradation regulation proposal in the March 22, 1997, *Pennsylvania Bulletin*.

I am opposed to the allowance of general NPDES permits in our High Quality streams. Oil and gas discharges have already done plenty of damage in the northwest part of the state, and now you want to allow their discharges in HQ streams. General permits are not tracked by DEP, so they would have no way of knowing how much degradation is taking place in any one watershed--until it was too late. The proposed rules will significantly weaken existing protection for both High Quality and Exceptional Value streams.

I am also very disappointed that DEP did not mention wetlands in their antidegradation proposal. The current regulation, put into place by EPA, gives this protection to wetlands. How can wetlands be given HQ or EV protection if the criteria to make a "surface water" HQ or EV are based on streams?

The proposed regulation has little good to recommend them and much bad. The proposed regulation should be rejected by the Board.

Sincerely yours,

Thomas E. Kirkwood



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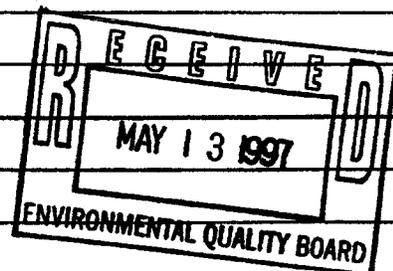
Wm. Gillin
2 Tweed Road
Levittown PA 19056

Environmental Quality Board
P.O. Box 8465
Harrisburg PA 17105

Dear Sirs,

I am writing this letter to ask
that you please reject the DEP's current
anti-degradation proposal, and adopt the
simpler, better standards of the EPA.

Sincerely,
Wm Gillin



To The Environmental Quality Board. (E.Q.B.)

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(PER JHJ)

Dear Sirs, Please reject the Dep's Current
Anti-Degradation proposal; and adopt the better
Standards of the E.P.A.

Thank-You.

Wayne S. Slough.



576.127 51 997



warren peter
Construction, Inc.

R.D. 5 - Box 119A
Indiana, PA 15701

(412) 349-9078

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(PER JHJ)

Mr. James Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Dear Secretary Seif:

Thank you for the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. This is a very important proposal and my comments are as follows:

This proposal should be subject to the Governor's Executive Order 1996-1, which requires the department to revise all of its regulations to bring balance to Pennsylvania's environmental regulations. In several instances, Pennsylvania's program exceeds federal standards. The DEP should adopt the federal language that states water quality must "exceed" standards rather than what is contained in the proposal as "generally better than" standards. This proposal of "generally better than" standards allows for judgement calls by the department. If data indicates the stream does not meet even one water quality standard, the stream should not qualify for a high quality or exceptional value designation.

Pennsylvania's exceptional value program should apply only to outstanding resource waters as contained in the federal regulations. Currently, DEP's program is much broader in scope and includes streams that would never qualify under the federal program.

The DEP must expand its public participation in regard to its assessment of high quality and exceptional value water. Notice by first class mail must be sent to any applicant with a pending permit, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received planning or subdivision and land development approval within the last five years.

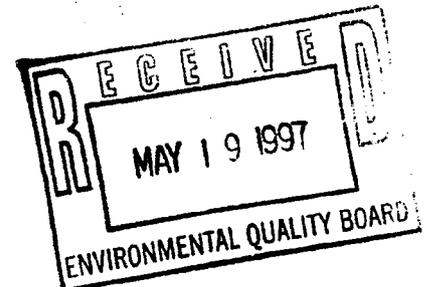
We support the department's efforts to reduce the permitting burden for applicants included in this proposal. The provisions regarding dischargers with minimal impact are welcomed. We also endorse the use of general permits on high quality streams and support the expansion of this practice to exceptional value streams.

Thank you for considering these comments.

Sincerely yours,

Warren A. Peter

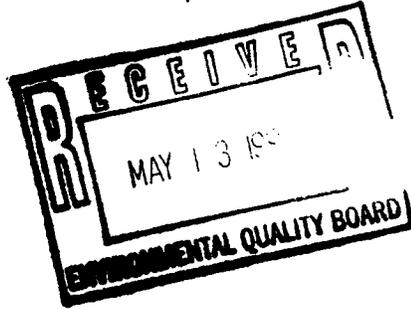
"Quality work at an affordable price"



5/11/87 11:04:00

W.R. Evans
125 Guernsey Rd.
Swatara, PA 19081

PA Environmental
Quality Board
DEP.
Box 8465
Harrisburg, PA 17105

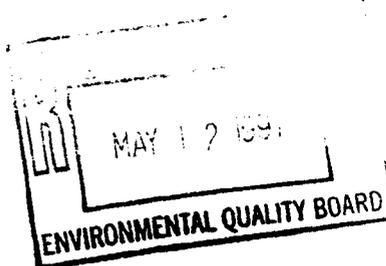


Dear Sirs:

Please reject the DEP's current
anti-degradation proposal. We need
standards that protect our waterways
from more degradation.

Please adopt the simpler, better
standards of the EPA.

Sincerely,
W.R. Evans



Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Dear Sir:

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I am also very disappointed that DEP did not mention wetlands in their antidegradation proposal. The current regulation, put into place by EPA, gives this protection to wetlands. How can wetlands be given HQ or EV protection if the criteria to make a "surface water" HQ or EV are based on streams?

The proposed regulation has little good to recommend them and much bad. The proposed regulation should be rejected by the Board.

Sincerely yours,

W. A. Judy

P.S. I understood that DEP is SUPPOSED to help protect our environment. I realize that with Governor Ridge's Partnership with private industry is formulated to help both the State and private industry, but this partnership should not be the catalyst to de-grade our environment. It seems to me that we are on a backward course when it comes to environmental concerns, and DEP is bending over backward to appease industry.



Woods Edge

EMIL DERSON, INC.



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(PER JHJ)

Mr. James Seif, Chairman
Environmental Quality Board
PO Box 8477
Harrisburg, PA 17105-8477

100 Stone Creek Road, Lancaster, PA 17603

Dear Secretary Seif:

Thank you for the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. This is a very important proposal and my comments are as follows:

This proposal should be subject to the Governor's Executive Order 1996-1, which requires the department to revise all of its regulations to bring balance to Pennsylvania's environmental regulations. In several instances, Pennsylvania's program exceeds federal standards, The DEP should adopt the federal language that states water must "exceed" standards rather than what is contained in the proposal as "generally better than" standards. This proposal of "generally better than" standards allows for judgement calls by the department. If data indicates the stream does not meet even one water quality standard, the stream should not qualify for a high quality or exceptional value designation.

Pennsylvania's exceptional value program should apply only to outstanding resource waters as contained in the federal regulations. Currently, DEP's program is much broader in scope and includes streams what would never qualify under the federal program.

The DEP must expand its public participation in regard to its assessment of high quality and exceptional value waters. Notice by first class mail must be sent to any applicant with a pending permit, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received planning or subdivision and land development approval within the last five years.

We support the department's efforts to reduce the permitting burden for applications included in this proposal. The provisions regarding dischargers with minimal impact are welcomed. We also endorse the use of general permits on high quality streams and support the expansion of this practice to exceptional value streams.

Thank you for considering these comments.

Sincerely,

William E. Murry
President

WEM/caf

WOODRIDGE CONSTRUCTION COMPANY, INC

P O Box 638
Uwchland, PA 19480
(610) 458-0157

Mr. James Seif
Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Dear Secretary Seif:

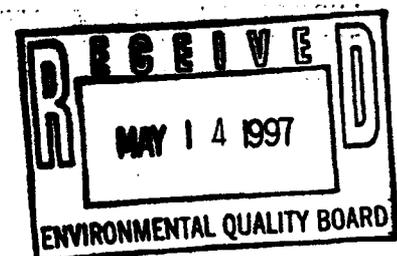
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use of general permits on high quality streams and support the expansion of this practice to exceptional value streams.

Thank you for considering these comments.

Sincerely,



John R. Bachich
President



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(PER JHJ)

Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105



Dear Chairman Seif:

Thank you for the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. The Pennsylvania Builders Association represents more than 12,000 builder, remodeler and associate member firms and employees. The housing industry has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As home builders, we have a responsibility to provide safe and affordable homes and to develop land in an environmentally sound manner.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

Pennsylvania's current stream designation process is, in ever increasing numbers, used as a tool to halt future economic growth and development in particular areas. Often, it seems stream designation upgrades to exceptional value status have been granted based more on politically driven anti-growth sentiment rather than based on scientific fact. Remember, these DEP regulations concern water quality, not land use.



Several provisions of the existing regulations need revised to provide more reasonable water quality regulations. The three areas of our comments deal with high quality stream designations, exceptional value stream designations and public participation.

First, when DEP assesses a stream, only those streams that have water quality better than standards should be eligible for special protection status. Currently, the Department evaluates a stream based on "generally better than water quality" for designating a high quality stream. This is not appropriate nor consistent with the federal language. A stream should never be considered for a high quality or exceptional value status if even one of its water quality parameters is above the determined standard.

We support a "de minimis" permit threshold where a social and economic justification is not required. We also recommend that the Department revise its regulations to allow for the use of general permits on high quality and exceptional value streams. Discharges associated with these permits are minimal and permit applicants should not be burdened with applying for an individual permit for these types of projects.

Also, because of the many implications an antidegradation designation will have on a community, the DEP must base its designations on more than just one grab sample. The DEP must have enough actual, sound scientific background water quality data before an accurate evaluation can occur and a stream designation can be made.

Our second major area of concern is the DEP's current exceptional value streams designation process. The section of the regulations concerning the designation of streams as exceptional value has been abused recently. Too often streams have been redesignated as exceptional value, when in reality they may have only qualified as high quality. In other words, certain streams designated as exceptional value under Pennsylvania's program would never meet the criteria of a federal Tier Three stream designation. In particular, Pennsylvania's EV program is broader than the federal program as it considers outstanding regional and local resource waters. We recommend the DEP's exceptional value program be revised to be no more stringent than the federal program.

Designation of exceptional value streams should be based solely on the stream's uniqueness to the Commonwealth of Pennsylvania or the nation. Some states have not yet designated a single stream in their state as exceptional value due to the adverse economic impact this designation carries with it.

One of the key positions of Governor Ridge's administration is that no state-run program should be more stringent than required by federal law. Also, a greater balance needs to be established between the environmental and economic interests of the state. Pennsylvania should not be placed at an economic disadvantage in comparison to other states' water quality programs.

An associated concern with the federal tier three program is the Environmental Protection Agency's (EPA) interpretation of the federal requirements regarding discharges to exceptional value streams. Despite the EPA's insistence that the DEP prohibit new or expanded discharges to exceptional value streams, we believe that current EPA and DEP rules allow for the consideration of such discharges. With the use of sound technical practices, discharges which result in no adverse measurable change to long term water quality should be allowed.

Our final comments focus on the need for improved public participation in the entire special protection stream designation process. Public participation must start during the assessment of the stream.

The Department must ensure increased public participation at the early stages of the stream redesignation process, whether the assessment is initiated by the Department or by a petition. Under the present DEP policy, The Department publishes a notice of acceptance of a petition in the *Pennsylvania Bulletin*, however not everyone subscribes to this publication. Many parties, including landowners and homeowners, which may be adversely affected by a stream upgrade are never made aware of the petition until perhaps a proposed regulatory package is already in front of the Environmental Quality Board for consideration. In addition these parties are never fully made aware of the impacts a redesignation can have on their activities in the area.

The Department must notify potentially affected parties in the preliminary stages of the stream's evaluation. This includes notice by first class mail to any applicant with a pending discharge permit application, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received Act 247 or Act 537 planning or subdivision and land development planning approval within the previous 5 years. This will help the DEP to eliminate potential oversights and to obtain a complete picture of the stream, including present and planned growth and economic development in the area.

The Department should be required to consider the social and economic impacts associated with any of its high quality and exceptional value designations during the assessment process. This information should be made available to the public.

Thank you for the opportunity to provide comments of this very important regulatory proposal. The Pennsylvania Builders Association and its Women's Council believe the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink that reads "Ruth Ann Minnick". The signature is written in a cursive, flowing style.

Ruth Ann Minnick
Pennsylvania Builders Association
Women's Council



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SANDUSKY
WYATTE
BERESCHAK

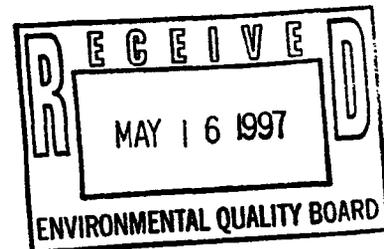
Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

Thank you for the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality anti-degradation regulations. The Pennsylvania Builders Association represents over 12,500 builder, remodeler and associate member firms and employees. The housing industry has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As home builders, we have a responsibility to provide safe and affordable homes and to develop land in an environmentally sound manner.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. The Pennsylvania Builders Association's Women's Council is very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

Pennsylvania's current stream designation process is, in ever increasing numbers, used as a tool to halt future economic growth and development in particular areas. Often, it seems stream designation upgrades to exceptional value status have been granted based more on politically driven anti-growth sentiment rather than based on scientific fact. Remember, these DEP regulations concern water quality, not land use.



Several provisions of the existing regulations need revised to provide more reasonable water quality regulations. The three areas of our comments deal with high quality stream designations, exceptional value stream designations and public participation.

First, when DEP assesses a stream, only those streams that have water quality better than standards should be eligible for special protection status. Currently, the Department evaluates a stream based on "generally better than water quality" for designating a high quality stream. This is not appropriate nor consistent with the federal language. A stream should never be considered for a high quality or exceptional value status if even one of its water quality parameters is above the determined standard.

We support a "de minimis" permit threshold where a social and economic justification is not required. We also recommend that the Department revise its regulations to allow for the use of general permits on high quality and exceptional value streams. Discharges associated with these permits are minimal and permit applicants should not be burdened with applying for an individual permit for these types of projects.

Also, because of the many implications an anti-degradation designation will have on a community, the DEP must base its designations on more than just one grab sample. The DEP must have enough actual, sound scientific background water quality data before an accurate evaluation can occur and a stream designation can be made.

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Designation of exceptional value streams should be based solely on the stream's uniqueness to the Commonwealth of Pennsylvania or the nation. Some states have not yet designated a single stream in their state as exceptional value due to the adverse economic impact this designation carries with it.

One of the key positions of Governor Ridge's administration is that no state-run program should be more stringent than required by federal law. Also, a greater balance needs to be established between the environmental and economic interests of the state. Pennsylvania should not be placed at an economic disadvantage in comparison to other states' water quality programs.

An associated concern with the federal tier three program is the Environmental Protection Agency's (EPA) interpretation of the federal requirements regarding discharges to exceptional value streams. Despite the EPA's insistence that the DEP prohibit new or expanded discharges to exceptional value streams, we believe that current EPA and DEP rules allow for the consideration of such discharges. With the use of sound technical practices, discharges which result in no adverse measurable change to long term water quality should be allowed.

Our final comments focus on the need for improved public participation in the entire special protection stream designation process. Public participation must start during the assessment of the stream.

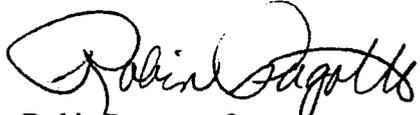
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Thank you for the opportunity to provide comments of this very important regulatory proposal. The Pennsylvania Builders Association and the Woman's Council believes the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Pagotto". The signature is fluid and cursive, with a large initial "R" and "P".

Robin Pagotto, Owner
Richland Construction
PBA's Women's Council



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TYRRELL
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SANDUSKY
WYATTE
BERESCHAK

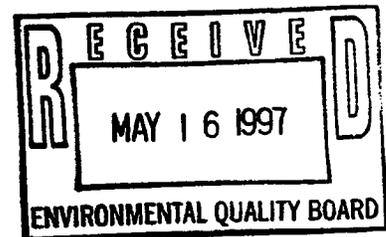
Mr. James M. Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105

Dear Chairman Seif:

I appreciate the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. Our company employs several persons in the Waynesboro area. Our company has always been a strong proponent of sensible environmental regulations that protect the public health and safety. As a small company, we are affected by many of Pennsylvania's laws and regulations.

Reasonable environmental regulations and water quality protection are essential to enhance our quality of life. There are instances, however, when regulations can be used to unjustly limit or inhibit growth. Increasingly, the time and cost with complying with environmental regulations has been tremendous. For many years I have been, and still am, very concerned about the current process the DEP uses to designate streams for special protection. Whether a high quality or exceptional value stream designation is made, the viability of a project located near that stream may be in jeopardy.

Pennsylvania's current stream designation process is, in ever increasing numbers, used as a tool to halt future economic growth and development in particular areas. Often, it seems stream designation upgrades to exceptional value status have been granted based more on politically driven anti-growth sentiment rather than based on scientific fact. Remember, these DEP regulations concern water quality, not land use.



Several provisions of the existing regulations need revised to provide more reasonable water quality regulations. The three areas of my comments deal with high quality stream designations, exceptional value stream designations and public participation.

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I support a “de minimis” permit threshold where a social and economic justification is not required. I also recommend that the Department revise its regulations to allow for the use of general permits on high quality and exceptional value streams. Discharges associated with these permits are minimal and permit applicants should not be burdened with applying for an individual permit for these types of projects.

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The Department should be required to consider the social and economic impacts associated with any of its high quality and exceptional value designations during the assessment process. This information should be made available to the public.

Thank you for your consideration of these comments regarding this very important regulatory proposal. I believe the incorporation of these comments into the final regulations will provide Pennsylvania with a more balanced water quality stream designation program that will continue to protect our valuable resource and also allow for economic growth in Pennsylvania.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcia H. Baumgardner". The signature is written in a cursive style with a large, sweeping initial "M".

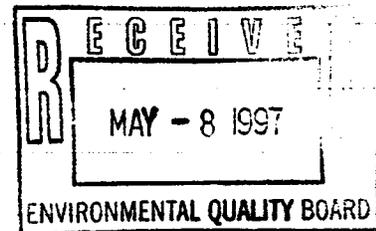
Marcia H. Baumgardner
G. Keith Constructors

ORIGINAL: #1799
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(PER JHJ)

Environmental Quality Board

I reject the DEP's current
anti-degradation proposal

From
Wendy Hager



ORIGINAL: #1799
COPIES: NONE
(PER JHJ)

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MAY 21 1997
ENVIRONMENTAL QUALITY BOARD

EQB-

Please reject the DEP
anti-degradation proposal.

Karen Reibstein

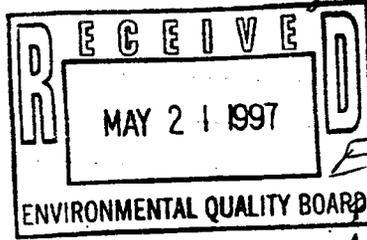
KAREN REIBSTEIN
942 ROSCOMMON RD
BRYN MAWR PA 19010-1843

ORIGINAL: #1799
COPIES: NONE
(PER JHU)

Dear EQB

Please reject the DEP's current
anti-degradative proposal

EPJ



Eric Celine
Shamrock Ct.
Newtown, PA 18940



Environmental Quality
PO Box 8465
Harrisburg PA 17106

17103/BA65 63

Celine
9 Shamrock Ct.
Newtown, PA 18940

Chairman
Environmental Quality Board
P. O. Box 8477
Harrisburg, PA 17105-8477

Dear Sir:

This letter is in reference to the antidegradation regulation proposal in the March 22, 1997, *Pennsylvania Bulletin*.

I am opposed to the allowance of general NPDES permits in our High Quality streams. Oil and gas discharges have already done plenty of damage in the northwestern part of the state, and now you want to allow their discharges in HQ streams. General permits are not tracked by DEP, so they would have no way of knowing how much degradation is taking place in any one watershed--until it was too late. The proposed rules will significantly weaken existing protection for both High Quality and Exceptional Value streams.

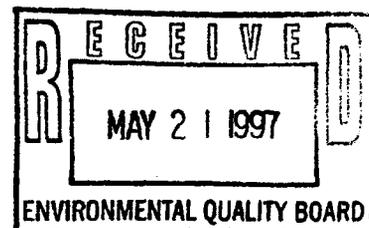
I am also very disappointed that DEP did not mention wetlands in their antidegradation proposal. The current regulation, put into place by EPA, gives this protection to wetlands. How can wetlands be given HQ or EV protection if the criteria to make a "surface water" designation for HQ or EV streams are based on the proposed regulation?

The proposed regulation has little good to recommend it and much bad. The proposed regulation should be rejected by the Board.

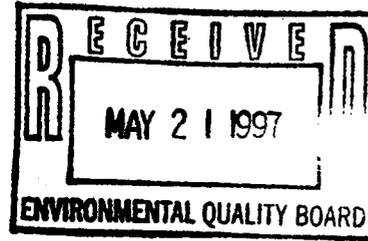
Sincerely yours,

Arthur A. Lutz
walnut Dr

Lucinda Pa 16235



C.F. Holloway, III
& company
BUILDERS & DEVELOPERS



Mr. James Seif
Chairman
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Dear Secretary Seif:

Thank you for the opportunity to provide comments on the Department of Environmental Protection's (DEP) proposed water quality antidegradation regulations. This is a very important proposal and my comments are as follows:

This proposal should be subject to the Governor's Executive Order 1996-1, which requires the department to revise all of its regulations to bring balance to Pennsylvania's environmental regulations. In several instances, Pennsylvania's program exceeds federal standards. The DEP should adopt the federal language that states water quality must "exceed" standards rather than what is contained in the proposal as "generally better than" standards. This proposal of "generally better than" standards allows for judgement calls by the department. If data indicates the stream does not meet even one water quality standard, the stream should not qualify for a high quality or exceptional value designation.

Pennsylvania's exceptional value program should apply only to outstanding resource waters as contained in the federal regulations. Currently, DEP's program is much broader in scope and includes streams that would never qualify under the federal program.

The DEP must expand its public participation in regard to its assessment of high quality and exceptional value waters. Notice by first class mail must be sent to any applicant with a pending permit, any existing discharge permittees, the appropriate municipalities, planning commissions and all applicants that have received planning or subdivision and land development approval within the last five years.

We support the department's efforts to reduce the permitting burden for applicants included in this proposal. The provisions regarding dischargers with minimal impact are welcomed. We also endorse the use of general permits on high quality streams and support the expansion of this practice to exceptional value streams.

Thank you for considering these comments.

Sincerely,

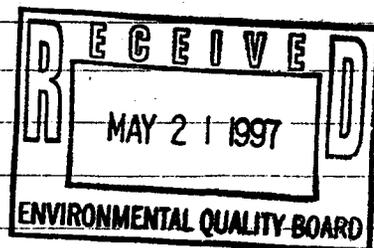
A handwritten signature in dark ink, appearing to be "C.F. Holloway, III", written over a horizontal line.

PLEASE REJECT DEP

ANTI DEGRADATION PROPOSAL, THANK YOU!
Bonnie Churak

SEND RESPONSE TO:

B. CHURAK
1920 GEORGE CIRCLE
N. HUNTINGDON, PA. 15642



DESK MEMORANDUM

SUBJECT
Reg - Neg Reports

TO *Chuck Tyrrell* FROM *Barb Sexton*

DATE SENT *5/28/97* DATE NEEDED

PLEASE CALL:	APPROVAL:	SEE ME
RETURNED YOUR CALL	AS REQUESTED	COMMENT
INFORMATION & FILE	PREPARE REPLY/REPORT	NOTE AND RETURN
NECESSARY ACTION	SIGNATURE	

RECEIVED BY DATE TIME

ROUTE	INITIAL	DATE	ROUTE	INITIAL	DATE

MESSAGE:

- As requested, here are copies of the reports from the reg-neg group on the special protection water issues.
- There is one more batch of comments headed your way.

ORIGINAL: #1799

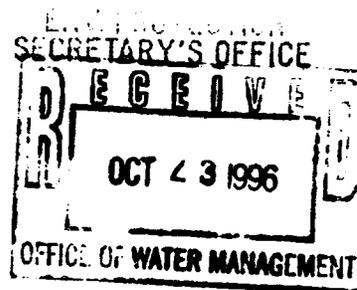
COPIES: TYRRELL
JEWETT
(PER JHJ)

September 2, 1996

The Honorable James M. Seif
Secretary
Department of Environmental Protection
P.O. Box 2063
Harrisburg, PA 17105-2063

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96 OCT 17 AM 9:42



Re: Antidegradation Regulatory Negotiation Final Report

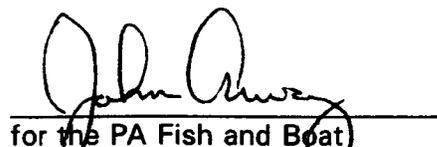
Dear Mr. Seif:

Enclosed please find the final report of the conservation representatives of the antidegradation regulatory-negotiation process. Mr. Daniel Drawbaugh of your staff was provided with a copy on August 21, 1996, for use in preparing proposed regulations. As requested by the Department at the outset, we have been in constant communication with other conservation groups and resource agencies. The recommendations in our report are supported by numerous other groups, and additional support is anticipated. We may submit separate comments and suggestions to the Department on the reg-neg process at a later time.

We appreciate the opportunity to influence the process, and hope the Department will carefully consider our report. We believe that adoption of our recommendations would result in a program for Pennsylvania that protects the public interest while allowing for continued advancement of private interests. Please contact us if you or your staff desire to discuss these recommendations.

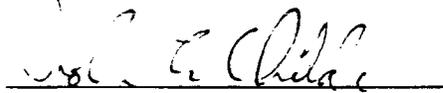
Sincerely,

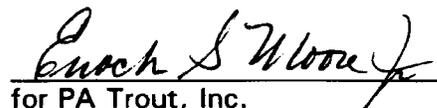

for the Berks County
Conservancy


for the PA Fish and Boat
Commission


for the Penns Valley
Conservation Association


for the PA League of Women
Voters


for the PA Environmental
Defense Foundation


for PA Trout, Inc.


for the U.S. Fish and Wildlife
Service

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MAY 30 1997

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

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TYRRELL
JEWETT
SANDUSKY
WYATTE
BERESCHAK

**Regulatory Negotiation
for the Antidegradation (Special Protection Waters) Program:**

Final Report of the Conservation Stakeholders

***Submitted to the PA Department of Environmental Protection
21 August 1996***

Stakeholders representing governmental agencies, conservation groups, public interest groups and the regulated community were identified and invited to participate in the process beginning in June 1995. This is the final report of the following stakeholders:

Berks County Conservancy
League of Women Voters
Penns Valley Conservation Association

PA Environmental Defense Foundation
PA Fish and Boat Commission
PA Trout, Inc.
U.S. Fish and Wildlife Service

Two conservation stakeholder groups support the final report except for a few areas where certain differences exist which warrant Attachment 1. This attachment clarifies the position of the following stakeholders on various issues contained in this report:

Chesapeake Bay Foundation

PA Environmental Council

The reg-neg process encouraged representatives to actively communicate with non-participating groups with similar interests. We have done this throughout the process and communicated our recommendations to those groups. Letters of endorsement from the following groups for this report are included in Attachment 2, and we expect additional groups and individuals to support our recommendations during the public comment period:

Friends of Saucony Marsh
I. B. Sinclair, Esquire
Laurel Hill Creek Watershed Association
Pine Creek Valley Watershed Association
PA BASS Chapter Federation
Greens Valleys Association

PA Chapter American Fisheries Society
PA Game Commission
PA Federation of Sportsmen's Clubs
PA Organization for Watersheds & Rivers
SONS of Lake Erie

A progress report was issued on April 1, 1996. The report was intended to apprise DEP on the progress made to that date, and did not represent consensus. Agreements made to that date were contingent on reaching consensus on other issues, and also were subject to further discussion if necessary. Following the federal Court's decision requiring EPA to promulgate an antidegradation regulation for Pennsylvania, DEP used the interim report as a basis for draft regulations. We consider DEP's action to be unfortunate, because of the contingent nature of the interim report.

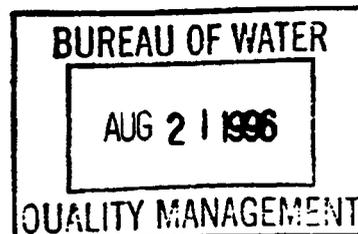


COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FISH & BOAT COMMISSION
Division of Environmental Services
450 Robinson Lane
Bellefonte, PA 16823-9620
(814) 359-5147

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August 21, 1996

Daniel B. Drawbaugh, Director
Bureau of Water Quality Management
PA Department of Environmental Protection
10th Floor Rachel Carson State Office Building
P.O. Box 8465
Harrisburg, PA 17105-8465



Hand Delivered on 21 August 1996

Re: Conservation Stakeholder's Report: Antidegradation Regulatory Negotiation

Dear Mr. Drawbaugh:

I am pleased to submit the subject report for your consideration in the development of a proposed rulemaking package for the Commonwealth's water quality protection program. It was indeed unfortunate that we were not able to reach consensus in Committee on the major issues that guide the Commonwealth's antidegradation program but I believe that the past 14 months of negotiation have provided many of us with a sound education and appreciation of exactly how complex the program really is. The conservation interests submit this unified report to assist the Department in drafting a proposed rule package that will satisfy the public interests and still show the rest of the nation that our Commonwealth remains a leader in the fight for clean water.

I must acknowledge the tremendous efforts that went into this report and am particularly grateful for the support and participation of all of the conservation volunteers that assisted in its production. I know that I can speak for the entire group when I say that we appreciate the opportunity to provide you with this advanced input and would be happy to meet with you or your staff to discuss the recommendations contained within the report at any time. We will be sending a signatory page that memorializes everyone's commitment to this report in a week or so.

Sincerely,

John Arway

Cc: Conservation Stakeholders