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Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CHS. 78 AND 78a]

Environmental Protection Performance Standards at Oil and Gas Well Sites; Advance Notice of Final Rulemaking

§§ 78.1 and 78a.1. Definitions

Several definitions are added to this section. Of particular note, a new definition for "other critical communities" has been added to address concerns related to consideration of public resources in permitting.

OTHER CRITICAL COMMUNITIES—the term shall mean:

(1) PLANT AND ANIMAL SPECIES THAT ARE NOT LISTED AS THREATENED OR ENDANGERED BY A PUBLIC RESOURCE AGENCY, INCLUDING:

(i) PLANT AND ANIMAL SPECIES THAT ARE CLASSIFIED AS RARE, TENTATIVELY UNDETERMINED OR CANDIDATE,

(ii) TAXA OF CONSERVATION CONCERN,

(iii) SPECIAL CONCERN PLANT POPULATIONS,

(2) THE SPECIFIC AREAS WITHIN THE GEOGRAPHICAL AREA OCCUPIED BY A THREATENED OR ENDANGERED SPECIES DESIGNATED IN ACCORDANCE WITH THE ENDANGERED SPECIES ACT OF 1973, 16 U.S.C. SECTION 1531 ET SEQ., THAT EXHIBIT THOSE PHYSICAL AND BIOLOGICAL FEATURES ESSENTIAL TO THE CONSERVATION OF THE SPECIES AND WHICH MAY REQUIRE SPECIAL CONSIDERATION OR PROTECTIONS: AND

(3) SIGNIFICANT NON-SPECIES RESOURCES, INCLUDING UNIQUE GEOLOGICAL FEATURES; SIGNIFICANT NATURAL FEATURES OR SIGNIFICANT NATURAL COMMUNITIES.

SUBJECT OF CONCERN IS THE EASTERN HELLBENDER SALAMANDER WHICH INCLUDES ARTICLES AND REPORTS FROM REPUTABLE SOURCES. THE HELLBENDER LIVES IN THE LITTLE MAHONING CREEK AND WATERSHED WHICH IS OF PERSONAL CONCERN AND INTEREST TO GRANT TWP. AND SURROUNDING AREAS OF THE COMMONWEALTH

By **Jane J. Lee**, National Geographic

PUBLISHED DECEMBER 22, 2013

The U.S. government currently considers the eastern hellbender a species of concern, while the Ozark subspecies was federally listed as endangered in 2011. The International Union for Conservation of Nature's Red List of Threatened Species classifies the hellbender as near threatened, although their total number is unknown.

Salamanders are vulnerable for a few reasons. First, "they are really closely tied to their environment," said Kim Terrell, a conservation biologist with the Smithsonian's National Zoo in Washington, D.C., who studies hellbender immune system.

March 29, 2013 *by The Allegheny Front*

Each summer since 2007, Eric Chapman leads a team out into Little Mahoning Creek in Indiana, Pa. They risk life and limb hoisting rocks the size of kitchen tables, searching for Eastern Hellbender salamanders.

Eric Chapman of the Western Pennsylvania Conservancy. Chapman says there's more to Hellbenders than meets the eye. For one thing, no one knows how long they live—but he's seen speculations of up to 50 years.

"To find large adult Hellbenders in a stream tells you that you've had good, stable water quality for a number of years," Chapman adds.

That's because Hellbenders can only live in very clean water. And they are facing a number of threats.

Chapman explains that they essentially breathe through their skin, so any kind of environmental pollution or changes could mean real trouble. Industry and acid mine drainage could impact where they live and breed.

"If a spill happens, that is going to impact the Hellbenders pretty much instantly. They're one of the first species to disappear if there would be a problem in a stream," Chapman says.

NEW AGREEMENT WITH U.S. FISH AND WILDLIFE FOR THE EASTERN HELLBENDER SALAMANDER AND CENTER FOR BIOLOGICAL DIVERSITY:

For Immediate Release, September 24, 2013

Contact: Collette Adkins Giese, (651) 955-3821

New Agreement Will Speed Endangered Species Act Protection for North America's Largest Salamander

Eastern Hellbender Suffering From Water Pollution, Dams

NASHVILLE, *Tenn.*— The Center for Biological Diversity reached a settlement with the U.S. Fish and Wildlife Service late Monday giving the agency five years to consider whether to protect a giant salamander called the eastern hellbender under the Endangered Species Act. Once found in streams across the eastern United States, this fully aquatic salamander, which can grow more than 2 feet long, is threatened with extinction by water pollution and dams.

“These big salamanders are in big trouble, but the Endangered Species Act can save them,” said Center lawyer and biologist Collette Adkins Giese. “Protecting the hellbender and its habitat under the Endangered Species Act will help protect water quality for all of us.”

Hellbender populations are in sharp decline across the eastern United States, and it is unknown in how many states the large amphibian still survives. States in its range include New York, Pennsylvania, Maryland, Ohio, Illinois, Indiana, Virginia, West Virginia, Kentucky, Tennessee, the Carolinas, Georgia, Alabama and Mississippi.

In response to a petition from the Center, the Fish and Wildlife Service found in 2011 that eastern hellbenders may warrant protection under the Endangered Species Act. The Center sued when the agency failed to make a final decision within one year, as the Endangered Species Act requires. Under Monday’s agreement the eastern hellbender will get a protection decision in fiscal year 2018.

The hellbender is one of 10 species that the Center prioritized for protection this year under a 2011 multi-species settlement agreement with the Service. Monday’s agreement gives the eastern hellbender a place in the long line of species awaiting protection decisions.

“Although eastern hellbenders still face a long wait for Endangered Species Act protection, this agreement provides a deadline that ensures they’ll get considered for these lifesaving protections before it’s too late,” said Adkins Giese. “And in the meantime, I’m hopeful that the Fish and Wildlife Service, states, scientists and others will ramp up efforts to study and conserve the hellbender.”

Because their permeable skins absorb contaminants from polluted waterways, the primary threat to eastern hellbenders is declining water quality due to human activities such as mining, agriculture and animal operations. In highly polluted waters, hellbenders develop dramatic skin lesions. Channelization and impoundments also threaten the salamanders.

WHY THIS MATTERS TO THE PEOPLE OF GRANT TWP., INDIANA CO. EXCERPT FROM LOCAL NEWSPAPER REGARDING BACKGROUND OF THE CONCERN AND ISSUES INVOLVED:

Justin Dennis | The Tribune-Democrat, Johnstown, Pa.

MARION CENTER — A local aquatic ecosystem that supports a host of creatures and is linked to water supplies for hundreds of its neighbors will soon have its day in court.

Residents says the Little Mahoning Creek watershed in Indiana County is threatened by frackwater injection activity in the area, while a public interest law firm seeks to represent the environment itself.

As officials in Grant Township, Indiana County, head to court over a wastewater injection ban they enacted in June, legal representatives on both sides of the fight will debate which is more important: the freedoms of an energy corporation that, by law, is entitled to the same civil rights allowed an individual, or the rights of a community to have a healthy, unsullied environment.

On June 3, the Grant Township supervisors unanimously approved an ordinance — a “Community Bill of Rights” — that would ensure potentially hazardous frackwater from an injection well proposed three months earlier by Warren-based Pennsylvania General Energy never makes it into the Little Mahoning.

The Mercersburg-based Community Environmental Legal Defense Fund, a public interest law firm, helped supervisors draft the ordinance.

The environmental group intervened in Pennsylvania General Energy Co. v. Grant Township in mid-November on behalf of the watershed itself, opining that the species that live in the watershed, as well as the creek's community caretakers, should have a voice.

"There is risk of soil and water contamination with every injection well and injection wells are very new to Pennsylvania, as its geology wasn't considered fit to house these incredibly toxic substances in a permanent manner," Stacy Long, president of local environmental group East Run Hellbenders, said via electronic message.

The group, which has requested to intervene in the case alongside the watershed, works to protect the ecosystem supported by Little Mahoning Creek, which is considered a "prize" of Indiana County, representatives said.

The creek, categorized by the DEP as a high-quality cold-water fishery, is home to several aquatic species — freshwater mussels, fish and aquatic insects, as well as the eastern hellbender salamander, which relies on clean, well-oxygenated water to survive, Long said.

Data collected by NPR StateImpact Pennsylvania found that PGE is one of the state's top 10 environmental offenders, with 113 reported DEP violations between the company's 149 active injection wells and fines totaling more than \$120,000. Atop that list is Chesapeake Appalachia LLC, with 422 violations across 793 active wells and nearly \$1.5 million in fines.

With no public water resources, every resident in Grant Township relies on a private well or spring for drinking water, Long said. Although environmental oversight exists, it's no guarantee that residents' water supplies won't become contaminated.

SUBMITTED BY:

JUDY WANCHISN

1287 SEBRING RD.

MARION CENTER, PENNSYLVANIA 15759

724-254-2739

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