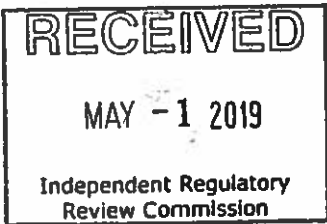


3224

Kathy Cooper

From: ecomment@pa.gov
Sent: Wednesday, May 1, 2019 9:57 AM
To: Environment-Committee@pasenate.com; IRRRC; eregop@pahousegop.com;
 environmentalcommittee@pahouse.net; regcomments@pa.gov; ntroutman@pasen.gov
Cc: c-jflanaga@pa.gov
Subject: Comment received - Proposed Rulemaking: Water Quality Standards - Class A Stream Redesignations (#7-548)



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.

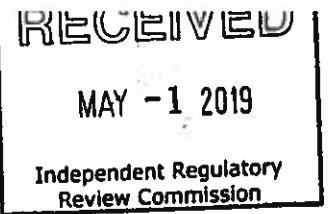
Comments Attachment: [7-548 Testimony April 26 Robert Schott.pdf](#)

Please contact me if you have any questions.

Sincerely,
Jessica Shirley

Jessica Shirley
Director, Office of Policy

3226



Testimony to the Environmental Quality Board, April 26, 2019

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 macroinvertebrate 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.



Pennsylvania Council
Trout Unlimited
P.O. Box 5148
Bellefonte, PA 16823

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:

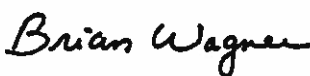
- 1) The present status of PFBC's 2012 request to have 50 stream segments redesignated as HQ-CWF.
- 2) An explanation as to why there has not been any proposed rulemaking by the EQB with regard to stream redesignations since September, 2011.
- 3) A list of streams that have been surveyed by DEP central 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 been 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,



Brian Wagner
President
Pennsylvania Council of
Trout Unlimited



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

EXHIBIT 5

Completed Stream Redesignation Evaluations

Last Updated 1/28/2018



Water Body (click to view report)	County	Stream Code	Requested By	Position	HOVET Assessment Notice	PA8 Assessment Notice	Remanding Package	Public Meeting	EOB Meeting	PA8 Publication	Comments Due	DEP Public Meeting	EOB Public Hearing	EOB Meeting	Final Redesignation PA8 Publication
Bever Creek	Chester	237	DEP			04/00	04/00		02/20/07	05/12/07	05/26/07			04/15/08	08/09/08
Big Brook	Wayne	3692	Lebanon Township Supervisors	X	X	04/02	04/02		02/20/07	05/12/07	05/26/07			04/15/08	08/09/08
Blue Eye Run	Warren	30058	DEP		X	04/02	04/02		04/21/09	06/20/09	06/04/09			12/15/09	04/03/10
Blue Marsh Lake	Berks	1548	DEP			05/03	05/03		02/17/04	04/17/04	06/01/04			06/21/05	10/22/05
Boston Run	Chester	40	Birmingham Twp. Recreation, Parks, & Open Space Committee	X	X	12/99	12/99							02/19/02	
Bowling Run	Warren	58487	PFBC	X	X	12/99	12/99		03/20/01	05/05/01	06/18/01		09/04/01	07/15/03	11/01/03
Brooks Evans Creek	Montgomery	1538	Larry Patzsch	X	X	04/02	04/02		02/20/07	05/12/07	06/26/07			04/15/08	08/09/08
Brushy Meadow Creek	Northampton	84106	DEP			04/00	04/00		12/17/02	08/23/03	10/03/03			08/15/04	11/13/04
Buck Hill Creek	Monroe	5023	Buck Hill Conservation Foundation	X	X	08/05	08/05		07/13/10	09/18/10	11/02/10			05/18/11	09/03/11
Carroll Creek	Berks	1850	DEP			04/01	03/01		02/18/10	04/24/10	08/08/10			05/18/11	09/03/11
Clayton River	Claron	49774	DEP			43255	6/11/17		02/20/07	06/12/07	06/26/07			04/15/08	08/09/08
Class A Stream	Statewide		PFBC		X				11/15/15	03/05/16	04/18/15			06/20/17	
Corn Creek	Bedford	14482	EOB		K	12/99	12/99		03/19/02	05/04/02	06/18/02			05/21/03	11/01/03
Crook Creek	Chester, Delaware	892	Trust	X	X	04/00	04/00		12/17/02	08/23/03	10/03/03			08/15/04	11/13/04
Deer Creek	York	6781	Shrewsbury Twp. Overlook Watershed Association	X	X	11/04	11/04		07/13/10	09/18/10	11/02/10			05/18/11	09/03/11
Dormick Creek	Pike	5221	Association	X		5/12/010	6/17/010								
East Branch Crook Creek	York	8097	York Water Company	X	X	09/02	08/02		09/17/02	10/05/02	11/19/02			05/21/03	11/01/03
East Branch Deberry Creek	Wayne	6018	DEP		X	04/02	04/02		04/21/09	06/20/09	08/04/09			12/15/09	04/03/10
East Hickory Creek	Warren	55638	DEP		X	04/02	04/02		04/21/09	06/20/09	08/04/09			12/15/09	04/03/10
Felton Creek	Lancaster	7253	Patrick McChane DEPT/Conestoga High School	X	X	02/05			07/13/10	09/18/10	11/02/10			05/18/11	09/03/11
Furnace Run	Lebanon/Lancaster	7693	Green Valley Association	X	X	10/00	10/00		02/20/07	03/12/07	05/28/07			04/15/08	08/09/08
French and Beaver Creeks	Chester	1548	Green Valley Association	X	X	3/04	3/04		07/13/10	09/18/10	11/02/10			05/18/11	09/03/11
Gallop Run	Bucks	3278	Rural Area Citizens	X		06/06			07/13/10	09/18/10	11/02/10			05/18/11	09/03/11
Green Lake Run	Fayette	37946	Citizens	X	X	04/00	04/00		12/17/02	08/23/03	10/03/03			06/15/04	11/13/04
Hammert Creek	Lebanon/Lancaster	7664	Holsberg Township	X	X	08/03	08/03		02/18/10	04/24/10	06/08/10			05/18/11	09/03/11
Lake Leominster	Bucks	2543	DEP			05/03	05/03		02/17/04	04/17/04	06/01/04			08/21/05	10/22/05
Letcher Run	Monroe, Lehigh/Lebanon	3335	North Pocono C.A.R.E.	X	X	06/02	06/02		07/13/10	09/18/10	11/02/10			05/18/11	09/03/11
Littles Bush Kill Creek	Luzerne, Wayne	5056	Bush Kill Falls	X	X	12/99	12/99		03/20/01	05/05/01	06/18/01			02/19/02	06/01/02
Littles Falls Creek	York	8659	Shrewsbury Twp	X	X	11/04	11/04		07/13/10	09/18/10	11/02/10			05/18/11	09/03/11

Completed Stream Redesignation Evaluations

Last Updated 1/28/2018

Water Body (click to view report)	County	Stream Code	Requested By	Petition	HCRV Assessment	P&B Assessment	P&B Assessment SF Metrics	Assessment News Metrics	Proposed Rulemaking				Final Rulemaking		
									Public Meeting	EOB Meeting	P&B Publication	Comments Due	DEP Public Meeting	EOB Public Hearing	EOB Public Hearing
Little Juniata River	Huntingdon	15844	DEP	X	X	04/00	04/00	04/00	12/17/02	08/23/03	10/03/03	10/03/03	06/15/04	06/15/04	11/13/04
Little Lehigh Creek	Lehigh, Berks	3420	Lehigh Lehigh Watershed Coalition	X	X	06/03	06/03	06/03	07/13/10	08/18/10	11/02/10		05/18/11	05/18/11	09/03/11
Little Seneca/Lehigh Creek	Alfeghany	26857	Duquesne University	X	X	3/8/13	3/7/13	3/7/13	07/20/11	05/05/11	06/18/11				06/01/12
Lizard Creek	Schuylkill	3856	West Penn Township	X	X	12/09	12/09	12/09	06/21/05	08/20/05	10/04/05		10/17/06	10/17/06	01/28/07
Indian Creek	Fayette	38235	DEP	X	X	04/01	03/01	03/01	06/21/05	08/20/05	10/04/05		10/17/06	10/17/06	01/28/07
Indian Spring Run	Charter, Lancaster	7538	DEP	X	X	04/01	04/00	04/00	06/21/05	08/20/05	10/04/05		10/17/06	10/17/06	01/28/07
Maple Run	Warren	55290	DEP	X	X	04/00	04/00	04/00	04/19/18	08/11/18	07/25/18				
Maple Run	Berks	1714	Delaware Riverkeeper Network	X	X	05/12/12	03/12/15	03/12/15	07/20/07	05/12/07	08/28/07		08/15/17	08/15/17	
Maple Run	Berks	1928	DEP	X	X	04/02	04/02	04/02	04/21/09	06/20/09	08/04/09		12/15/09	12/15/09	04/03/10
Maple Run	Sullivan	19402	DEP	X	X	04/00	04/00	04/00	06/21/05	08/20/05	10/04/05		10/17/06	10/17/06	01/28/07
Maple Run	Bucks	2561	DEP	X	X	12/99	12/99	12/99	03/19/02	05/04/02	08/21/02		05/21/03	05/21/03	11/01/03
Maple Run	Perry	57116	PFBC	X	X	03/07	03/07	03/07	03/19/02	05/04/02	08/21/02		05/21/03	05/21/03	11/01/03
Maple Run	Berks	1079	Berks County Conservancy	X	X	03/07	03/07	03/07	03/19/02	05/04/02	08/21/02		05/21/03	05/21/03	11/01/03
Maple Run	Lehigh, Montgomery	1017	Delaware Riverkeeper Network	X	X	03/07	03/07	03/07	03/19/02	05/04/02	08/21/02		05/21/03	05/21/03	11/01/03
Maple Run	Chesler	1508	Green Valley Association	X	X	8/10/03	8/10/03	8/10/03	03/19/02	05/04/02	08/21/02		05/21/03	05/21/03	11/01/03
Maple Run	Crawford	54221	PFBC	X	X	05/00	05/00	05/00	12/17/02	08/23/03	10/03/03		06/15/04	06/15/04	11/13/04
Maple Run	Schuylkill	2109	Friends of Pine Creek	X	X	04/02	04/02	04/02	07/19/10	04/24/10	06/09/10		05/18/11	05/18/11	09/03/11
Maple Run	Chambers	28839	Chest Top Road District	X	X	04/02	04/02	04/02	06/21/05	08/20/05	10/04/05		10/17/06	10/17/06	01/28/07
Maple Run	York	7374	PFBC	X	X	03/00	03/00	03/00	03/19/02	05/04/02	08/21/02		05/21/03	05/21/03	11/01/03
Maple Run	Susquehanna	31979	Shaw Lake Association	X	X	10/30/10	10/10/10	10/10/10	04/19/16	06/11/16	07/25/16		08/15/17	08/15/17	
Maple Run	Bucks	3211	Shaw Lake Association	X	X	12/99	12/99	12/99	02/29/01	03/30/01	06/19/01		02/19/02	02/19/02	
Maple Run	Northampton	4846	DEP	X	X	7/11/09	9/30/09	9/30/09	04/19/16	06/11/16	07/25/16		08/15/17	08/15/17	
Maple Run	Centre	22763	DEP	X	X	04/00	04/00	04/00	12/17/02	08/23/03	10/03/03		06/15/04	06/15/04	11/13/04
Maple Run	Dauphin	10124	DEP	X	X	04/00	04/00	04/00	12/17/02	08/23/03	10/03/03		06/15/04	06/15/04	11/13/04
Maple Run	Isabel	18864	DEP	X	X	04/02	04/02	04/02	04/21/09	06/20/09	08/04/09		12/15/09	12/15/09	04/03/10
Maple Run	Bedford	14907	DEP	X	X	09/01	09/01	09/01	07/20/07	05/12/07	08/28/07		04/15/08	04/15/08	08/29/08
Maple Run	Monroe	4954	Bronner Watershed Association	X	X	5/12/12	7/1/10	7/1/10	04/19/16	06/11/16	07/25/16		08/15/17	08/15/17	
Maple Run	Camden	24991	Camden County Conservation District	X	X	08/08	08/08	08/08	07/13/10	08/18/10	11/02/10		05/18/11	05/18/11	09/03/11
Maple Run	York	8035	MazermGreenfield	X	X	12/99	12/99	12/99	03/19/02	05/04/02	08/21/02		05/21/03	05/21/03	11/01/03

Completed Stream Redesignation Evaluations

Last Updated 1/28/2018



Water Body (click to view report)	County	Stream Code	Requested By	Position	HCRW Assessment	PUB Assessment	Assessment Notes	Submitting Package	Public Meeting	Proposed Redesignation			Final Redesignation		
										ESB Meeting	PUB Publication	Comments Due	DEP Public Meeting	ESB Public Hearing	ESB Meeting
UNIT Bradsholms (Ramoth)	Chester	52	Surreyham Twp. Recreation, Parks, & Open Space Committee	X	X	12/99	12/99								
UNIT Bradsholms (Oldies)	Chester	44	Surreyham Twp. Recreation, Parks, & Open Space Committee	X	X	12/99	12/99								
UNIT Chester Creek	Delaware	505	Frank Auletto	X	X	12/99	12/99	Cypressville Creek			08/15/02	05/04/02	08/15/02	05/21/03	11/01/03
UNIT Conestoga Creek	Lancaster	7792	PTBC	X	X	04/02	04/02	Clarks Creek			08/09/10	04/24/10	08/09/10	05/19/11	09/03/11
UNIT Leckrunners Run (Chalk School)	Wayne	28800	Glenn Aebels	X	X	04/02	04/02	Clarks Creek			08/09/10	04/24/10	08/09/10	05/19/11	09/03/11
UNIT Lead Creek	Carbon	3476	DEP	X	X	08/03	08/03	Newman Creek			18/04/05	08/23/05	18/04/05	10/17/05	01/05/07
UNIT Schuylkill Run (Benton Mill Run)	Montgomery	826	Whitmarsh Twp. Env. Advisory Board	X	X	08/03	08/03	Clarks Creek			08/09/10	04/24/10	08/09/10	05/19/11	09/03/11
UNIT Tushnetts Creek	Susquehanna	29200	DEP	X	X	04/02	04/02	Blue Eye Run			08/04/09	08/20/09	08/04/09	12/15/09	04/03/10
Wildcat Lake	Snyder	17889	DEP			05/03	05/03	Lakes			05/01/04	04/17/04	05/01/04	05/21/05	10/22/05
White Creek	Harrisburg	63243	DEP			04/00	04/00	Brushy Meadow			19/05/03	06/23/03	19/05/03	06/15/04	11/13/04
Whitshagen Creek	Montgomery	844	Upper Owyneville Twp.	X							05/12/07	02/20/07	05/12/07	04/15/08	06/09/08
West Branch Ephrata Creek	Berks	1439	Berks County Conservancy	X	X	12/99	12/99	Big Brook			08/21/02	05/04/02	08/21/02	04/07/02	11/01/03
West Branch Ephrata Creek	Clayton, Potter, Lycoming	23509	DEP	X	X	04/02	04/02	Cypressville Creek			08/21/02	05/04/02	08/21/02	04/07/02	11/01/03
West Branch Ephrata Creek	Clayton, Potter, Lycoming	23509	DEP	X	X	04/02	04/02	Blue Eye Run			08/21/02	05/04/02	08/21/02	04/07/02	11/01/03