Kathy Cooper

3224

From:

ecomment@pa.gov

c-jflanaga@pa.gov

Sent:

Wednesday, May 1, 2019 9:57 AM

To:

Cc:

Environment-Committee@pasenate.com; IRRC; eregop@pahousegop.com;

environmentalcommittee@pahouse.net; regcomments@pa.gov; ntroutman@pasen.gov

Subject:

Comment received - Proposed Rulemaking: Water Quality Standards - Class A Stream

Redesignations (#7-548)



RECEIVED

MAY - 1 2019

Independent Regulatory Review Commission

The enclosed comment was received as part of the following testimony:

Testimony name: Public Hearing - Class A Stream Redesignations

Testimony date: 4/26/2019 12:00:00 AM

Testimony location: Harrisburg, PA

Re: eComment System

The Department of Environmental Protection has received the following comments on Proposed Rulemaking: Water Quality Standards - Class A Stream Redesignations (#7-548).

Commenter Information:

Robert Schott (acroneuria@comcast.net) 1411 Skyview Circle Harrisburg, PA 17110 US

Comments entered:

No text comments were provided as part of this comment submittal. Please refer to attachments below.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: 7-548 Testimony April 26 Robert Schott.pdf

Please contact me if you have any questions.

Sincerely, Jessica Shirley

Jessica Shirley Director, Office of Policy 3726

MAY -1 2019

Independent Regulatory

Testimony to the Environmental Quality Board, April 26, 2019

: 1

Good afternoon. My name is Robert Schott. I am a retired aquatic biologist having worked for nearly 33 years with the Department of Environmental Resources (DER) and then the Department of Environmental Protection (DEP) in the Southcentral Regional Office. Upon retirement in 2011 I was supervising a staff of 3 other biologists. One of our responsibilities was surveying streams to gather data for the purpose of upgrading them for special protection. It was a task that I took very seriously not only with my staff but with other DEP biologists in the various regional offices and our central office.

After retirement in 2011 I continued to attend an annual meeting of biologists from states within EPA Region 3. While at a meeting in March of 2014 I was speaking to a biologist from the PA Fish and Boat Commission (PFBC). He told me that he had submitted a list of 50 Class A trout streams to DEP in 2012 for possible upgrade to High Quality but as of that point there had been no movement by DEP.

Over the next week or two I had further conversations with DEP staff who indicated that an individual in upper management in the Division of Water Quality Standards was preventing streams from going through the special protection process. After hearing this I started a review of the Pennsylvania Bulletin going back to 2003 looking for Notices of Stream Redesignations issued by DEP. Based on those reviews and DEP's list of "Completed Stream Redesignation Evaluations" dated August 6, 2013 (Exhibit 1) it appeared that the last final rule-making by the EQB to redesignate streams was in September, 2011, the year I retired. It was now April, 2014 representing almost 3 years with no new stream upgrades.

I contacted Katy Dunlap, who at that time was the Eastern Water Project Director of the Pennsylvania Council of Trout Unlimited (TU) and explained the situation to her. I was able to get the support of TU and was tasked with writing a letter for TU to be sent to DEP (Exhibit 2). Correspondence between TU and DEP led to a meeting on September 17, 2014. At that meeting DEP admitted that there was a backlog and that the process would start moving again beginning with the 50 Class A streams submitted by PFBC in 2012. DEP's list of "Ongoing Stream Redesignation Evaluations" dated April 3, 2014 (Exhibit 3) prior to this meeting did not show the Class A Streams listing. The updated list of March 18, 2015 (Exhibit 4) listed the Class A Streams suggesting that DEP was starting to move on our requests.

In order to keep up the pressure a meeting was scheduled with DEP Secretary John Quigley on April 6, 2015. Deputy Secretary of Water Management, Kelly Heffner was also at that meeting. Upon making Secretary Quigley aware of the hold-up in the stream redesignation process we received his assurance that the necessary steps would be taken to rectify the matter.

Two more meetings between TU and DEP were held on July 16, 2015 and on March 9, 2017.

The latest DEP list of "Completed Stream Redesignation Evaluations" dated January 29, 2018 (Exhibit 5) shows that four streams that were up for redesignation made it to an EQB meeting in 2017. Also, the 50 Class A trout streams that were submitted by PFBC in 2012 made it to an EQB meeting on June 20, 2017 and have been officially upgraded. All of these streams were the first to be redesignated since 2011 and the first since the meetings between TU and DEP. It appears that the process is once again moving forward.

All of this brings us to today and the present list of Class A trout streams up for redesignation to High Quality. These streams were surveyed by professional biologists working for PFBC. The data presented in those reports is based on the actual status of the trout populations in those streams which indicate that they are Class A wild trout streams as approved by the Commissioners of the PFBC. A surface water that has been classified as Class A automatically qualifies for High Quality designation based on Chap. 93.4b(a)(2)(ii) of the Rules and Regulations of DEP.

Likewise, other surveys conducted by DEP biologists document the status of the macroinvertebrate communities which are also indicators of water quality and have been used to upgrade stream classification. Throughout my career as an aquatic biologist I have never documented a fish or macroinverterate community that lies or has a hidden agenda. The fish and bugs don't lie. The data speaks for itself. Objective decisions should be made on real science, not political science.

In light of the fact that the stream redesignation process was hijacked for several years and a back-log of streams now exists I urge the EQB to vote yes on this recent package of stream upgrades.

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment.

Thank you for your time.



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April 24, 2014

Mr. Tony Shaw
Division of Water Quality Standards
Bureau of Point and Non-Point Source Management
Department of Environmental Protection
P.O. Box 8774
Harrisburg, PA 17105-8774

Dear Mr. Shaw:

Trout Unlimited has recently reviewed Pennsylvania Bulletins going back to 2003, looking for Notices of Stream Redesignations issued by the Department of Environmental Protection (DEP) pursuant to 25 Pa. Code §93.4d. We also looked for announcements from the Environmental Quality Board (EQB) that either propose to amend or amend stream designations listed in 25 Pa. Code Chapter 93.

Based on those reviews and the list of "Completed Streams Redesignations Evaluations" from DEP's website, it appears that the last final rulemaking by the EQB to redesignate streams was in September, 2011. Since the beginning of 2011, the Pennsylvania Bulletin shows that DEP has announced that it plans to conduct redesignation evaluations on 24 stream basins/streams. Also, from 2003 through 2010, DEP announced that it was going to evaluate at least 69 stream basins/streams for redesignation—only 11 of which have made it to final rulemaking by the EQB.

In addition to the announcements mentioned above, we have also determined that the Pennsylvania Fish and Boat Commission (PFBC) submitted a list of 50 Class A Wild Trout stream segments to be redesignated as High Quality-Cold Water Fishes (HQ-CWF). That list was posted by DEP in the PA Bulletin on May 26, 2012. According to §93.4b.(a) of Title 25 of the Pennsylvania Code, a surface water that meets either the chemical requirements or the biological requirements, defined therein, is a High Quality Water. Under §93.4b.(a)(2)(ii), if the stream has been designated as a Class A Wild Trout stream, it automatically qualifies as a High Quality water.

We understand that assessing streams for redesignation takes a considerable amount of time in planning, reconnaissance, sampling, lab work, data analysis, and report writing and that it could take years before a particular stream makes it to the proposed rulemaking stage of the process. However, we do not understand why there has been no movement in the process since September, 2011. What especially stands out is the lack of movement on the 50 stream segments submitted by the PFBC for listing as HQ-CWF. Those streams have already been assessed by the PFBC and have been designated as Class A Wild Trout streams by the PFBC, following public notice and comment—meeting the requirements for a High Quality designation under Chapter 93. Thus, redesignation as HQ-CWF by DEP

should be merely procedural and administrative. Although it appears that those streams have received Existing Use protection as HQ-CWF, they have not gone through the rulemaking process by the EQB ensuring their protection for the long-term.

TU is not alone in our concern about the status of stream redesignations. We have heard the same concerns raised by numerous local sportsmen conservation clubs and watershed groups, and we all agree that we need some answers.

For these reasons, Trout Unlimited is respectfully requesting the following:

- 1) The present status of PFBC's 2012 request to have 50 stream segments redesignated as HQ-CWF.
- 2) An explanation as to why there has not been any proposed rulemaking by the EQB with regard to stream redesignations since September, 2011.
- 3) A list of streams that have been surveyed by DEP central or regional offices and redesignation has been found to be warranted, but the list has not yet been sent to EQB.
- 4) In those instances where the DEP has sufficient data to warrant an upgrade, we would like verification showing that those streams have be added to the Existing Use list.

At some point Trout Unlimited may request copies of reports for review, if deemed necessary, or we will schedule to come to the DEP office to review those reports.

It is Trout Unlimited's mission to protect, conserve, restore and reconnect trout water, and as such, we work to protect our existing outstanding habitat from irresponsible development that could have lasting impacts, not only on fish and fishing, but also on people. Likewise, the DEP is responsible for enforcing its Rules and Regulations and also the Clean Streams Law which is intended "To preserve and improve the purity of the waters of the Commonwealth..." Upgrading the status of streams to High Quality or Exceptional Value, where the stream meets the appropriate chemical or biological requirements, will help to protect Pennsylvania's streams and rivers, aquatic life, and drinking water supplies today and for generations to come.

Thank you for your cooperation. Please do not hesitate to contact Katy Dunlap, kdunlap@tu.org or 607-703-0256, if you require additional clarification on this request. We look forward to hearing from you.

Sincerely,

10. 3

Brian Wagner

President

Pennsylvania Council of

Brian Wagner

Trout Unlimited

Bob Schott

Bob Schott

Cumberland Valley Chapter

of Trout Unlimited

Katy Dunlap

Eastern Water Project

Director

Trout Unlimited

Cc: Kelly Heffner, DEP Deputy Secretary of Water Management



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1	Monroe	ath			×	9000	2012									`	
Uni Menocapy Creat.	Berte	1702	PFBC		×												
		4116	<i>6</i> 90							П							
Wetson Rec	Cartes	4															
Wersuch Run	Cambra		Clearfied Creek Withouthed	,	×												

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	The second secon		Carlo Control Control Control Control Control	Selection of the second	STATE NEW	2	PROPERTY	AMERICAN ASSESSMENT	AND STREET, ST	ACT PTDD	Proposed Rulemsking	Circle (CO) C 100	MANUAL SESSO	PASCHITAGASA	Phys. Rt	PICE KURSTISKING 1-2
Wyter Body (CRA to view report)	County	Code	Requested By	i	HOYEV	Assessment Notice		Parlamenting	Buspang Pridma	Gugaeyji SC13	Publication	Comments	DEP Public Meeting &	EOB Public Si Hearting	80	
Beeyer Crosk	Chester	297	DEP				0070	Bio Breck		10/02/20	36/12/07	08/26/07	1		04/15/08	OBODOO
Big Brook	Wayne	2882	Lebanon Township Supervisors	×	×	54102	20,702	Big Brock		02/20/97	05/12/07	20/52/90			0415/08	CAVOADO
Shre Eye Run	Warn	56058	DEP		×	DAMO	50/105	Blue Eye Run		04/21/09	80/02/90	08/04/09			12/19/09	OKONYO
Shie Marsh Lake	Berts	1846				50/50	CONCO	Lakes		40/11/20	04/17/04	207.090			0621.85	10/22/05
Briston Run	Chester	3	Bermgham Twp. Recreation, Parks, & Open Space Committee	×	×	12/99	12/89				-				CZV19302	
Browns Ann	Wenten	58497	PFBC		×	12/99	12/00	Browns Run		10/02/10	05/05/01	105/150		09/04/01	\$021/20	CO/10/11
Brocke Event Creek	Montgomery	1636	Larry Pasecti	×	×	04/02	20/100	Bg Brock		12/20/07	05/12/07	08/26/07			04/15/08	CSVOSVOS
Brushy Mendow Creek	Northampton	64106	DEP			09/100	DAVOO	Brushy Meadow		12/17/02	08/23/03	10/03/03			06/15/04	11/13/04
BLCE HAI Croek	Monroe	5023	Buck Hill Conservation Foundation	×	×	2040	90405	Fishing Creek		01/17/10	09118/10	11/02/10			05V18V11	09/03/11
Cappoint Creek	Berks	55 55	DEP			I		Charles Creek		02/16/10	04/2/4/10	DBADBY10			0Srt8rt1	14/50/50
Clarken River	Clarich	49274	DEP			04:03	10/00	Big Brook		02/20/07	06/12/07	08/28/07			04/15/06	90/50/90
Class A Streems	Statewide		PFBC		×	43235	E11178	Class A		11/15/15	03/05/16	04/18/15			06/20/17	
Core Creek	Bestord	14462			*	12/39	12/89	Oysterville		0219/02	05/04/02	06/18/02			06/21/03	110103
Great Creek	Chester, Delaware	592	Willstown Conservation Trust	×	×	04/00	94/00	Brushy Meedery		1217/02	08/23/03	DACOACI			08/15/04	11/13/04
Deer Creek	York	1929	Shrawsbury Twp	×	×	13/04	11/04	Fathing Creek		07/153/10	01/18/10	11/02/10			05/18/13	11/20/50
Ongriskill Creek	Pite	5221		×		5/1/2010	6/1/2010			Š	ı					: 1
East Branch Codonus Craek	York	2087	York Water Company	×		20/90	20/90	Browns Run		20117102	10/05/02	11/19/02			06/21/03	13:01:03
East Branch Orberty Greek	Weyne	90.09	DEP		×	24,402	2070	Blue Eye Run		04/21/09	06/20/09	007070			12/15/09	04403410
East Michory Crites	Warren	55629	DEP		×	04/02	20/10	Blue Eye Run	_	04/21/09	6002/90	607030			12/15/09	04703710
Fateng Creek	Lancaster	7253	Patrick McClune	×	×	02/05		Fishing Check		07/13/10	09/18/10	11/02/10			OCM BATT	11/0/0/50
Eurone Rus	LebanowLancaster	7693	DEP/Conesioga High School	×	×	10/00	1000	Big Brook		02/20/03	05/12/07	70485780			904115408	BOLDOLDB
French and Beaver Crosks	Chester	1548	Green Valey Association	×	×	304	3/04	Fishing Creek		07/13/10	01/81/90	11,02710			05/18/11	11/20/60
Gallóws Run	Buchs	3278		×		90-00		Fishing Creek		07/13/10	00/18/10	11,022/10			11/81/50	155040
Green List Plan	Fayeta	37946.	Rural Avez Concerned Chibson	×	×	00/10	04/00	Briting Meadow	and the second of the second	12/17/02	00/23/03	10.03/03	and the same of the same		06/15/04	11/13/04
Hammer Greek	Lebanon/Lancaster	7964	Heidelbery Towship	×	×	06/03	06/03	Clarks Creek		92/18/10	04/24/10	08/08/10			05/18/11	11/20/50
Lake Lovemborg	Buchs	2543	DEP		Į.	06/03	05/03	Lakes		92/17/04	04/17/04	10010030	A T		08/21/05	10/22/05
Letish River	Morroe, Leckawarna. Luzerne, Wayne	3336	North Pecono C.A.R.E.	×	×	2090	08/02	Fishing Creek	2000	פויכוינט	09/18/10	11/02/10			05/18/11	\$1.700A60
Little Bush 108 Creek	Patra	9909	5056 Bush Kill Falls	×	×	13/99	12/99	Liste Bushitti	20H2	10/05/09	105050	10/61/90	7.5	14000	02/19/02	06/01/02
Little Fells Croek	York	6859	Shrewsbury Twp	×	×	11.04	11.04	Fishing Creek		07/3/10	01/01/20	11,622,710	HIME	52,637	05/18/11	11/10/60



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Water Body (click to view report)	County	10 mg	Requested By	Petition	HOVEV	Assessment St Notice	1	Rulemaking Package	Publik Merding	EOB Meeting	Paff Publication	Comments	DEP Public Mediting	EOS Public Hearing	e BOB Meeting	
Albe Junista Récer	Hantingdon	15844	15644 DEP				04:00	Brusity Meadow		12/17/02	06/23/03	10-03/03			06/15/04	11/13/04
He Lehon Creek	Lithigh, Berits	3420	Little Lehigh Whitershed 3426 Coathon	×	×	06/03	0853	Fisting Creek		07/13/10	08/18/10	11/05/10			05/18/11	1 mcoved
Little Seviction Creek	Aleghery	36857	36657 Doquesne University	×		3/8/13	121/13				=					
Lizard Cresk	Schuyers	3856	3856 West Pans Township	×	×	12/98	12/99	Little Bushkii		192550	05/05/01	06/19/01	Ē		02719402	06-01-02
hidan Creek	Fayette	3823S DEP	DEP		×	04/01	1000	Newtown Creek		06/21/05	08/20/05	1004/05			10117.08	70/90/10
Indian Spring Run	Chester, Lancaster	7538	DEP		×	04/01	03/01	Newtown Creek		06/21/05	08/20/05	10/04/05			10/17/06	DIADEADT
Messerger Run	Waren	55290 DEP	DEP		×	04/00	D4/00	Newtown Creek		08/21/25	08/20/05	100405			10/17/06	01/06/57
Med Creek	Berts	1714	Delaware Riverhaeper Network	×	×	65N2N2	00/12/15	Sobers Run		04/19/16	06/11/16	0725/HB			08/15/17	
Mai Creek	Berks	1938	DEP			50102	5070	Big Brook		CONSOLET	מאבויאם	DB/2B/D7			D4715/08	08/09/08
Muncy Dreek	Suffican	19402	DEP		×	04/02	04:02	She Eye Run		04/21/CD	60/52/90	00,004.09			12/15/09	04/03/10
Mesetous Creek	Buchs	2561	DEP			04100	04:00	Newtown Creek		2012/20	08/20/05	10/04/05			10/17/06	91/06/87
Oswaya Creek	Potter	57116	57116 PFBC		×	12/99	12/99	Little Bushkill		1000000	10/50/90	06/19/01			02/19/02	23/10/30
Oysterville Creek	Berts	1679	Berks County Contampancy	×	×	12/99	12.59	Oystenado		D3/18/C2	201105	C412 E/22	C3/07/02	08407402	06/21/03	11:01:03
Perkingen	Lenigh, Montgamery	7101	Delaware Riverheeper Hetwork	×	×	aver		Pertiomen		02/18/14	04/05/14					
Pickering Creek	Chester	1508	Green Valley Association	×		6/1/05	8V U05									
Phe Creek	Crawford	54221			×	02750	0250	Brushy Meadow		12/17/02	022303	10,03,03			06/15/04	11/13/06
Pine Creak	School	2269	Friends of Pine Creek	×	×	Outo:	20110	Carles Creek		01/34/20	04/24/10	01/90/90			05/18/13	09/03/11
Pine Run	Charfield	26830	25839 Chest Twp. Road District	×	×	04/02	O4A22	Newtown Craek		2012103	COSTOCIO	10/04/05			10/17/06	21/26/67
Rantos Rus	York	27.67	PFBC		×	90709	00:00	Oystandle Creek		משועט	05/04/07	06/18/12			C\$/21/03	11/01/03
Séricies	Susquebana	31379	31379 Sher Lake Association	×	×	10/20/10	10/10/10	Sobers Run		04719736	DENTING	07,25/16			06/15/17	
Smittlewi Citeta	Bucks	11.00	Smithern Cinek Watershed Assn.	×	×	12/78	12.79	Little Bushhit		03.23/01	03:05/01	16781790			02/19/02	
Soper Run (UNT Bush III)	Northampton	4846	DEP		×	7711/08	\$730x09	Sobers Run		04/19/16	06/11/16	07/25/16			06/15/17	
South Fort Beech Cityle	Centre	22763 DEP	DEP			04.00	0400	Brushy Meadow		12/17/02	03/22/03	10,00,00			06/15/24	11/13/04
Spring Creek	Desphin	10124 DEP	DEP			00110	00,00	Brushy Wadow		12/17/22	0072700	10,000,00			O&15204	1000111
Sprice Run	Union	18964 DEP	DEP		×	04/02	22402	Blue Eye Rus		04/21/09	00/20/00	08/04/09			12/15/20	04:03:110
Stone Creek	Bedford	14007	14607 DEP			080	1	Big Break		12/20/C7	D\$/12/07	102520			CATEND	08-09-09
Swiftwater Creek	Montoe	4954	Brochest Watershed Association	×	×	\$12112	01/1/Z	Sobers Run		0419/16	06/11/16	07/25/16	17.		08/15/17	
Tansey Hollow Run	Carterine	24991	24991 Conservation District	×	×	90/90		Fishing Creek	vý.	97/13/10	CEUTBUTO	11,02710			osnens	09/03/11
Total Riso	York	9035	8035 Mazerren/Greenfield	×	×	12/99	12/99	Oyetanabe	П	SZDV81/CS	05/04/02	06/18/02		I	05/21/03	13,61,623

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AND THE PARTY OF T	2,600,00,40	1.4			363	1.00	10,000	1000	2		Proposed Ratemetho	Ctp	40.000	20 10 10	- First Ridemaking	Cuppene
Water Body (cleat to view report)	County	Code	Requested By		HOREV	PeB Modes	ij	Package .	Public Beeding	EQB Meeting	P. P. B.	Comments	DEP Public Resident	ECIB Public Hearing	88	Publishing Contraction
UNI Braidwise (Remaid.)	Chester	S	Strategiera Twp. Recruedon, Parta, & Opon Spece Committee	×	×	12/8	68Z								02/19/02	
1911 Brandynina (VMGs)	Chester	4	Birmingkern Ywp. Recrussion, Parts, & Opon Space Committee	×	×	12/90	12.0								02719402	
UAT Cheeter Creek	Delawara	200		×	×	12/90	12/99	Oysterville Creek		03/19/02	CENTANCE	06/16/02			02/21/00	11/01/03
UNT Conestens Creek	Lancaster	7782	Prac			2010	04/02	Clerks Creek		02/16/10	04754740	OLAGAD			05/18/11	11/20/60
UNT Lactavenne Beer (Clarks Creek)	Weyne	20600	28600 Clean Abello	×	×	040	20190	Clarks Creek		ONSHADO	ONZANO	00/00/00			05/16/11	11/20/00
UNT Lipsed Creek	Carben	3478 DEP			×	20/90	20110	Newtown Creek		901250	\$0,02,00	10,0408			10/17/06	01/05/07
UNT Schadd River (Sedno Ma Run)	Montpomery	928	Whitemensh Ywg. Env. Advisory Board	×	×	00/03		Clarks Creek		02716/10	0175270	06/06/10			06/18/11	09/03/11
UNT Tuethernock Creek	Susquehanna	29200 DEP			×	20/100	20/102	Blue Eye Run		04/21/00	00/02/90	00/0/0/00			12/15/09	04/00/10
Worker Lake	Sayder	17889 DEP	OE#		H	05/03	COYCO	Lakes		02/17/04	04/17/04	101000			08/21/05	10/22/05
Whit Creek	Northernoton	63243 DEP	OEP			04/00		Brushy Meedow		12/17/02	06/23/03	100303			DEVISION	11/13/04
Messhicton Creek	Montpomery	770	Upper Guynedd Twp.	×				Big Brook		022007	05/12/07	2018/2180			DATESON	90/50/90
West Branch Perfromen Craek	Berts	1439	Berks Co	×	×	12/99	12/00	Oysterville Creek		03/16/02	08/04/02	08/21/02	06/07/02	04/07/02	06/21/03	11/01/03
Young Womens Creek	Clinton, Potter, Lycoming	21509 DEP	DEP		×	2070	70790	Ohre Eye Run		04/21/09	90/20/08	8079040			12/15/09	04/03/10