

COMMENT AND RESPONSE DOCUMENT
STREAM REDESIGNATIONS (BIG BROOK, ET AL.)
(25 Pa. Code, Chapter 93)

**REPORT TO THE ENVIRONMENTAL QUALITY BOARD
RESPONSE TO COMMENTS
PROPOSED STREAM REDESIGNATIONS
Big Brook, et al.**

The Environmental Quality Board (Board) approved the proposed rulemaking for the Big Brook, et al. package at its February 20, 2007 meeting. The proposed rulemaking was published in the *Pennsylvania Bulletin* on May 12, 2007 (37 Pa.B 2190) with provision for a 45-day public comment period that closed on June 26, 2007. The following is a list of corporations, organizations and interested individuals from whom the Environmental Quality Board received comments on the Stream Redesignations: Big Brook, et al. proposed rulemaking during the public comment period:

1. Robert A. Koroncai
Associate Director
Office of Standards, Assessment and Information Mangement
Water Protection Division
U.S. Environmental Protection Agency, Region 3
Philadelphia, PA 19103

2. Leonard T. Perrone
Township Manager
Upper Gwynedd Township
Board of Commissioners
West Point, PA 19486

Supportive Comment – Entire Package

Comment: U.S. EPA Region 3 offers commendation to DEP in its continuing effort to upgrade streams into its Special Protection Waters Program. (1)

Response: The Department appreciates this supportive comment on the proposed redesignations.

Clarion River

Comment: U.S. EPA Region 3 is satisfied with the Department's determination that CWF is not an existing use in accordance with 40 CFR 131.10(g). The U.S. EPA is requesting additional clarification in the stream redesignation evaluation report regarding which of six factors in 40 CFR 131.10(g) the Department is basing its decision that the CWF use is not attainable. (1)

Response: Discussions occurred between the Department and the U.S. EPA following the U.S. EPA's submittal of this comment. These discussions resulted in a mutual

agreement between the Department and the U.S. EPA that sufficient justification and rationale for the Department's recommendations are included in the stream redesignation evaluation report for the Clarion River. The U.S. EPA is now satisfied that the Department has indicated within the evaluation report that the CWF use is not feasible to attain based on 25 Pa. Code § 93.4(b), which is equivalent to 40 CFR 131.10(g).

Wissahickon Creek

Comment: The Upper Gwynedd Township Board of Supervisors concedes that the TSF designation should remain for those waters where trout were observed (0.7 miles of water upstream of SR73), however they suggest there is no reasonable basis to designate areas upstream of that point (Morris Road) as TSF and therefore conclude that the TSF designation is unsuitable for a majority of the stream segment in question. (2)

Response: When considering a petition request to redesignate a waterbody with a less restrictive use, the Department must evaluate the "existing use" of that waterbody, as defined at § 93.1, and review the less restrictive regulatory use in context with § 93.4(b) for applicability. A candidate waterbody under consideration for redesignation may not be assigned a designated use that is less restrictive than its existing use. Based on our analyses, the Department believes that although the Wissahickon Creek is currently impaired, implementing proper effluent limits can attain water quality improvements. Such water quality improvements would support the current designated use (TSF) and existing use (MF). Therefore, we do not have the ability to recommend a designated use that is less restrictive than the existing use if such water quality improvement is possible.